

PATENT & TRADEMARK POLICY REPORT JANUARY 20, 2023



I. Congressional Developments:

- Next Tuesday, January 24th, at 10:00am ET, the Senate Judiciary Committee is scheduled to hold a hearing titled “That’s the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment.” No witnesses have been listed yet. More info. [here](#).

II. Administration Updates:

- Last week, *POLITICO* reported that Jonathan Kanter, head of the Antitrust Division at the Justice Department, has been cleared to oversee investigations and litigation involving Google. The decision concludes a request from Google in 2021 to have Kanter recused due to his earlier work against Google when he was in private practice. The decision to allow him to work on Google related cases paves the way for a broader antitrust lawsuit. Read more [here](#).

III. USPTO Updates:

- On Wednesday, at a Women’s Entrepreneurship event hosted by USPTO in Naples, Florida, Director Kathi Vidal announced that the Office is launching an IP Identifier tool. The tool is designed for people who are less familiar with IP and will enable them to identify whether they have IP, as well as potential IP protections they need to support and advance their business, invention, or brand. In a press release announcing the new tool, USPTO touted that the IP Identifier will serve as an important foundation for an innovator, entrepreneur, or creator’s IP journey. Read more [here](#)

Headlines and Highlights:

- Senate Judiciary Committee to hold hearing on promoting competition in live entertainment next week.
- DOJ Antitrust Division Head Jonathan Kanter cleared to oversee investigations and litigation involving Google.
- USPTO launches IP Identifier tool.
- USPTO extends deadline for commenting on Expanding Opportunities to Appear before the PTAB and Expanding Admission Criteria for Registration to Practice in Patent Cases before the USPTO.
- Supreme Court asks for Solicitor General’s input in patent dispute between Apple/Broadcom and Caltech.
- China IP Administration releases data on patent and trademark grants in 2022.

and find the tool [here](#).

- On Thursday, the PTAB hosted a webinar where Chief Judge Clark Cheney from the International Trade Commission (ITC) participated in a question-and-answer session. During the session, Chief Judge Cheney addressed the operations of the ITC, procedures used in cases, and best practices for appearing before the ITC. He also addressed misconceptions about the ITC and shared his decisional philosophy. Find more info. [here](#).
- USPTO has announced that it is extending the comment period for [Expanding Opportunities to Appear before the Patent Trial and Appeal Board](#) and [Expanding Admission Criteria for Registration to Practice in Patent Cases before the United States Patent and Trademark Office](#) until January 31, 2023. USPTO explained that the extension should help ensure that all stakeholders have sufficient opportunity to submit comments on the PTAB proposal and Patent proposals. More info. [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 17th (deadline was previously January 31st, but was extended). Find more info. on how to provide feedback [here](#) and read the full draft plan [here](#).
- On February 28th, 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](#).
- USPTO has extended the comment period for stakeholders to submit comments on the Office’s initiatives to ensure the robustness and reliability of patent rights. Comments on the matter are now due February 1^s (instead of January 3rd). Find more info. [here](#) and [here](#).

IV. Judicial Updates:

- On Tuesday, the Supreme Court asked for the U.S. Solicitor General’s input on a lower court decision that prevented Apple and Broadcom from arguing that patents held by the California Institute of Technology were invalid trial. Caltech sued Apple and Broadcom in 2016 in federal court in Los Angeles alleging that millions of iPhones, iPads, Apple Watches, and other devices with Broadcom Wi-Fi chips infringed its data-transmission patents. A jury ruled for Caltech, ordering Apple to pay \$837.8 million and Broadcom \$270.2 million. However, the U.S. Court of Appeals for the Federal Circuit sent the case back for a new trial on damages, which is slated to begin in June. Apple and Broadcom have also told the Federal Circuit that they should have been allowed to challenge the validity of the patents at the trial. Read more [here](#).

V. International Updates:

- During a press conference held on Monday, China National Intellectual Property Administration (CNIPA) released statistical data on patent and trademark grants. Of note, the number of utility models granted dropped over 10 percent, while invention patent grants increased almost 15 percent in 2022. In comparison, in 2021, both invention patent grants and utility model grants were up 31 percent. The *National Law Review* has more [here](#).

VI. Industry Updates:

- On March 29th and 30th, the World Intellectual Property Organization (WIPO) is holding a conversation titled “Intellectual Property and the Metaverse.” The purpose of the event is to discuss a wide spectrum of frontier technologies enabling the metaverse, such as AI, blockchain and the NFTs, emerging AR and VR technologies, the Internet of Things and data processing and discuss the challenges the metaverse poses to the existing IP system. It will seek to bring together all stakeholders to provide a map for navigating these challenges to ensure innovation continues to grow and develop for the benefit of all. More info. [here](#).