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PATENT & TRADEMARK POLICY REPORT

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I. Congressional Update:

- Next Wednesday, April 10, at 10:00 a.m. ET, the House Judiciary Committee IP Subcommittee will hold a hearing titled Artificial Intelligence and Intellectual Property: Part III—IP Protection for AI-Assisted Inventions and Creative Works. The hearing will cover both patents and copyrights and address the standards that should be applied to determine whether IP protection is available to works created with AI. The livestream and witness list can be found [here](#).

II. USPTO Updates:

- The USPTO's Office of the Chief Economist, in collaboration with the University of San Diego Law School, released an updated version of its Patent Litigation Docket Reports Data. This comprehensive dataset now encompasses detailed information on 96,966 unique U.S. district court cases filed between 1963 and 2020, with a focus on cases filed between January 1, 2017, and December 31, 2020. Additionally, it includes updated data on cases filed prior to 2017 that were still pending at the time of the prior release. The dataset, provided in six different files, offers extensive insights into litigating parties, attorneys, cause of action, court locations, significant dates in litigation history, and descriptions of over 9 million documents submitted in each case. Additionally, a separate file provides hand-coded information on patents-in-suit and case types for most cases filed between 2003 and 2020, offering researchers and policymakers valuable resources for patent litigation analysis and research. Read more [here](#).
- On Wednesday, the USPTO announced a notice of proposed rulemaking regarding patent fee adjustments in the Federal Register. These adjustments were initiated in 2023, with a proposed new fee schedule discussed in a June 2023 public

Headlines and Highlights:

- HJC Announces Next AI & IP Hearing
- USPTO Proposes Patent Fee Adjustments
- USPTO Issues Final Rule on Filing Procedures for Judicial Review of Agency Decisions
- Tech Companies Face Legal Setback in Patent-Validity Review Challenge
- Judge Sides with Arbutus in Patent Fight with Moderna

hearing by the Patent Public Advisory Committee (PPAC) as mandated by the America Invents Act. Subsequently, PPAC released a report supporting a general fee increase but expressing concerns about specific fee hikes, such as a 5% across-the-board increase aimed at front-loading fees and reducing the USPTO's reliance on maintenance fees. Today's notice proposes setting or adjusting 455 fees, including 73 new fees, stating that these adjustments are necessary to ensure the USPTO's financial stability and effective administration of the U.S. patent system. Various documents related to the proposed fee changes are available on the USPTO website. Written comments on the proposal are due by June 3, 2024. The final fee rule is expected to be published in the Federal Register 45 days before its effective date, anticipated to be January 18, 2025. Read more [here](#).

- On Friday, March 29, the USPTO issued a final rule, published in the Federal Register, incorporating changes to the patent and trademark rules regarding judicial review of agency decisions. Specifically, the rule addresses the filing procedures for a notice of appeal to the United States Court of Appeals for the Federal Circuit, a notice of election to proceed by civil action in district court, and a request for an extension of time for filing a notice of appeal or commencing a civil action. Effective immediately, the rule stipulates that notices or requests for extensions of time must be filed with the USPTO Director via email or by Priority Mail Express® if email is not available. Read more [here](#).

III. Industry Update

- On April 1st, major tech companies, including Apple, Google, Intel, Cisco, and Edwards Lifesciences, faced a setback in their legal battle against the U.S. Patent and Trademark Office (USPTO) over a rule that reduced the number of patent-validity reviews conducted by the office. U.S. District Judge Edward Davila in San Jose ruled that the USPTO was not obligated to undergo a notice-and-comment period before implementing the rule, rejecting the companies' lawsuit for the second time. The decision disappointed Google, with spokesperson Jose Castaneda expressing concern about the uncertain environment it creates for the industry. Despite this setback, representatives for Apple, Cisco, and Edwards did not immediately respond for comment. The case, initiated in 2020, revolves around the USPTO's internal rule granting judges greater discretion to deny inter partes reviews (IPR) petitions, a process frequently used by tech companies to contest patents they're accused of infringing. Davila's ruling, citing the rule as a "general statement of policy," underscores the ongoing legal complexities surrounding patent validity reviews. Read more [here](#).
- On Wednesday, Moderna Inc experienced a 4% drop in shares following a ruling by a U.S. judge that favored Arbutus Biopharma Corp in a patent infringement lawsuit concerning Moderna's COVID-19 vaccines. U.S. District Judge Mitchell Goldberg's "claim construction order" interpreted certain patent components in a manner that bolstered Arbutus' arguments, thereby rejecting Moderna's proposed definitions. This ruling is pivotal in determining whether Moderna's vaccines utilize technology covered by Arbutus' patents. Notably, Roivant Sciences Ltd, the parent company of Arbutus, saw a 4% increase in shares, while Arbutus itself surged over 17%. Jefferies analysts highlighted the significance of the judge's decision, indicating that Moderna cannot currently appeal as it is not a formal judgment but rather a decision. Moderna and Arbutus have yet to respond to Reuters' requests for comment on the matter. The lawsuit, initiated in 2022, revolves around Arbutus seeking damages for the infringement of U.S. patents related to Moderna's COVID-19 vaccine. Arbutus asserts that it developed the lipid nanoparticles crucial for enclosing the vaccine's mRNA payload, technology licensed to Genevant Sciences, a joint venture between Arbutus and Roivant Sciences Ltd. The case is slated for trial next April. Read more [here](#).