

Technology Committee – August 6, 2015

USPTO Director Michelle Lee Discusses Innovation, Patents, Intellectual Property on Business Forward Call

This afternoon, [Business Forward](#) hosted a conference call featuring [Michelle Lee, the U.S. Undersecretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office \(USPTO\)](#). The focus of the call was on innovation, patents, and intellectual property.

Below is a summary of key points from the discussion with Director Lee.

- **USPTO Priorities** – Director Lee began the discussion by highlighting several of the USPTO’s top priorities:
 - First, she stressed the USPTO is focused on issuing the highest quality patents in a timely manner. She noted that since 2009, the USPTO has decreased its patent application backlog by 25%, despite a 4% yearly increase in filing.
 - Director Lee also discussed the USPTO’s work to increase accessibility by opening four new regional offices in Denver, Dallas, Detroit, and the Silicon Valley. She said that all four of these regional offices will be up and running by the end of the year and will be an excellent resource for businesses outside of the DC area.
 - As the US continues to pursue major multi-lateral trade agreements, Director Lee explained that the USPTO is working on the harmonization of IP standards with other nations to make it easier for U.S. companies to export their goods.
- **Patent Litigation Reform** - Director Lee also discussed current legislation pending in Congress to curtail abusive patent litigation. [Click here for more background on this legislation.](#)
 - Director Lee indicated that passing a balanced bill that dis-incentivizes abusive patent litigation is a top priority for the Obama Administration.
 - She explained that the UPSTO and the court system are doing what they can to address this problem, but that there are certain things that only Congress can do.

- She noted that patent litigation is one of the most expensive types of litigation due to the complex issues involved, the need to hire experts, and the fact that it is very document intensive. She added, however, that these costs fall on the defendant in patent litigation cases.
- Because of these expenses and the increase in unreasonable and abusive litigation, one of the issues that Congress need to address is fee shifting, noting that if the plaintiff has to pay the fees if they are unsuccessful, it will dis-incentivize abusive litigation. She stressed that the idea is not that the “loser pays” but that the “abuser pays.”
- Director Lee reiterated that the goal is to strike a balance between allowing businesses large and small to appropriately enforce their patents while also curtailing abusive litigation.
- **Economic Importance of Intellectual Property** – Director Lee also highlighted the tremendous economic impact of intellectual property.
 - She noted that in the past, a business’ most valuable assets were tangible assets such as factories and equipment.
 - However, in our 21st century innovation economy, a business’ most valuable assets are intangible assets like processes and algorithms, and therefore, it is critical that we have protections in place for such intellectual property.
- **Patent Examiner Training** – Director Lee also touched on the issue of providing training for patent examiners.
 - She noted that, pursuant to [Executive Actions](#) to improve the nation’s patent system the USPTO has undertaken an initiative to provide advanced technical [training for its patent examiners](#).
 - Director Lee also noted that the USPTO recently issued [updated examiner guidance](#) for determining what is patent eligible subject matter, and that they are in the process of training examiners in accordance with that guidance.
 - She also stressed that the USPTO welcomes public feedback on the guidance.
- **Trade Secrets Legislation** – In response to a question from the NEC regarding [recently introduced legislation to protect trade secrets](#), Director Lee explained that the Administration has not taken a position on this legislation. However, she added that the USPTO hears regularly from the business community about the misappropriation of trade secrets and understands that it is a significant challenge that businesses face.