

From: Ladino, Marie
Sent: Wed, 27 Jul 2022 12:51:47 +0000
To: 'DepSecBriefingBook'
Cc: Twitty, Anthony; Houser, Robert C.; Ramdat, Grace; Zecher, Dede; Bidel-Niyat, Shirin; McLaren, Ellen; Baily, Shannon; (b)(6)
Subject: Agenda for Deputy Secretary Graves's meeting with USPTO Director Kathi Vidal - Friday, July 29
Attachments: FW: FYI - USPTO FOIA Release of ID.me contract , DepSec Meeting with USPTO Director Vidal - July 29 2022 - final.docx

Good morning,

Attached please find the agenda and email attachment for Deputy Secretary Graves's upcoming meeting with USPTO Director Kathi Vidal, scheduled for Friday, July 29. The USPTO's OGC has cleared the agenda. If you have questions or need any additional information, please let me know.

Thank you,
Marie Ladino



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov

Tel: 571-270-3186

USPTO0168

From: Berdan, David
Sent: Tue, 26 Jul 2022 20:25:29 +0000
To: Ladino, Marie
Cc: Zecher, Dede
Subject: FW: FYI - USPTO FOIA Release of ID.me contract

Marie:

Sorry, left you off. Below is the email I sent to DOC

David Berdan
General Counsel
United States Patent and Trademark Office
Phone: (571) 272-7000
david.berdan@uspto.gov

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From: Berdan, David <>
Sent: Tuesday, July 26, 2022 4:24 PM
To: Zecher, Dede <Cordelia.Zecher@uspto.gov>
Cc: Shewchuk, David <David.Shewchuk@USPTO.GOV>
Subject: FW: FYI - USPTO FOIA Release of ID.me contract

Here is the email I sent.

David Berdan
General Counsel
United States Patent and Trademark Office
Phone: (571) 272-7000
david.berdan@uspto.gov

This e-mail message was sent by an attorney, and is intended only for the named recipient(s). It contains information that may be confidential in nature, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. Please do not forward this message without permission. If you received this message in error, please notify the sender of this e-mail, then delete it.

From: Berdan, David <>
Sent: Tuesday, July 26, 2022 2:56 PM
To: Ahn, James (Federal) (b)(6); Didiuk, Lauren (b)(6)
Cc: Choksi, Rachit (Federal) (b)(6); Andrejat, Jake (Federal) (b)(6) Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: FYI - USPTO FOIA Release of ID.me contract

USPTO0169

James, Lauren:

As an FYI, the USPTO is releasing procurement records related to the ID.me contract award for Trademark applicant identity verification in response to a FOIA request (records to go out today or tomorrow). The contract was sole-sourced to V3Gate, which partners with ID.me, after it was the only party to submit a bid. Trademarks had delayed implementation of mandatory identity verification back in March, but starting August 6, 2022, verification will be required for USPTO.gov account holders to file trademark forms, and ID.me will be one of the verification methods.

(b)(5) There is nothing out of the ordinary about releasing federal procurement records. We worked with V3Gate to identify and redact any appropriate subject matter within the records.

Kathi has this on her agenda to flag for the Dep Sec on Friday.

Thanks,
Dave

David Berdan
General Counsel
United States Patent and Trademark Office
Phone: (571) 272-7000
david.berdan@uspto.gov

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**BRIEFING MEMO FOR THE DEPUTY SECRETARY'S MEETING
WITH USPTO DIRECTOR KATHI VIDAL
(PRE-DECISIONAL/DELIBERATIVE)**

FROM: Shirin Bidel-Niyat, Chief of Staff, USPTO, 703-254-3182

PREPARED BY: Marie Ladino, Writer-Editor, USPTO, 571-299-8029

DATE: Friday, July 29, 2022

LOCATION: Virtual

KEY PARTICIPANTS: Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO

STAFF: James Ahn, Senior Policy Advisor; Mira Patel, Senior Advisor to the Deputy Secretary of Commerce

GOAL AND PURPOSE

- You are meeting with USPTO Director Kathi Vidal to discuss her progress meeting the Department's and the USPTO's strategic objectives as well as other topics she wishes to raise.
- The proposed agenda is:
 - Office of Inspector General's (OIG) audit of the USPTO's oversight of Patent Data Capture Contracts (5 minutes)
 - The OIG provided a draft of its report to the USPTO, and the Agency submitted a response on July 28.
 - OpenSky case (5 minutes)
 - Director Vidal is hearing this Patent Trial and Appeal Board case as one of her first grants of Director review, (b)(5) Delib Proc Priv
 - Mandatory identity verification (5 minutes)
 - Starting August 6, identity verification will be required for USPTO.gov account holders to file trademark forms, and earlier this week, in response to a FOIA request, the USPTO released procurement records related to the ID.me contract award (see attached email).
 - 63rd Series of Meetings of the Assemblies of the Member States of the World Intellectual Property Organization (WIPO) (5 minutes)
 - Director Vidal participated in numerous engagements last week during the 63rd Series of Meetings of the Assemblies of the Member States of WIPO in Geneva, Switzerland, including bilateral meetings and signings.

BACKGROUND

- You last met with Director Vidal on July 1.
- Due outs from that meeting were:
 - N/A

PARTICIPANTS

USPTO

- Shirin Bidel-Niyat, Chief of Staff

Office of Policy and Strategic Planning

- James Ahn, Senior Policy Advisor

Office of the Deputy Secretary

- Mira Patel, Senior Advisor to the Deputy Secretary of Commerce

ATTACHMENT LIST

- (1) Biweekly tracker
- (2) July 26, 2022, email from David Berdan, USPTO General Counsel, to James Ahn and Lauren Didiuk, DOC, regarding the release of USPTO procurement records related to the ID.me contract award

From: Ladino, Marie
Sent: Wed, 21 Sep 2022 15:03:02 +0000
To: 'DepSecBriefingBook'
Cc: Twitty, Anthony; Houser, Robert C.; Ramdat, Grace; Zecher, Dede; Bidel-Niyat, Shirin; McLaren, Ellen; Baily, Shannon; (b)(6)
Subject: Agenda for Deputy Secretary Graves's meeting with USPTO Director Kathi Vidal - Friday, September 23
Attachments: DepSec Meeting with USPTO Director Vidal - September 23 2022 - final.docx

Good morning,

Attached please find the agenda for Deputy Secretary Graves's upcoming meeting with USPTO Director Kathi Vidal, scheduled for Friday, September 23. The USPTO's OGC has cleared the agenda. If you have questions or need any additional information, please let me know.

