



AMERICAN CONTINENTAL GROUP

1800 M Street NW | 5th Floor | Washington D.C. 20036
Tel: (202) 327-8100 | Fax: (202) 327-8101

PATENT & TRADEMARK POLICY REPORT MARCH 17, 2023



I. Congressional Developments:

- Next Wednesday, at 10:00am ET, the Senate HELP Committee is holding a hearing titled: “Taxpayers Paid Billions For It: So Why Would Moderna Consider Quadrupling the Price of the COVID Vaccine?” The Committee will hear from two panels of witnesses – one with the CEO of Moderna and another with academics from Columbia Law School, Harvard Medical School, and Northwestern University. Find more info. [here](#).
- Next Wednesday, at 10:00am ET, the Senate Homeland Security & Governmental Affairs Committee is scheduled to hold a hearing titled “Drug Shortage Health and National Security Risks: Underlying Causes and Needed Reforms.” No witnesses have been listed yet. More info. [here](#).
- Next Thursday, at 10:00am ET, the House Committee on Energy and Commerce is slated to hold a hearing titled: “TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms.” No witnesses are announced yet. More info. [here](#).
- Next Thursday, at 2:00pm ET, the House Oversight and Accountability Subcommittee on Cybersecurity, Information Technology, and Government Innovation is slated to hold a hearing on “Unpacking the White House National Cybersecurity Strategy.” No witnesses have been announced yet. More info. [here](#).

Headlines and Highlights:

- Senate HELP Committee to hold hearing to consider the price of Moderna’s COVID vaccine.
- Senate HSGAC to hold hearing on the underlying causes of drug shortages.
- House Oversight and Accountability Cyber Subcommittee to consider White House Cyber Strategy at hearing next week.
- President Biden requests \$4.2 billion in budget authority for the USPTO for Fiscal Year 2024.
- Lawmakers call on State Dept to issue travel advisory over dangerous counterfeit prescription drugs being sold by some pharmacies in Mexico.
- USPTO adds FDA and Dept of Ag designated numbers to its patent term extension database.

II. Administration Updates:

- This week, the Biden Administration released the full details of the President’s Fiscal Year 2024 budget request to Congress. Of note, the Department of Commerce requested that Congress provide \$4.2 billion in budget authority to the USPTO so the office can continue “granting patents, registering trademarks, and protecting American intellectual property worldwide.” The USPTO estimates that in FY2024, its estimated spending will be \$3,731 million for Patent operations and \$555 million for Trademark operations, which supports 14,425 positions. Find more details [here](#) and [here](#).
- On Monday, Senator Ed Markey (D-MA) and David Trone (D-MD) called on the State Department to issue a travel advisory on “the dangers of buying adulterated pharmaceuticals from Mexican pharmacies.” The letter references several reports documenting how some pharmacies in Mexico have sold counterfeit prescription drugs that were laced with fentanyl and methamphetamine. Read more from *The Hill* [here](#).

III. USPTO Updates:

- In response to stakeholder feedback received recently at the [joint USPTO-FDA public listening session on January 19, 2023](#), the USPTO has now enhanced the information on its website that provides information on applications for patent term extension (PTE) to include the U.S. Food and Drug Administration or U.S. Department of Agriculture designated number (e.g., Biologics License Application (BLA), New Drug Application (NDA), etc.), as appropriate, that corresponds to the product identified in the PTE application. This information has been added for all PTE applications filed after January 19, 2023. Read more [here](#).

IV. International Updates:

- On Thursday, London’s High Court ruled that China’s Lenovo Group must pay U.S. technology firm InterDigital \$38.7 million for a license for its portfolio of telecommunications patents. The longstanding dispute dates back to 2019 when InterDigital filed suit and centers on the reasonable and non-discriminatory (FRAND) terms of a license for InterDigital’s patents. Read more [here](#).

V. Industry Updates:

- On Tuesday, OpenAI announced the release of GPT-4, the most updated version of ChatGPT. While the updated model is more powerful and accurate, it still is prone to committing errors. “GPT-4 still has many known limitations that we are working to address, such as social biases, hallucinations, and adversarial prompts. . . In a casual conversation, the distinction between GPT-3.5 and GPT-4 can be subtle. The difference comes out when the complexity of the task reaches a sufficient threshold—GPT-4 is more reliable, creative, and able to handle much more nuanced instructions than GPT-3.5,” OpenAI wrote in a blog post. Read more [here](#).