

## PATENT & TRADEMARK POLICY REPORT FEBRUARY 3, 2023



### I. Congressional Developments:

- On Thursday, the Senate Judiciary Committee held its second Executive Session of the 118<sup>th</sup> Congress. The Committee had four bills on the agenda that seek to combat rising drug prices through addressing perceived anticompetitive practices in the drug patent space. The four bills, listed here, were held over until next week: the Interagency Patent Coordination and Improvement Act of 2023 ([S. 79](#)); Prescription Pricing for the People Act of 2023 ([S. 113](#)); Preserve Access to Affordable Generics and Biosimilars Act ([S. 142](#)); Stop STALLING Act ([S. 148](#)); and the Affordable Prescriptions for Patients Act of 2023 ([S. 150](#)). Watch the full markup [here](#).

### II. Administration Updates:

- On Thursday, February 16<sup>th</sup>, from noon to 3:00pm ET, the Federal Trade Commission (FTC) is holding a virtual public forum on the Commission's proposed rule to prohibit employers from using noncompete clauses. The proposed rule would also require employers to rescind existing non competes and actively inform workers that they are no longer in effect. More info. [here](#).

### III. USPTO Updates:

- On Wednesday, comments were due to the USPTO on its Federal Register notice seeking public feedback on the Office's initiatives to ensure the robustness and reliability of patent rights. Find the docket [here](#) and browse the 99 submitted comments [here](#).

### Headlines and Highlights:

- Senate Judiciary Committee holds over four bills aimed and addressing perceived anticompetitive behavior in drug patent space at markup.
- FTC to host virtual public forum on its proposed rules to prohibit employers from using noncompete clauses later this month.
- Comments due to USPTO on Initiatives to Ensure the Robustness and Reliability of Patent Rights.
- TPAC current and immediate past Chair pen blog post on its agenda in 2022 and the coming year.
- *IPWatchdog* holds two-day PTAB Masters 2023 program.
- USPTO hosting a virtual panel discussion on the duty of disclosure and duty of reasonable inquiry later this month.

- On Thursday, the current and the immediate past chairs of the Trademark Public Advisory Committee (TPAC) published a guest blog on the USPTO website detailing the key takeaways of TPAC from 2022 and what stakeholders can expect in 2023. The blog was authored by current TPAC Chair David Cho, Assistant Vice President Senior Legal Counsel, Trademarks & Copyrights of AT&T Services, Inc., and past TPAC Chair Susan Natland, co-chair of Knobbe Martens Trademark and Brand Protection Group. The following were priorities for the TPAC in 2022 that will carry into this year: reducing the time to first examination; addressing trademark scams and fraud at the USPTO; advancing equity across the brand community; combatting counterfeits, and highlighting the value of trademarks. Read the full blog post [here](#).
- On February 23<sup>rd</sup>, from 3:00 – 4:00pm ET, USPTO is hosting a virtual panel discussion on the duty of disclosure and duty of reasonable inquiry. More info. on the event [here](#) and find a Federal Register notice [here](#).
- USPTO is seeking public comments on its draft Strategic Plan for 2022-2026. The plan sets forth five goals: drive inclusive U.S. innovation and global competitiveness; promote the efficient delivery of reliable IP rights; promote the protection of IP against new and persistent threats; bring innovation to positive impact; and generate impactful employee and customer experiences by maximizing agency operations. Comments are due to USPTO by February 17<sup>th</sup> (previously January 31<sup>st</sup>). Find more info. on how to provide feedback [here](#) and read the full draft plan [here](#).
- On February 28<sup>th</sup>, from 3:00-4:00pm, USPTO is hosting a free online webinar titled “Together in Innovation: Agricultural advances.” Special guests and expert panelists will cover: how diverse teams are an essential part of a successful business strategy; the challenges women innovators overcome in ag innovation; and valuable resources innovators can use to protect IP and secure funding for their enterprises. Find more info. and register for the special event [here](#).

#### **IV. International Updates:**

- In an article published in *Lexology*, Bird & Bird LLP highlights the key changes included in the Draft Amendment to the PRC Trademark Law that was issued on January 13<sup>th</sup> by the China National Intellectual Property Administration. The draft amendment, which will be the fifth time the Trademark Law has been revised since it first came into effect in 1983, includes changes to address the recurrence of bad faith filings. Read about the proposed changes [here](#).

#### **V. Industry Updates:**

- This week, *IPWatchdog* held a PTAB Masters 2023 program at its headquarters in Ashburn, Virginia. In an article highlighting key discussions from the two-day program, *IPWatchdog* points out that during a panel on potential reforms to the PTAB, former USPTO Director David Kappos stated that while the PTAB was meant to be an alternative to district court, “that hasn’t worked out.” He also stated that he hadn’t anticipated “that the vast majority of proceedings would have parallel court proceedings.” Read more [here](#).