Thank you,
Marie Ladino



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

USPTO0173

**BRIEFING MEMO FOR THE DEPUTY SECRETARY'S MEETING
WITH USPTO DIRECTOR KATHI VIDAL
(PRE-DECISIONAL/DELIBERATIVE)**

FROM: Shirin Bidel-Niyat, Chief of Staff, USPTO, 703-254-3182

PREPARED BY: Marie Ladino, Writer-Editor, USPTO, 571-299-8029

DATE: Friday, September 23, 2022

LOCATION: DepSec Office 5838, Department of Commerce

KEY PARTICIPANTS: Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO

STAFF: James Ahn, Senior Policy Advisor; Mira Patel, Senior Advisor to the Deputy Secretary of Commerce

GOAL AND PURPOSE

- You are meeting with USPTO Director Kathi Vidal to discuss her progress meeting the Department's and the USPTO's strategic objectives as well as other topics she wishes to raise.
- The proposed agenda is:
 - USPTO employee engagement and well-being (4 minutes)
 - On September 13, the security team at the USPTO's Alexandria campus responded to an employee in distress. (b)(5)
 - Update on Director Vidal's trip to Southeast Asia (4 minutes)
 - Director Vidal's successful trip to Southeast Asia provided an excellent opportunity to identify ways to expand the USPTO's involvement in the Indo-Pacific Economic Framework. It also provided an occasion to convey to leaders of the Association of Southeast Asian Nations (ASEAN) region its importance to the Administration. Director Vidal visited with both IP office heads and ministerial officials in Singapore, Malaysia, Thailand, Laos, and Vietnam, where she conveyed the USPTO's interest in expanding cooperative activities, technical assistance, and training and capacity building opportunities. (b)(5)
 - (b)(5)
 - (b)(5)
 - USPTO's anti-counterfeiting efforts (3 minutes)

- The USPTO is working across government and with international organizations to curb the physical and economic harm caused by counterfeit products. In August, the USPTO, in partnership with the National Crime Prevention Council, launched a new phase of the Go for Real ad campaign, including announcements in both English and Spanish. In early September, Director Vidal delivered pre-recorded remarks at an event celebrating the launch of a new website for Mexico’s version of the Go for Real campaign, “Elige el original.” The USPTO also recently signed an MOU with Cinequest, a nonprofit film organization based in San Jose, California, to use the story-telling power of our youth to produce anti-counterfeiting videos and messaging.
- Director review cases at the Patent Trial and Appeal Board (PTAB) (3 minutes)
 - Under the current process post-*Arthrex*, the USPTO has seen over 200 requests for Director review, with 15 granted so far, including five based on party requests and 10 involving sua sponte review. A Request for Comments on the interim Director review process and other PTAB processes has been published, with comments due October 19. Cases currently pending include *OpenSky v. VLSI*, which involves allegations of abusive filing of inter partes review petitions after a district court awarded large damages in an infringement suit involving the same patent. (b)(5)
- Update on the TRIPS waiver (b)(5)

(b)(5)

(b)(5)

(b)(5)

BACKGROUND

- You last met with Director Vidal on August 26.
- Due outs from that meeting were:
 - N/A

PARTICIPANTS

USPTO

- Shirin Bidel-Niyat, Chief of Staff

Office of Policy and Strategic Planning

- James Ahn, Senior Policy Advisor

Office of the Deputy Secretary

- Mira Patel, Senior Advisor to the Deputy Secretary of Commerce

ATTACHMENT LIST

(1) Biweekly tracker

CLEARED BY:

- Shirin Bidel-Niyat, Chief of Staff
- Cordelia (Dede) Zecher, Chief Advisor
- Ellen McLaren, Director, Office of Governmental Affairs
- David Shewchuk, Deputy General Counsel for General Law

From: Ladino, Marie
Sent: Wed, 8 Jun 2022 20:28:48 +0000
To: Bidel-Niyat, Shirin; Zecher, Dede
Subject: FW: For Your Review and Approval - Report for the Cabinet Secretary
Attachments: USPTO Weekly Report 06082022 v.5.docx

Hi Shirin and Dede,

Attached is an updated draft of the Cabinet Report, (b)(5) Delib Proc Priv
(b)(5) Delib Proc Priv Please let me know what you think and if the report should go to DOC at this point.

Thank you,
Marie

From: Zecher, Dede <Cordelia.Zecher@uspto.gov>
Sent: Wednesday, June 8, 2022 1:48 PM
To: Vidal, Kathi <Kathi.Vidal@uspto.gov>; Ladino, Marie <Marie.Ladino@USPTO.GOV>
Cc: Siridavong, Minh <Minh.Siridavong@USPTO.GOV>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Ramdat, Grace <Grace.Ramdat@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Baily, Shannon <Shannon.Baily1@USPTO.GOV>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Kathi,

(b)(5) Delib Proc Priv

Dede

From: Vidal, Kathi <Kathi.Vidal@uspto.gov>
Sent: Tuesday, June 7, 2022 11:03 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Siridavong, Minh <Minh.Siridavong@USPTO.GOV>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Ramdat, Grace <Grace.Ramdat@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Baily, Shannon <Shannon.Baily1@USPTO.GOV>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Thank you, (b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Tuesday, June 7, 2022 6:16 PM

USPTO0177

To: Vidal, Kathi <Kathi.Vidal@uspto.gov>

Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Siridavong, Minh <Minh.Siridavong@USPTO.GOV>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Ramdat, Grace <Grace.Ramdat@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Baily, Shannon <Shannon.Baily1@USPTO.GOV>

Subject: For Your Review and Approval - Report for the Cabinet Secretary

Hi Kathi,

Attached for your review and approval is this week's Report for the Cabinet Secretary. It covers events and updates from June 2-10. Dede, Shirin, Drew, and Dave Berdan have already reviewed the report. Please note that it's due to DOC by 7 p.m. on Wednesday. I've also attached last week's final report for reference. If you have any questions, please let me know.

Thank you,
Marie



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov

Tel: 571-270-3186

Withheld pursuant to exemption

(b)(5) Delib Proc Priv ; Draft

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) Delib Proc Priv ; Draft

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) Delib Proc Priv ; Draft

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) Delib Proc Priv ; Draft

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) Delib Proc Priv ; Draft

of the Freedom of Information Act

From: Ladino, Marie
Sent: Wed, 8 Jun 2022 20:10:36 +0000
To: Bonilla, Jacqueline
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Thanks so much, Jackie. I appreciate your help.

Best wishes,
Marie

From: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Sent: Wednesday, June 8, 2022 4:07 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Sorry, hit send instead of paste. Here it is:

(b)(5) Delib Proc Priv, Draft

From: Bonilla, Jacqueline <>
Sent: Wednesday, June 8, 2022 4:06 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Hi Marie,

Here's a draft blurb:

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Wednesday, June 8, 2022 11:39 AM
To: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Subject: FW: For Your Review and Approval - Report for the Cabinet Secretary

Hi Jackie,

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

Please let me know if you have any questions.

Thank you,
Marie

From: Vidal, Kathi <Kathi.Vidal@uspto.gov>
Sent: Tuesday, June 7, 2022 11:03 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Siridavong, Minh <Minh.Siridavong@USPTO.GOV>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Ramdat, Grace <Grace.Ramdat@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Baily, Shannon <Shannon.Baily1@USPTO.GOV>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: RE: For Your Review and Approval - Report for the Cabinet Secretary

Thank you. (b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Tuesday, June 7, 2022 6:16 PM
To: Vidal, Kathi <Kathi.Vidal@uspto.gov>
Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Siridavong, Minh <Minh.Siridavong@USPTO.GOV>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Ramdat, Grace <Grace.Ramdat@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Baily, Shannon <Shannon.Baily1@USPTO.GOV>
Subject: For Your Review and Approval - Report for the Cabinet Secretary

Hi Kathi,

Attached for your review and approval is this week's Report for the Cabinet Secretary. It covers events and updates from June 2-10. Dede, Shirin, Drew, and Dave Berdan have already reviewed the report. Please note that it's due to DOC by 7 p.m. on Wednesday. I've also attached last week's final report for reference. If you have any questions, please let me know.

