

FIRESIDE CHAT

Questions for Kathi Vidal, Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office V.2

Intellectual Property Owners (IPO) Association
2023 Annual Meeting, Hynes Convention Center, Boston, MA

“Patents, Trademarks, Copyrights, Trade Secrets, Industrial Designs”

PROPOSED IPO QUESTIONS

General Personal Questions: (These may be asked either at the start, or at the end of the session — or not at all!)

- Could you highlight a few of the areas that you have been working on since you took office that you are most proud of?
- In your opinion, what are the biggest challenges currently facing the USPTO and the IP system overall?
 - How can the broader IP community help overcome them?
- What are our most significant opportunities for promoting innovation and supporting U.S. global competitiveness?

Artificial Intelligence

Question: The USPTO has been investing heavily in AI and machine learning. How has this investment been paying off for USPTO operations and for your customers?

Patent Quality

Question: IPO members often have a range of viewpoints on matters of IP policy, but we have traditionally been aligned on the need to ensure that the USPTO issues high quality, enforceable patents that will withstand challenges. The USPTO has made a substantial investment in improving the quality of both the examination of patent applications and the publication of patent data. What specifically has the USPTO done under your leadership to ensure that the examination process can continue to improve on its rigor and thoroughness? What additional things do you want to do to ensure high quality, enforceable patents during your time at the head of the agency?

Trademark Questions.

Question: Based on the Request for Comments and Notice of a Public Roundtable published on May 25, 2023, on “Future Strategies in Anticounterfeiting and Piracy,” what are the USPTO goals about enforcement?

Trademark Question: How is the USPTO engaging with the Department of Homeland Security (DHS) and Customs and Border Protection (CBP) on this topic?

Trademark Question: As a development from this present request, can we expect further guidance to Congress from the Request for Inputs published on December 2020 on Secondary Trademark Infringement Liability in e-commerce?

Trademark Question: At the August TPAC meeting, we heard the good news that TM first-action pendency numbers have stabilized, based on a number of factors including the filing of fewer applications and newly hired and trained examiners. However, post-registration processing times have increased to approximately four to six months. This is nearly twice as long as the USPTO target. What are USPTO's plans to reduce post-registration processing times, and when can we expect to see reduction of these times

Diversity & Access

Question: IPO is delighted to be collaborating with the USPTO to increase participation by women, people of color, veterans, LGBTQ+ individuals, and other underserved groups in the patent system. What additional things do you think IPO and USPTO can be doing together to increase participation by traditionally underserved groups?

Patent Eligibility & Legislation

Question: You have stated publicly that you believe Congressional action may be the most efficient and effective way to impart clarity and certainty into patent eligibility. Do you have thoughts about what legislation might look like, from your perspective as a litigator and as USPTO Director?

IPR/PGR

Question: You have already taken several actions to revise the rules governing the Patent Trial and Appeal Board's inter partes review (IPR) and post grant review (PGR) proceedings. Can you reflect on these or any other changes you think could ensure fair and consistent results? Do you think legislation on this issue is necessary?

Harmonization/International

Question: IPO is very interested and uniquely situated in trying to create a more efficient, cost-effective IP system. The global assignment project is an example of a harmonization proposal that IPO has championed that would further this goal—and we thank you for engaging with us as we've shared our efforts with you already in this space. What do you see as the top opportunities for international harmonization to create further efficiencies in the IP system?

NFTs

Q: When can we expect the release of the joint study on IP rights and NFTs?

Industrial Designs

Question: Design protection has become increasingly important to many IPO members. It is an ever-evolving field. Can you please let us know about the USPTO's efforts to try to keep its examiners updated on current decisions from the Federal Circuit and the PTAB, such as any

plans to further update the MPEP to reflect current jurisprudence and to provide training on recent cases?

Green IP

Question: We are thrilled to see the commitment to the Climate Change Mitigation Pilot Program; as of August 8, there have been 499 patents filed and 356 patents granted pursuant to the program. We were also very happy to see that the USPTO held a Green IP expo in May. Are there further ways that the USPTO is thinking about encouraging green innovation and voluntary partnerships in this field, which could help demonstrate how the IP framework continues to drive innovation and partnerships and help the world meet global challenges?

Conclusion

Question: I've saved the most important question for last: How can we best help you and work together as you pursue these objectives?