I. Congressional Developments:

- United States Trade Representative (USTR) Robert Lighthizer is slated to testify before both chambers of Congress next Wednesday, June 17th at hearings to consider the President’s 2020 trade policy agenda. USTR Lighthizer will testify virtually before the House Ways & Means Committee in the morning (10:00 a.m. ET), before heading to the Senate Finance Committee for a 3:00 p.m. ET hearing. USTR delivered President Trump’s 2020 trade policy agenda to Congress earlier this year. The document asserts that the Administration hopes to negotiate new trade agreements with strategic partners – such as the U.K., EU, and Kenya – aggressively enforce trade agreements, and reform the World Trade Organization (WTO). More info. here and here.

- On Wednesday, USPTO Director Andrei Iancu issued a response to the bicameral Judiciary Committee leaders’ April 14 letter inquiring about the impact of the COVID-19 pandemic on USPTO operations and funds. Director Iancu noted that the Patent Office was “uniquely positioned” to handle the transition to mandatory telework, given the significant number of employees already accustomed to teleworking and the Agency’s investment in technology. Regarding trademark filings and fees, Director Iancu noted that the USPTO is “proactively conducting multiple revenue assessments and contingency plans in response to potential lower revenues.” Director Iancu noted that the trademark operating reserve stood at $95 million based on data through May 2020, “which could fund trademark operations for 13 weeks in the absence of additional fee collections.” However, Director Iancu wrote that “the reserve is dependent on fee revenues and thus any decreases in fee revenues due to the economic downturn would accelerate depletion of the reserve.”

Headlines and Highlights:

- USTR Lighthizer to testify before the House Ways & Means Committee and the Senate Finance Committee next Wednesday.

- Director Iancu says additional funds may be needed to supplement USPTO’s internal reserves and support operations in a letter to Congressional Judiciary Committee leaders.


- U.S. and UK to convene for the second negotiating round in pursuit of an FTA next week.

- Google files countersuit against Sonos, claiming that the speaker maker infringed five of its patents.

- European Commission poised to file formal antitrust charges against Amazon.
On the patent side, Director Iancu noted that the “impacts of economic shocks on patent application filings and fees usually take longer to manifest than with trademarks.” However, he wrote that a “prolonged economic downturn could force us to draw down the reserve below our published minimum of $300 million to unsustainable levels, which is less than four weeks of operations funding.” In order to offset the loss in trademark revenue, Director Iancu wrote that the Patent Office is reducing IT spending by $37 million. Lastly, to supplement the USPTO’s internal reserves and support operations, Director Iancu stated that Congress “could make available user fees and surcharges previously collected by the USPTO (between 1990 and 2011). Although the fees and surcharges are already accounted for on the USPTO’s audited balance sheet and included in its current balances with Treasury, the USPTO does not currently have the authority to spend these funds.” Read the letter here.

- On Thursday, Senators Chris Van Hollen (D-MD) and Ben Sasse (R-NE) introduced legislation to mandate strong economic penalties on firms and individuals involved in stealing American IP. The Protecting American Intellectual Property Act would require the president to send a report to Congress every six months identifying: any individual or firm that has engaged in, benefitted from, or materially assisted the significant and serial theft of U.S. trade secrets, if that theft constitutes a major threat to the national security, foreign policy, economic health or financial stability of the United States; and the chief executive officers and board members of the reported firms and whether those individuals have benefitted from the significant and serial theft of U.S. trade secrets. The President would be required to impose either property blocking sanctions or a denial order for any firm identified in the report and property blocking sanctions and prohibit entry into the United States for any individual identified in the report. Read more here.

- This week, lawmakers introduced a bipartisan and bicameral bill to provide more than $22.8 billion in aid for semiconductor manufacturers, aiming to spur the construction of chip factories in America. The proposal would create a 40% refundable income tax credit for semiconductor equipment, $10 billion in federal funds to match state incentives to build factories, and $12 billion in research and development funding. It would also authorize the Defense Department to use funding under the Defense Production Act to “establish and enhance domestic semiconductor production capability.” The bill was introduced by Sens. John Cornyn (R-TX) and Mark Warner (D-VA) in the upper chamber and Reps. Michael McCaul (R-TX) and Doris Matsui (D-CA) in the House. Read more here.

II. Administration Updates:

- The U.S. and UK will convene for the second two-week long negotiating round next Monday, June 15th. Speaking on a panel hosted by the Washington International Trade Association on Thursday, Antony Phillipson, the British consul general in New York and Her Majesty’s trade commissioner for North America, made news when he said that said that the U.S. and UK are pushing to broker a trade deal before the U.S. presidential election on November 3rd. Despite this rapid timetable, Phillipson underscored that the UK is determined to reach a “comprehensive” deal.

III. USPTO Updates:
On Friday, the USPTO announced relief to restore priority or benefit rights for patent applicants. Pursuant to the authority granted to the Patent Office by the CARES Act, the USPTO is extending the time period for petitioning for certain rights of priority or benefit in a patent application and waiving the associated petition fee. Per the press release, the “relief extends the two-month time-period for restoring the right of priority to or benefit of a foreign or provisional application for any nonprovisional application due to be filed on or after March 27, 2020, but before July 30, 2020.” Read more here.

IV. Judicial Updates:

On Thursday, Google filed a countersuit against Sonos, five months after the speaker maker accused Google of illegally using its wireless audio technology in its devices. In its countersuit, Google alleges that Sonos is the one infringing on the tech platform’s IP. Google claims that Sonos infringed on five of its patents covering its search features for music libraries, noise cancellation, wireless connectivity, and more. In a press release, Google stated that “Sonos has no license to use Google's patents. Because Sonos refuses to cease its infringement, and is unwilling to recognize the value of Google's technology through a license, Google has filed this suit to protect its intellectual property.” Sonos CEO Patrick Spence responded, saying, “Instead of simply addressing the merits of our case, and paying us what we're owed, Google has chosen to use their size and breadth to try and find areas in which they can retaliate. We look forward to winning our original case, and this newly filed case as well.” Read more here.

V. International Updates:

The European Commission reportedly plans to file formal antitrust charges against Amazon over the company’s treatment of third-party sellers as soon as next week. The formal charges stem from Amazon’s dual role as a marketplace operator and seller of its own products. A WSJ investigation published this spring found that, at times, Amazon employees used data from other sellers to develop competing products. According to people familiar with the matter, the EU’s case delves into the same type of conduct. Read more here.

Canada will virtually host the Fifth Ministerial Meeting of the Ottawa Group on World Trade Organization Reform next Monday, June 15th. Ministers from the 13 Ottawa Group countries will discuss how the WTO and the rules-based trading system can help mitigate the impacts of COVID-19, lay the groundwork for a sustainable recovery, and adapt trade rules to prepare for future crises. Ministers will also discuss priorities, including greater transparency around export restrictions, ways to ensure the smooth flow of goods and services to benefit their countries’ people, and helping businesses and workers adapt to an increasing digital economy. The meeting was originally scheduled for March but was postponed due to the pandemic. More info here.

VI. Industry Updates:

Next Wednesday, the Smithsonian Institution’s Lemelson Center for the Study of Invention and Innovation and George Mason University’s Center for the Protection of Intellectual Property (CPIP) are hosting a panel discussion titled “Patents on Life: Diamond v. Chakrabarty at 40. Per the press release, the panel will discuss breakthroughs in agricultural biotechnology and explore the impacts – economic and environmental – of these two major
historical turning points. How did the rise of patented, GMO crops change farming? How did the Supreme Court’s decision change the patent system? How did developments in biotechnology reshape America’s innovation system?” Read more and register here.