Thank you,
Marie



Marie Ladino
Writer-Editor

USPTO0185

U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov

Tel: 571-270-3186

From: Ladino, Marie
Sent: Wed, 5 Oct 2022 20:17:52 +0000
To: McLaren, Ellen; Zecher, Dede; Bidel-Niyat, Shirin
Subject: RE: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022
Attachments: USPTO Weekly Report 10052022 v.2.docx

Hi all,

Attached is the clean final version of the Cabinet Report that I'll send over to DOC in a bit.

Thank you,
Marie

From: McLaren, Ellen <Ellen.McLaren@uspto.gov>
Sent: Wednesday, October 5, 2022 12:39 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Subject: RE: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

I'm good. Thanks!

Ellen C. McLaren



From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Wednesday, October 5, 2022 12:17
To: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: FW: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

Thank you, Dede.

Shirin and Ellen – Please let me know if you also approve.

Best wishes,
Marie

From: Zecher, Dede <Cordelia.Zecher@uspto.gov>
Sent: Wednesday, October 5, 2022 12:15 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: RE: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

Good here, Marie!

USPTO0187

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Wednesday, October 5, 2022 8:43 AM
To: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Subject: FW: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

Good morning Dede, Shirin, and Ellen,

Please let me know if you have any edits or suggestions for this week's Cabinet Report. If not, I'll create a final copy for DOC. Please note that it's due later today.

Thank you,
Marie

From: Berdan, David <David.Berdan@uspto.gov>
Sent: Tuesday, October 4, 2022 2:55 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

No changes from me Marie.

Thanks,
Dave

David Berdan
General Counsel
United States Patent and Trademark Office
Phone: (571) 272-7000
david.berdan@uspto.gov

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From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Tuesday, October 4, 2022 2:05 PM
To: Berdan, David <David.Berdan@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: FOR YOUR REVIEW AND APPROVAL: Cabinet Report - Week Ending October 5, 2022

Hello Dave, Dede, Shirin, and Ellen,

Attached is a draft of this week's Cabinet Report for your review and approval. Please take a look and let me know by COB today if you have any edits or suggestions for additional content. I'll remove the unneeded bullets once we have all the information we want to include and will share a final copy of the report with you before submitting it to DOC.

Thank you,
Marie



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

WEEKLY REPORT

October 5, 2022

MEMORANDUM FOR THE CABINET SECRETARY

FROM: Kathi Vidal, United States Patent and Trademark Office
(USPTO), 571-272-8600

SUBJECT: United States Patent and Trademark Office (USPTO) Weekly
Report | Week ending October 5, 2022

ECONOMY / LOWERING COSTS

- N/A

UNITY AGENDA

- N/A

INFRASTRUCTURE / AMERICAN RESCUE PLAN

- N/A

CLIMATE

- N/A

COVID-19

- N/A

FOREIGN POLICY

- N/A

EQUITY FOR UNDERSERVED COMMUNITIES

- **Past Week** (b)(5) Delib Proc Priv
 - **USPTO Director Gave Keynote During Fireside Chat at License on Transfer Network's (LOT Network) Annual Member Meeting:** On September 29, Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), gave a keynote during a fireside chat at the annual member meeting of the LOT Network, a nonprofit community of companies that supports open innovation and responsible stewardship of technology. Caren Ulrich Stacy, the USPTO's Lead Advisor on Diversity, Equity, Inclusion, and Accessibility (DEIA), joined Director Vidal for the fireside chat. This year's meeting focused on diversity, equity, and inclusion initiatives companies and organizations around the globe are discussing and implementing.

- **Next Week – Upcoming Events / Tasks / Developments:**
 - **USPTO Offers Webinar for Native American, Alaska Native, and Native Hawaiian Visual Artists:** On October 6, the USPTO, in cooperation with the Department of the Interior's Indian Arts and Crafts Board and the nonprofit Indian Dispute Resolution Services Inc., will conduct a webinar for Native American, Alaska Native, and Native Hawaiian visual artists and craftspeople on ways to enhance marketing plans for seasonal/holiday sales. This event is part of an ongoing series that supports the USPTO's mission to broaden participation in the innovation ecosystem.

SIGNIFICANT EXECUTIVE ORDER (EO) IMPLEMENTATION & ADDITIONAL AGENCY ACTIVITY

- **Past Week** (b)(5) Delib Proc Priv
 - **USPTO Seeks Public Input on Initiatives to Improve the Robustness and Reliability of Patent Rights:** On October 4, the USPTO published a request for comments on initiatives directed at bolstering the robustness and reliability of patents.

Through this notice, the USPTO is further emphasizing that clear, enforceable patents are essential to economic growth, global competitiveness, and investment in innovation, including in key technology areas. The notice is part of the USPTO's ongoing efforts to strengthen our intellectual property system to promote and protect innovation, while actively preventing activity that improperly or unnecessarily delays the ability of every American to benefit from that innovation. The USPTO is accepting comments through January 3, 2023.

- **USPTO Extended the Fast-Track Appeals Pilot Program:** On September 29, the USPTO's Patent Trial and Appeal Board (PTAB) announced the second extension of the Fast-Track Appeals Pilot Program. Under this program, appellants with a docketed ex parte appeal may file a petition to expedite review of the appeal by the PTAB. The extension continues the program through July 2, 2024. Currently, the average appeal pendency is about 12 months, down from 15 months in 2020, and 30 months in 2015. Using the appeal process may be more expeditious for inventors and may speed the ultimate issuance of patents as opposed to request for continued examination practice.
- **USPTO's PTAB Extended the Motion to Amend (MTA) Pilot Program:** On September 30, the USPTO's PTAB announced an extension of the MTA Pilot Program until September 16, 2024, or earlier if replaced by a permanent program after notice-and-comment rulemaking. The program provides a patent owner who files an MTA with options to request preliminary guidance from the PTAB on the MTA and to file a revised MTA. The MTA Pilot Program also provides timelines for briefing to accommodate these options. The MTA Pilot Program is intended to provide a more efficient and effective opportunity for patent owners to preserve their patent rights by providing them feedback on their amended claims.
- **USPTO Director Vidal Issued a Precedential Director Review Decision Regarding Abuse of the Inter Partes Review (IPR) Process:** On October 4, Director Vidal issued a precedential Director review decision regarding abuse of the IPR process in *OpenSky Industries, LLC v. VLSI Technology LLC*, IPR2021-01064, Paper 102. The Director review decision

held that the petitioner, OpenSky, abused the IPR process by (1) filing an IPR in an attempt to extract payment from both the patent owner, VLSI, and the joined petitioner, Intel; and (2) proposing to undermine the proceeding to extract the payment from VLSI. Director Vidal sanctioned OpenSky by precluding OpenSky from actively participating in the IPR and temporarily elevating Intel to the lead petitioner. Director Vidal further ordered OpenSky to show cause why it should not be ordered to pay compensatory damages to VLSI. Finally, in an effort to balance the competing interests at issue in this case and to determine whether to maintain or dismiss the underlying proceeding, Director Vidal remanded to the PTAB to determine whether the petition, based only on the record before the PTAB prior to institution, presents a compelling, meritorious challenge.

