



AMERICAN CONTINENTAL GROUP

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PATENT & TRADEMARK POLICY REPORT AUGUST 7, 2020



I. Congressional Developments:

- On Tuesday, House Energy & Commerce Committee Ranking Member Greg Walden (R-OR), Consumer Protection Subcommittee Ranking Member Cathy McMorris Rodgers (R-WA), and Rep. Richard Hudson (R-NC) wrote to Amazon CEO Jeff Bezos, eBay CEO Jamie Iannone, and Facebook CEO Mark Zuckerberg asking about each companies' policies to address the sale of counterfeit products and stolen goods. The letter highlights that the Government and Accountability Office (GAO) found that e-commerce has "contributed to a shift in the sale of counterfeit goods with...counterfeiters producing a wider variety of goods that may be sold on websites alongside authentic products." Read the full letter to Amazon [here](#), eBay [here](#), and Facebook [here](#).
- On September 15th, at 2:00 p.m. ET, the Senate Judiciary Antitrust Subcommittee will hold a hearing titled "Stacking the Tech: Has Google Harmed Competition in Online Advertising?" Subcommittee Chairman Mike Lee (R-UT) hopes that the hearing will "reaffirm the wisdom of focusing on better enforcement rather than the radical transformation of the antitrust laws demanded by the extreme left." A notice announcing the hearing asserts that "recent consumer complaints and investigations by law enforcement have raised questions about whether Google has acquired or maintained its market power in online advertising in violation of antitrust laws." No witnesses have been announced yet. Read more [here](#).

II. Administration Updates:

- On Thursday, President Trump issued an Executive Order (EO) on "Ensuring Essential Medicines, Medical Countermeasures, and Critical Inputs Are Made in the United States." The EO

Headlines and Highlights:

- House Energy & Commerce Committee Republicans ask Amazon, eBay, and Facebook about their efforts to address counterfeit goods.
- USTR Lighthizer and Chinese Vice Premier Liu He reportedly slated to meet on August 15th to survey progress on implementing the "phase one" trade deal.
- Shanghai Zhizhen Network Technology Co. files a patent infringement lawsuit against Apple in a Shanghai court, seeking about \$1.43 billion in damages and a preliminary injunction.
- USIJ report finds that the share of investment going to patent intensive industries has declined significantly due to changes to U.S. patent system.
- Democrats pledge to crack down on "anti-competitive efforts to manipulate the patent system or collude on prices" in 2020 platform.

calls on federal agencies to purchase “essential drugs” and medical supplies made in the U.S. “We’re dangerously overdependent on foreign nations for essential medicines, for medical supplies like masks, gloves, goggles and the like,” Peter Navarro [warned](#) during a call with reporters. Under the order, the Food and Drug Administration (FDA) will be responsible for determining which drugs or supplies should be manufactured in the U.S. It also allows for broad exemptions based on cost, availability, and “public interest.” Read more [here](#).

III. USPTO Updates:

- The next Patent Public Advisory Committee (PPAC) quarterly meeting is on Thursday, August 13, from 10:30 a.m. – 3:00 p.m. ET. The meeting will be virtual. More info. [here](#).
- USPTO raised the International search (Rospatent) fee from \$501 to \$532, effective August 1st. More info. [here](#).

IV. Judicial Updates:

- On Monday, Shanghai Zhizhen Network Technology Co. announced that it is suing Apple for an estimated \$1.43 billion in damages in a Shanghai court, following a decision from China’s Supreme Court in June that upheld the validity of its Chinese patent for a chatbot similar to Apple’s Siri. The Chinese artificial-intelligence company, also known as Xiao-I, claimed that the Apple’s products violated its patent for a virtual assistant. The longstanding battle began when Shanghai Zhizhen sued Apple a year after Siri was introduced in 2011. If Shanghai Zhizhen applies for a preliminary injunction, the court could bar Apple from selling products with Siri in China for the duration of the trial, although such injunctions have to meet strict conditions and are rarely granted by Chinese courts. Read more [here](#).

V. International Updates:

- U.S. Trade Representative (USTR) Robert Lighthizer and Chinese Vice Premier Liu He will reportedly meet on August 15th to survey the implementation of the “phase one” trade agreement that took effect on February 14th, 2020. Per the preliminary pact, leaders will meet every six months to “discuss (a) the overall situation regarding implementation of this Agreement, (b) major problems with respect to implementation, and (c) arrangements for future work between the Parties.” Sources told the *Wall Street Journal* that the meeting will most likely be held over videoconference. Read more [here](#).

VI. Industry Updates:

- This week, the Alliance of U.S. Startups and Inventors for Jobs (USIJ) released *The Importance of an Effective and Reliable Patent System to Investment in Critical Technologies*, a report studying recent trends in venture capital investment in patent-intensive industries. It was authored by Professor Mark Schultz, Goodyear Tire & Rubber Company Endowed Chair in Intellectual Property Law and Director, Intellectual Property and Technology Law Program at the University of Akron. Analyzing data on U.S. venture capital investment from 2004 to 2017, the report finds that the share of investment going to patent intensive industries has declined significantly. To better understand these trends, Professor Schultz conducted interviews with innovators, investors, and executives who have

served in leading institutions such as New Enterprise Associates, Juno Therapeutics, the Cleveland Clinic, and Convelo Therapeutics. These case studies suggest that recent changes to the patent system were a key contributor in investment flowing away from patent-intensive startups in sectors critical to U.S. national security and public safety, such as pharmaceuticals, biotech, and semiconductors. Read more [here](#).

- On Tuesday, the Democratic National Committee finalized its 2020 platform. Of note, Democrats pledge to “stand up to efforts from China and other state actors to steal America’s intellectual property.” Democrats also propose cracking down on “anti-competitive efforts to manipulate the patent system or collude on prices.” Finally, the platform vows to vigorously use antitrust laws to fight against “mega-mergers in the hospital, insurance, and pharmaceutical industries” that would raise prices for consumers, and direct federal antitrust agencies “to investigate the economic impacts of mergers in the media industry.” Read the full platform [here](#).