

Michelle Lee to Continue Serving as Director of the United States Patent and Trademark Office

With President Donald Trump now in the White House, many in the IP arena are pondering whether the United States Patent and Trademark Office (USPTO) and U.S. intellectual property laws will undergo significant changes under the Trump administration. In a speech given on January 6, Michelle Lee, Director of the USPTO, stated, “[o]ur President-elect has promised economic growth and job creation, and IP will necessarily be key to achieving that goal.” Clearly, changes will ensue. However, since President Trump has not yet articulated specific policy changes, there is much uncertainty and speculation regarding the changes to come.

In the days leading up to President Donald Trump’s inauguration, the first anticipated change was that Michelle Lee would resign from her position as Director of the USPTO. However, a recent report from *The Hill* indicates that Lee was asked to stay on to head the agency. Throughout Lee’s three-year term under the Obama administration, Lee focused on improving the agency’s relationship with the public, employees, and Congress, improving finances of the agency, decreasing the backlog of unexamined patent applications, and improving examination quality. She also targeted patent trolls—companies that obtain or acquire patents to make profits by suing potential infringers instead of by producing inventions. Lee remaining as the USPTO Director will help ensure a smooth transition as the new administration begins.

Other areas that may be a focus for reform under the Trump administration include pharmaceutical pricing and resolving concerns with patent litigation in the Eastern District of Texas, which has a reputation of providing disproportionate awards to patent owners.

Additionally, the Trump administration will likely focus on intellectual property law reforms that protect U.S. intellectual property owners from piracy in China. President Trump previously stated, “[w]e will enforce stronger protections against Chinese hackers and counterfeit goods and our responses to Chinese theft will be swift, robust, and unequivocal.” Trump is also opposed to the Chinese government imposing obligations on U.S. companies to transfer their proprietary technologies to Chinese companies before being able to enter the Chinese marketplace. Trump stated that, as President, he will “adopt a zero tolerance policy on intellectual property theft and forced technology transfer. If China wants to trade with America, they must agree to stop stealing and to play by the rules.”

While much uncertainty still exists over the types of policies that will emerge from the Trump administration, having Michelle Lee remain as Director of the USPTO provides optimism for a smoother transition and continued support of America’s intellectual property.

Should you have questions or concerns, please contact any member of our Intellectual Property Group at 585-232-6500. ■

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