- **USPTO Deputy Director Discussed USPTO Initiatives at Roundtable and Fireside Chats in Houston and Galveston:** On September 29-30, Derrick Brent, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO, took part in a series of events in Houston and Galveston on behalf of the USPTO. At the Baylor College of Medicine, he participated in a roundtable in which he discussed a range of topics, including expanding the innovation ecosystem and ensuring robust and reliable patents. Deputy Director Brent also took part in a fireside chat with University of Houston-Clear Lake students, in which he discussed career opportunities in the field of intellectual property as well as the patenting process and resources available for inventors. In addition, Deputy Director Brent participated in a fireside chat at the Houston Intellectual Property Law Association's 38th Annual Fall Institute on Intellectual Property Law. At this event, he spoke on topics such as pro bono programs and the USPTO's DEIA initiatives.

- **Next Week – Upcoming Events / Tasks / Developments:**

- (b)(5) Delib Proc Priv

Briefing Memo - United States Patent and Trademark Office (USPTO)

Printed on 10/05/2022

(b)(5) Delib Proc Priv

- **USPTO Hosts Webinar with World Intellectual Property Organization (WIPO) on the Use of Alternative Dispute Resolution (ADR) for Disputes Related to Standard Essential Patents (SEPs):** On October 6, the USPTO and the WIPO Arbitration and Mediation Center will host a webinar on the use of ADR for disputes related to SEPs, patents that have been declared essential to a given technical standard. The WIPO Arbitration and Mediation Center will share its case experience in fair, reasonable, and non-discriminatory (FRAND) and SEP disputes, and will moderate a panel discussion on key issues in SEP licensing, including the hurdles to agreeing on SEP licensing terms, the impact of courts setting global FRAND rates, and the role of mediation and arbitration going forward. Director Vidal will provide remarks at the event.

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

APPENDIX

- N/A

From: Bonilla, Jacqueline
Sent: Thu, 6 Oct 2022 16:13:24 +0000
To: Ladino, Marie; McLaren, Ellen; Zecher, Dede; Bidel-Niyat, Shirin; Berdan, David
Cc: Munasifi, Lena; Walker, Robert (Shawn); Corbin, Rhonda
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Sorry, typo.

From: Bonilla, Jacqueline
Sent: Thursday, October 6, 2022 12:12 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thanks Marie. (b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Thursday, October 6, 2022 11:39 AM
To: McLaren, Ellen <Ellen.McLaren@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thank you, Ellen. I've attached an updated draft of the report that incorporates your changes.

Best,
Marie

From: McLaren, Ellen <Ellen.McLaren@uspto.gov>
Sent: Thursday, October 6, 2022 11:23 AM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn)

USPTO0195

<Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>

Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thanks Dede and Marie! I had missed that language.

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

Ellen C. McLaren



From: Ladino, Marie <Marie.Ladino@USPTO.GOV>

Sent: Thursday, October 6, 2022 11:15

To: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>

Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn)

<Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>

Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thank you, Dede.

Jackie, Ellen, and Shirin – Please let me know your thoughts on Dede’s comments.

Kind regards,
Marie

From: Zecher, Dede <Cordelia.Zecher@uspto.gov>

Sent: Thursday, October 6, 2022 11:10 AM

To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>

Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn)

<Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda

USPTO0196

<Rhonda.Corbin@uspto.gov>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

(b)(5) Delib Proc Priv

Sent with BlackBerry Work
(www.blackberry.com)

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Date: Thursday, Oct 06, 2022, 11:00 AM
To: Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>, Berdan, David <David.Berdan@uspto.gov>, Zecher, Dede <Cordelia.Zecher@uspto.gov>, McLaren, Ellen <Ellen.McLaren@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>, Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>, Baily, Shannon <Shannon.Baily@USPTO.GOV>, Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Hi all,

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

Please let me know your thoughts.

Please also note that the report is due to DOC by 3 p.m. today.

Thank you,
Marie

From: Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Sent: Wednesday, October 5, 2022 6:25 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Berdan, David <David.Berdan@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thanks- was thinking along the same lines.

From: Ladino, Marie
Sent: Wednesday, October 5, 2022 5:52 PM
To: Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn)

USPTO0197

<Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>

Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thank you, Shirin and Dave.

(b)(5) Delib Proc Priv
(b)(5) Delib Proc Priv

Best wishes,
Marie

From: Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Sent: Wednesday, October 5, 2022 5:44 PM
To: Berdan, David <David.Berdan@uspto.gov>; Ladino, Marie <Marie.Ladino@USPTO.GOV>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Thanks Marie (b)(5) Delib Proc Priv
(b)(5) Delib Proc Priv

From: Berdan, David
Sent: Wednesday, October 5, 2022 5:29 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: RE: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Marie:

Looks good to me. No edits or comments.

Thanks,
Dave

David Berdan
General Counsel
United States Patent and Trademark Office
Phone: (571) 272-7000
david.berdan@uspto.gov

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disclosure under applicable law. Please do not forward this message without permission. If you received this message in error, please notify the sender of this e-mail, then delete it.

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Wednesday, October 5, 2022 2:00 PM
To: Berdan, David <David.Berdan@uspto.gov>; Zecher, Dede <Cordelia.Zecher@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Munasifi, Lena <Lena.Munasifi@USPTO.GOV>; Walker, Robert (Shawn) <Robert.Walker@USPTO.GOV>; Baily, Shannon <Shannon.Baily@USPTO.GOV>; Corbin, Rhonda <Rhonda.Corbin@uspto.gov>
Subject: FOR YOUR REVIEW: USPTO Biweekly Report - Week ending October 7, 2022

