Insights: Perspectives

4 Key Takeaways | Recent Changes with Respect to the New Administration

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Kilpatrick's **Kris Doyle, David Reed, Kate Klein**, and **Ditty Shrivastava** recently presented at the annual Kilpatrick Intellectual Property Seminar Series on the topic of "Recent Changes with Respect to the New Administration." They discussed the global impact of the new administration's policies, including expected changes to IP and the practical effects of those changes.

Key takeaways from the presentation include:

- The IP policies of the second Trump administration are expected to align with those of the first Trump administration, namely reducing patentability hurdles and rendering US patents less vulnerable to challenge. The current administration has made it clear that a robust patent system combined with a fervent commitment to AI are critical pillars to advancing US supremacy and economic growth. The ideologies of President Trump's political nominees/appointees thus far align with these priorities. However, other initiatives – such as the return to the office mandate and hiring freeze – are viewed by some as in tension with the second Trump administration's stated goals.
- The USPTO has adopted new policies that make discretionary denial of institution of an IPR based on parallel litigation more likely. A petitioner no longer can avoid discretionary denial by filing a "*Sotera* stipulation" in parallel litigation to mitigate concern of duplicative efforts and potentially conflicting decisions. Compelling merits are also no longer dispositive. To minimize risk of discretionary denial, time is of the essence. Companies facing infringement allegations should engage a team like Kilpatrick's with the depth of experience and expertise to identify and evaluate prior art and prepare meritorious petitions quickly and efficiently.
- As DOGE becomes more entrenched in the federal government contracting space, contractors and businesses that rely on federal funds need to pay more attention than ever to when documenting and submitting detailed justifications for their expenses. This is a balancing act between providing information to justify expenses and safeguarding certain information. Because the information could be made public, companies must take care not to inadvertently reveal trade secrets or confidential business practices in an effort to justify legitimate government expenses.

- With the administration's focus on tariffs, now is the perfect opportunity to review supply chains and ensure that your HTS codes are accurate and up to date. It also may be prudent to consider tariff mitigation strategies such as “unbundling” of services and the “first-sale-rule” if it is applicable to your supply chain.

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