Hello Dave, Dede, Shirin, and Ellen,

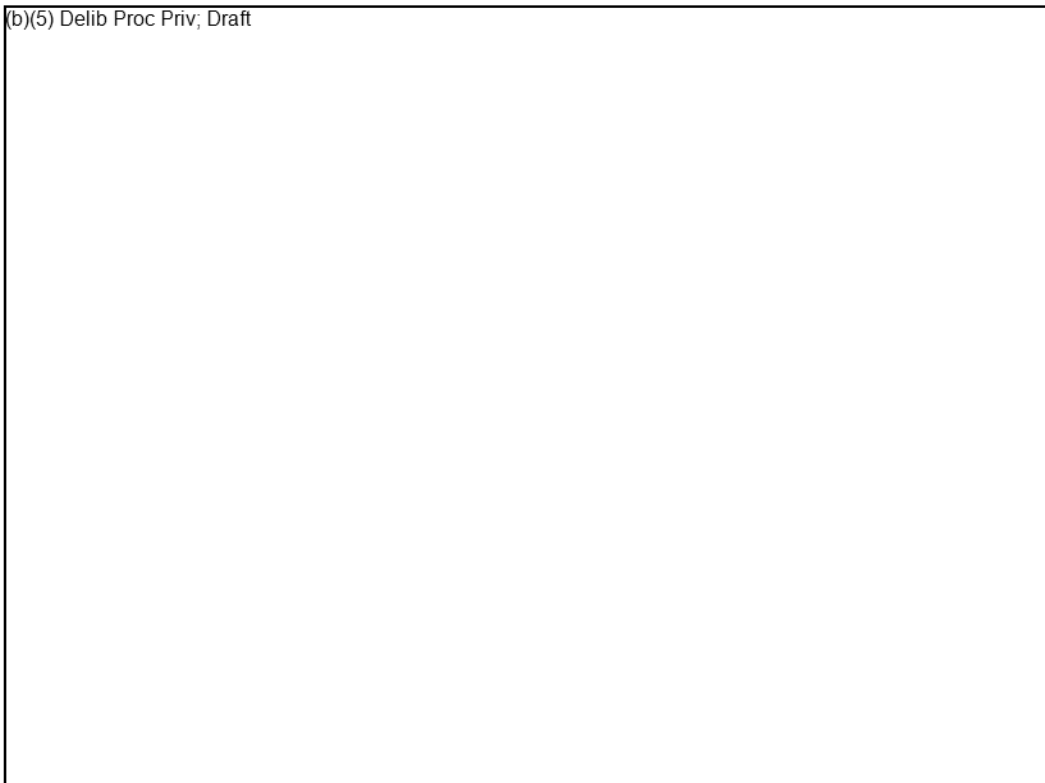
Attached for your review is a draft of the Biweekly Report to the Secretary and Deputy Secretary for the week ending October 7. The report covers events and updates from September 26-October 21. Please send any edits or suggestions to me by COB today, if possible. Please note that the report is due to DOC by 3 p.m. tomorrow (Thursday).

I've also included a draft of the email that will accompany the report below. I'll delete anything we don't need before sending.

Thank you,
Marie

Attached is the biweekly report to the Secretary and Deputy Secretary for the USPTO for the **week ending 7 October 2022**.

(b)(5) Delib Proc Priv; Draft



(b)(5) Delib Proc Priv; Draft

Please let me know if you have any questions or require additional information.

Thank you,
Marie Ladino



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

From: Ladino, Marie
Sent: Mon, 25 Jul 2022 18:10:23 +0000
To: Bonilla, Jacqueline; Horner, Linda
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Thank you, Jackie. That works. I'll let you know if Dede or Shirin requests any additional information.

Kind regards,
Marie

From: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Sent: Monday, July 25, 2022 2:06 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Horner, Linda <Linda.Horner@USPTO.GOV>
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Understood. What about this:

(b)(5) Delib Proc Priv; Draft

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Monday, July 25, 2022 1:47 PM
To: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>; Horner, Linda <Linda.Horner@USPTO.GOV>
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Thank you, Jackie. (b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

Thank you again,
Marie

From: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Sent: Monday, July 25, 2022 1:33 PM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Horner, Linda <Linda.Horner@USPTO.GOV>
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Hi Marie,

We are thinking that more than one sentence might be useful to provide proper context. We came up with this:

(b)(5) Delib Proc Priv; Draft

Let us know if you need something shorter.

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Sent: Monday, July 25, 2022 11:17 AM
To: Horner, Linda <Linda.Horner@USPTO.GOV>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Subject: FW: Kathi's upcoming meeting with Deputy Secretary Graves

Hi Linda and Jackie,

I'm putting together the agenda for Kathi's meeting with Deputy Secretary Graves this week, (b)(5) Delib Proc Priv by COB today?

Thank you,
Marie

From: Zecher, Dede <Cordelia.Zecher@uspto.gov>
Sent: Monday, July 25, 2022 9:46 AM
To: Ladino, Marie <Marie.Ladino@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Ramdat, Grace <Grace.Ramdat@USPTO.GOV>
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Marie,

Kathi would like to discuss:

(b)(5) Delib Proc Priv

Sent with BlackBerry Work
(www.blackberry.com)

From: Ladino, Marie <Marie.Ladino@USPTO.GOV>
Date: Monday, Jul 25, 2022, 8:45 AM
To: Zecher, Dede <Cordelia.Zecher@uspto.gov>, Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Ramdat, Grace <Grace.Ramdat@USPTO.GOV>
Subject: RE: Kathi's upcoming meeting with Deputy Secretary Graves

Good morning Dede and Shirin,

Just a quick reminder that we'll need to submit the agenda for Kathi's upcoming meeting with Deputy Secretary Graves by 9 a.m. on Wednesday. When you can, please let me know what I should include in the agenda.

Thank you,
Marie

From: Ladino, Marie <>
Sent: Wednesday, July 20, 2022 10:00 AM
To: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>
Cc: Ramdat, Grace <Grace.Ramdat@USPTO.GOV>
Subject: Kathi's upcoming meeting with Deputy Secretary Graves

Hi Dede and Shirin,

Kathi's next check-in with Deputy Secretary Graves is currently scheduled for next Friday, July 29. We'll need to submit the agenda to DOC by 9 a.m. on Wednesday, July 27. If there are items you'd like me to start including in the agenda, please let me know.

Thank you,
Marie



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

From: Ladino, Marie
Sent: Wed, 8 Jun 2022 20:43:54 +0000
To: (b)(6)
Cc: Zecher, Dede; Ramdat, Grace; Siridavong, Minh; Bidel-Niyat, Shirin; Baily, Shannon
Subject: USPTO Weekly Cabinet Report - June 8, 2022
Attachments: USPTO Weekly Report 06082022 - final.docx

Hello Solis,

Please find attached the USPTO's Weekly Cabinet Report. If you have any questions, please let me know.

Thank you,
Marie



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

WEEKLY REPORT

June 8, 2022

MEMORANDUM FOR THE CABINET SECRETARY

FROM: Kathi Vidal, United States Patent and Trademark Office (USPTO), 571-272-8600

SUBJECT: United States Patent and Trademark Office (USPTO) Weekly Report | Week ending June 8, 2022

ECONOMY / LOWERING COSTS

- N/A

UNITY AGENDA

- N/A

INFRASTRUCTURE / AMERICAN RESCUE PLAN

- N/A

CLIMATE

- **Past Week** (b)(5) Delib Proc Priv
 - **USPTO Launches Climate Change Mitigation Pilot Program:** On June 3, the United States Patent and Trademark Office (USPTO) published a Federal Register Notice announcing the launch of the Climate Change Mitigation Pilot Program. Under this program, qualifying nonprovisional utility patent applications involving technologies that mitigate climate change by reducing greenhouse gas emissions will be advanced out of turn for examination (accorded special status) until a first action on the merits. This pilot program is a component of the USPTO's commitment to explore the

accelerated review of patent applications that pertain to environmental quality, energy conservation, the development of renewable energy, greenhouse gas emission reduction, and other climate-related topics. It is also one of the bureau actions included in the Department of Commerce's (DOC) Department Administrative Order on "Addressing the Climate Crisis" and is the first of the initiatives to be accomplished.

COVID-19

- N/A

FOREIGN POLICY

- N/A

EQUITY FOR UNDERSERVED COMMUNITIES

- **Next Week – Upcoming Events / Tasks / Developments:**
 - **USPTO Offers Webinar for Native American Visual Artists:** On June 9, the USPTO, in cooperation with the Department of the Interior's Indian Arts and Crafts Board and the nonprofit Indian Dispute Resolution Services Inc., will conduct the fourth in a monthly series of webinars on entrepreneurship, e-commerce, and intellectual property (IP) for Native American visual artists and craftspeople. This session will provide information on how to price visual arts and crafts in the online Native American arts market. This series supports the USPTO's mission to broaden participation in the innovation ecosystem.

SIGNIFICANT EXECUTIVE ORDER (EO) IMPLEMENTATION & ADDITIONAL AGENCY ACTIVITY

- **Past Week** (b)(5) Delib Proc Priv
 - **Agencies Withdraw Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments:** On June 8, the USPTO, along with the Department of Justice and the National Institute of Standards

and Technology, announced the withdrawal of the 2019 Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments. (b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

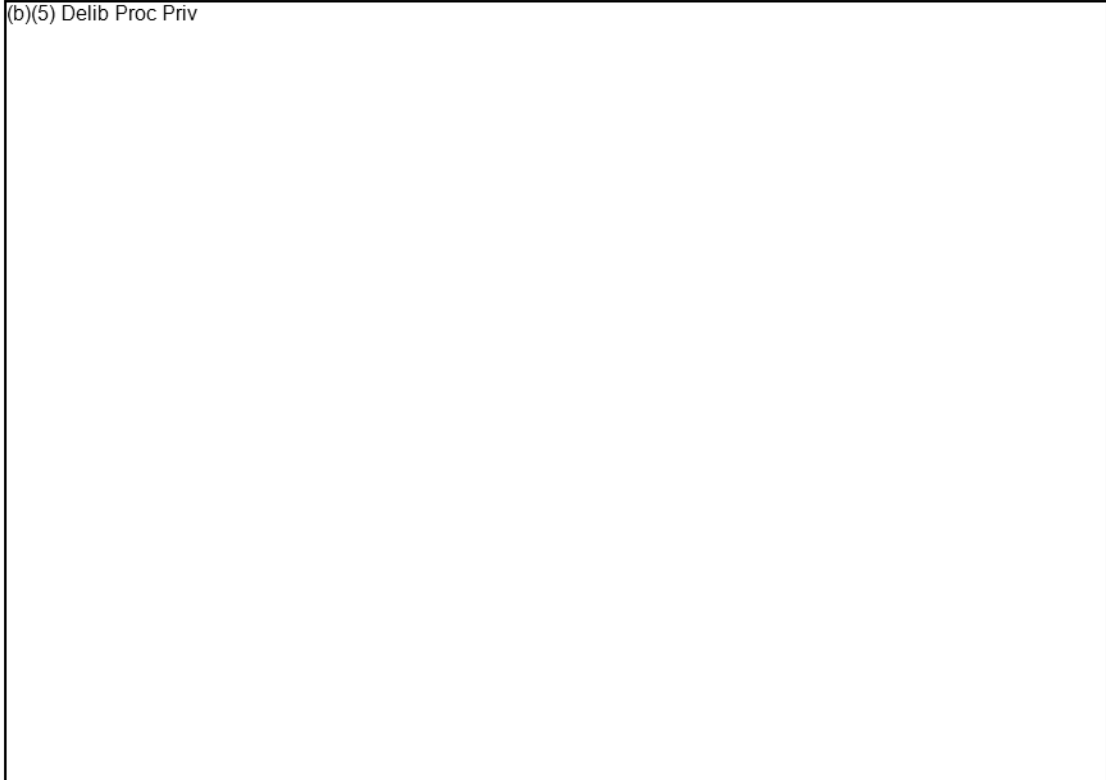
(b)(5) Delib Proc Priv

- **Director Review Granted in Inter Partes Reviews at USPTO's Patent Trial and Appeal Board:** On June 7, Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO, issued orders granting sua sponte Director review in *OpenSky v. VLSI* and *Patent Quality Assurance v. VLSI*, two inter partes reviews (IPRs) instituted at the USPTO's Patent Trial and Appeal Board (PTAB). The recent orders notify the parties of the Director's intention to review the PTAB decisions instituting these proceedings. The orders do not include a decision on the merits but indicate that a scheduling order for briefing, including amicus briefing, will be forthcoming. During the review itself, Director Vidal will consider allegations of abuse of process by petitioners pursuing IPRs after a district court found infringement and awarded large damages in relation to two patents at issue. The grant of Director review in these cases reflects Director Vidal's commitment to ensuring that IPRs at the PTAB serve the public good, are not misused, and work for their intended purposes.
- **USPTO Unveils New Patent Quality Metrics Webpage:** On June 2, the USPTO published a new patent quality metrics webpage, which shares with the public the metrics the Agency uses to gauge patent examination quality. The webpage also reveals how the USPTO assesses the quality of its processes and measures stakeholders' perceptions. The USPTO will use the data on the webpage, as well as internal, Patent Public Advisory Committee, and direct stakeholder input, to guide improvements. In doing so, the USPTO is continuing to increase the robustness and reliability of U.S. patents that incentivize and protect innovation and investments.

- **USPTO Forms AI/ET Partnership:** On June 7, the USPTO announced an initiative to form a partnership (AI/ET Partnership) with the artificial intelligence (AI) and emerging technologies (ET) communities, including, for example, academia, independent inventors, small businesses, industry, nonprofits, and civil society. The AI/ET Partnership will provide an opportunity to bring stakeholders together through a series of engagements to share ideas, feedback, experiences, and insights on the intersection of IP, AI, and other ET (e.g., quantum computing, synthetic biology, blockchain, precision medicine, and virtual reality). Through these efforts, the USPTO seeks to promote the importance of IP rights and ensure that proper incentives are in place to foster innovation in these critical areas.

(b)(5) Delib Proc Priv

- **Next Week – Upcoming Events / Tasks / Developments:**

- (b)(5) Delib Proc Priv
 -
- 

APPENDIX

- **Noteworthy inquiries from Congressional committees or Members of Congress; scheduled testimony by Secretary or Deputy Secretary:**
 - **Senators Ask USPTO to Review Its IPR Process:** On May 27, Director Vidal sent an interim response to Senators Thom Tillis and Mazie Hirono, who wrote to the USPTO on April 27 expressing concern over possible abuses of the USPTO's IPR proceedings before the PTAB. The Senators posed a series of questions about the USPTO's position on such abuses and the steps that the agency could take to prevent them. The USPTO is currently working on practices and procedures to address this issue in a way that will be fair and deliberative, and is preparing a detailed response to the Senators.

From: Ladino, Marie
Sent: Wed, 5 Oct 2022 21:58:55 +0000
To: (b)(6)
Cc: Zecher, Dede; Ramdat, Grace; Bidel-Niyat, Shirin; Baily, Shannon; McLaren, Ellen; Corbin, Rhonda
Subject: USPTO Weekly Cabinet Report - October 5, 2022
Attachments: USPTO Weekly Report 10052022 - final.docx

Hello Solis,

Please find attached the USPTO's Weekly Cabinet Report. If you have any questions, please let me know.

Thank you,
Marie



Marie Ladino
Writer-Editor
U.S. Patent and Trademark Office

Marie.Ladino@uspto.gov
Tel: 571-270-3186

USPTO0210

WEEKLY REPORT

October 5, 2022

MEMORANDUM FOR THE CABINET SECRETARY

FROM: Kathi Vidal, United States Patent and Trademark Office
(USPTO), 571-272-8600

SUBJECT: United States Patent and Trademark Office (USPTO) Weekly
Report | Week ending October 5, 2022

ECONOMY / LOWERING COSTS

- N/A

UNITY AGENDA

- N/A

INFRASTRUCTURE / AMERICAN RESCUE PLAN

- N/A

CLIMATE

- N/A

COVID-19

- N/A

FOREIGN POLICY

- N/A

EQUITY FOR UNDERSERVED COMMUNITIES

- **Past Week A** (b)(5) Delib Proc Priv
 - **USPTO Director Gave Keynote During Fireside Chat at License on Transfer Network's (LOT Network) Annual Member Meeting:** On September 29, Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), gave a keynote during a fireside chat at the annual member meeting of the LOT Network, a nonprofit community of companies that supports open innovation and responsible stewardship of technology. Caren Ulrich Stacy, the USPTO's Lead Advisor on Diversity, Equity, Inclusion, and Accessibility (DEIA), joined Director Vidal for the fireside chat. This year's meeting focused on diversity, equity, and inclusion initiatives companies and organizations around the globe are discussing and implementing.

- **Next Week – Upcoming Events / Tasks / Developments:**
 - **USPTO Offers Webinar for Native American, Alaska Native, and Native Hawaiian Visual Artists:** On October 6, the USPTO, in cooperation with the Department of the Interior's Indian Arts and Crafts Board and the nonprofit Indian Dispute Resolution Services Inc., will conduct a webinar for Native American, Alaska Native, and Native Hawaiian visual artists and craftspeople on ways to enhance marketing plans for seasonal/holiday sales. This event is part of an ongoing series that supports the USPTO's mission to broaden participation in the innovation ecosystem.

SIGNIFICANT EXECUTIVE ORDER (EO) IMPLEMENTATION & ADDITIONAL AGENCY ACTIVITY

- **Past Week A** (b)(5) Delib Proc Priv
 - **USPTO Seeks Public Input on Initiatives to Improve the Robustness and Reliability of Patent Rights:** On October 4, the USPTO published a request for comments on initiatives directed at bolstering the robustness and reliability of patents.

Through this notice, the USPTO is further emphasizing that clear, enforceable patents are essential to economic growth, global competitiveness, and investment in innovation, including in key technology areas. The notice is part of the USPTO's ongoing efforts to strengthen our intellectual property system to promote and protect innovation, while actively preventing activity that improperly or unnecessarily delays the ability of every American to benefit from that innovation. The USPTO is accepting comments through January 3, 2023.

- **USPTO Extended the Fast-Track Appeals Pilot Program:** On September 29, the USPTO's Patent Trial and Appeal Board (PTAB) announced the second extension of the Fast-Track Appeals Pilot Program. Under this program, appellants with a docketed ex parte appeal may file a petition to expedite review of the appeal by the PTAB. The extension continues the program through July 2, 2024. Currently, the average appeal pendency is about 12 months, down from 15 months in 2020, and 30 months in 2015. Using the appeal process may be more expeditious for inventors and may speed the ultimate issuance of patents as opposed to request for continued examination practice.
- **USPTO's PTAB Extended the Motion to Amend (MTA) Pilot Program:** On September 30, the USPTO's PTAB announced an extension of the MTA Pilot Program until September 16, 2024, or earlier if replaced by a permanent program after notice-and-comment rulemaking. The program provides a patent owner who files an MTA with options to request preliminary guidance from the PTAB on the MTA and to file a revised MTA. The MTA Pilot Program also provides timelines for briefing to accommodate these options. The MTA Pilot Program is intended to provide a more efficient and effective opportunity for patent owners to preserve their patent rights by providing them feedback on their amended claims.
- **USPTO Director Vidal Issued a Precedential Director Review Decision Regarding Abuse of the Inter Partes Review (IPR) Process:** On October 4, Director Vidal issued a precedential Director review decision regarding abuse of the IPR process in *OpenSky Industries, LLC v. VLSI Technology LLC*, IPR2021-01064, Paper 102. The Director review decision

held that the petitioner, OpenSky, abused the IPR process by (1) filing an IPR in an attempt to extract payment from both the patent owner, VLSI, and the joined petitioner, Intel; and (2) proposing to undermine the proceeding to extract the payment from VLSI. Director Vidal sanctioned OpenSky by precluding OpenSky from actively participating in the IPR and temporarily elevating Intel to the lead petitioner. Director Vidal further ordered OpenSky to show cause why it should not be ordered to pay compensatory damages to VLSI. Finally, in an effort to balance the competing interests at issue in this case and to determine whether to maintain or dismiss the underlying proceeding, Director Vidal remanded to the PTAB to determine whether the petition, based only on the record before the PTAB prior to institution, presents a compelling, meritorious challenge.

- **USPTO Deputy Director Discussed USPTO Initiatives at Roundtable and Fireside Chats in Houston and Galveston:**
On September 29-30, Derrick Brent, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO, took part in a series of events in Houston and Galveston on behalf of the USPTO. At the Baylor College of Medicine, he participated in a roundtable in which he discussed a range of topics, including expanding the innovation ecosystem and ensuring robust and reliable patents. Deputy Director Brent also took part in a fireside chat with University of Houston-Clear Lake students, in which he discussed career opportunities in the field of intellectual property as well as the patenting process and resources available for inventors. In addition, Deputy Director Brent participated in a fireside chat at the Houston Intellectual Property Law Association's 38th Annual Fall Institute on Intellectual Property Law. At this event, he spoke on topics such as pro bono programs and the USPTO's DEIA initiatives.

- **Next Week – Upcoming Events / Tasks / Developments:**

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- **USPTO Hosts Webinar with World Intellectual Property Organization (WIPO) on the Use of Alternative Dispute Resolution (ADR) for Disputes Related to Standard Essential Patents (SEPs):** On October 6, the USPTO and the WIPO Arbitration and Mediation Center will host a webinar on the use of ADR for disputes related to SEPs, patents that have been declared essential to a given technical standard. The WIPO Arbitration and Mediation Center will share its case experience in fair, reasonable, and non-discriminatory (FRAND) and SEP disputes, and will moderate a panel discussion on key issues in SEP licensing, including the hurdles to agreeing on SEP licensing terms, the impact of courts setting global FRAND rates, and the role of mediation and arbitration going forward. Director Vidal will provide remarks at the event.

(b)(5) Delib Proc Priv

(b)(5) Delib Proc Priv

APPENDIX

- N/A

From: McLaren, Ellen
Sent: Wed, 30 Nov 2022 20:01:05 +0000
To: Vidal, Kathi; Zecher, Dede; Bidel-Niyat, Shirin; Bonilla, Jacqueline
Subject: For your awareness: an OpenSky slide deck for the OPSP briefing of Secretary Raimondo
Attachments: Ahn OpenSky Update.pptx

As you know, James will be briefing Secretary Raimondo using the materials we prepared (thanks especially to Kathi and Jackie for review and edits). (b)(5) Delib Proc Priv

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No action needed, just awareness.

Following up on questions related to the USPTO OpenSky decision

- What are PTAB, Fintiv, and OpenSky?
- What happened with the OpenSky case?

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What is PTAB?

The Patent Trial and Appeal Board (PTAB) was created by Congress in 2012 to provide a quicker way to challenge potentially bad patents without having to go to district court.

The PTAB gives USPTO a way to help police its own ‘bad patents.’

- The tech and financial services industries in particular were being plagued by lawsuits alleging that they infringed broadly written patents. Rather than spend millions challenging the patent in court, they often had to just settle the cases even if they believed the patent at issue was not applicable.
- Some patent holders including small inventors, some research universities, and others have raised concerns that PTAB is too quick to invalidate a patent and would like to reform the standard that a petition must meet before PTAB takes up a case.

What is *Fintiv*?

Fintiv is a PTAB case made precedential by the last Administration that established a multi-prong test for when PTAB would take up a case.

- The last Director put a process in place (“*Fintiv*”) to permit discretionary denial of a PTAB review even when the patents would have otherwise warranted review if the case met a test with multiple factors, but heavily weighted towards whether district court proceedings and PTAB proceedings could potentially occur at the same time.
- While Senator Coons and Tillis support the *Fintiv* test, Senator Leahy, current House IP subcommittee Chairman Johnson and incoming Chairman Issa and the public expressed concerns that (1) the USPTO was relying on trial dates that did not stick; (2) the USPTO was potentially denying review of weak patents.
- Unrelated to any specific case, such as *OpenSky*, Director Vidal, upon confirmation, updated how *Fintiv* was to be applied, so that if a patent was sufficiently weak and the case against it was strong, the PTAB would not discretionarily deny a review of such a patent. This update to *Fintiv* was intended to preserve the balance and discretion that *Fintiv* created while allowing the USPTO to still remove truly bad patents from the ecosystem.

How did the *OpenSky* case start?

The OpenSky case stems from a U.S. District Court Case in which VLSI sued Intel for infringing two VLSI patents.

- Note: OpenSky was not a party to this District Court case.

In response to VLSI's lawsuit, Intel challenged the validity of VLSI's patents and requested PTAB's review of these patents.

Intel's PTAB review was denied by the last Administration in one of the first applications of the *Fintiv* precedent because of the advanced state of district court litigation and the overlapping issues between the PTAB petitions and the district court complaints.

- Note: (b)(5) Delib Proc Priv

In March 2021, the district court jury found Intel infringed both VLSI patents and awarded damages of \$2.2 billion.

- Note: the validity of VLSI's patents was not addressed by the jury.

But how is OpenSky involved and what did USPTO decide?

After this district court trial, an unrelated third-party –OpenSky-- then filed at the PTAB a *nearly identical petition to Intel's* challenging VLSI's patents.

- Note: ***per the law, Intel was able to join OpenSky's PTAB case*** because by statute the post-trial time bar does not apply to a secondary party, such as Intel, merely joining a PTAB proceeding

The PTAB instituted the review because the underlying patents in question were sufficiently weak and the case against them were strong.

Director Vidal reviewed OpenSky's case and (1) confirmed that the PTAB should review the VLSI patents and (2) prevented OpenSky from participating in the PTAB review because it was abusing the PTAB system to extract payments from other parties in the case.

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(b)(5) Delib Proc Priv

From: Bidel-Niyat, Shirin
Sent: Tue, 7 Jun 2022 21:14:41 +0000
To: Andrejat, Jacob; Ahn, James (Federal); Bonilla, Jacqueline; Kiernan, Leslie (Federal)
Cc: Zecher, Dede; Oettinger, Nicolas; McLaren, Ellen; Berdan, David; Hirshfeld, Andrew; Duckworth, Cara; Horner, Linda
Subject: RE: Order granting Director Review

FYI, we are moving the orders at 5:30 pm.

From: Andrejat, Jacob (Federal) (b)(6)
Sent: Tuesday, June 7, 2022 4:51 PM
To: Ahn, James (Federal) (b)(6); Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>; Kiernan, Leslie (Federal) (b)(6)
Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Oettinger, Nicolas <Nicolas.Oettinger@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Duckworth, Cara <Cara.Duckworth@uspto.gov>; Horner, Linda <Linda.Horner@USPTO.GOV>
Subject: RE: Order granting Director Review

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Thank you for flagging.

Jake Andrejat

C: (b)(6)

From: Ahn, James (Federal) (b)(6)
Sent: Tuesday, June 7, 2022 4:48 PM
To: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>; Kiernan, Leslie (Federal) (b)(6)
Cc: Zecher, Cordelia <Cordelia.Zecher@uspto.gov>; Oettinger, Nicolas <Nicolas.Oettinger@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Duckworth, Cara <Cara.Duckworth@uspto.gov>; Horner, Linda <Linda.Horner@USPTO.GOV>; Andrejat, Jacob (Federal) (b)(6)
Subject: RE: Order granting Director Review

Thank you. Looping in OPA just in case.

From: Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>
Sent: Tuesday, June 7, 2022 4:41 PM
To: Ahn, James (Federal) (b)(6); Kiernan, Leslie (Federal) (b)(6)
Cc: Zecher, Cordelia <Cordelia.Zecher@uspto.gov>; Oettinger, Nicolas <Nicolas.Oettinger@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen

<Ellen.McLaren@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Duckworth, Cara <Cara.Duckworth@uspto.gov>; Horner, Linda <Linda.Horner@USPTO.GOV>

Subject: RE: Order granting Director Review

Dear James and Leslie,

(b)(5) Delib Proc Priv

Please let us know as soon as possible if you have any questions or wish to discuss.

Thank you,
Jackie

Jacqueline D. Wright Bonilla

Deputy Chief Administrative Patent Judge & Senior Legal Advisor

U.S. Patent and Trademark Office

Office: (571) 272-4775

Email: jacqueline.bonilla@uspto.gov



From: Horner, Linda <Linda.Horner@USPTO.GOV>

Sent: Tuesday, May 31, 2022 4:18 PM

To: Ahn, James (Federal) (b)(6) Kiernan, Leslie (Federal) (b)(6)

Cc: Zecher, Dede <Cordelia.Zecher@uspto.gov>; Oettinger, Nicolas <Nicolas.Oettinger@USPTO.GOV>; Bidel-Niyat, Shirin <Shirin.Bidel-Niyat@uspto.gov>; McLaren, Ellen <Ellen.McLaren@uspto.gov>; Berdan, David <David.Berdan@uspto.gov>; Hirshfeld, Andrew <Andrew.Hirshfeld@USPTO.GOV>; Duckworth, Cara <Cara.Duckworth@uspto.gov>; Bonilla, Jacqueline <Jacqueline.Bonilla@USPTO.GOV>

Subject: Order granting Director Review

Dear James and Leslie,

Kathi is planning to issue her first order granting Director review of final written decisions of the Patent Trial and Appeal Board in two related inter partes reviews. (b)(5) Delib Proc Priv

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Please let us know as soon as possible if you have any questions or wish to discuss.

Thank you,
Linda

Linda E. Horner
Administrative Patent Judge & Senior Legal Advisor
U.S. Patent & Trademark Office
Linda.Horner@uspto.gov