



[3510-16-P]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-P-2018-0038]

Patent and Trademark Public Advisory Committees

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for nominations for the Patent and Trademark Public Advisory Committees.

SUMMARY: On November 29, 1999, the President signed into law the Patent and Trademark Office Efficiency Act (the “Act”), Pub. L. 106-113, which, among other things, established two Public Advisory Committees to review the policies, goals, performance, budget and user fees of the United States Patent and Trademark Office (USPTO) with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee, and to advise the Director on these matters. The America Invents Act Technical Corrections Act made several amendments to the 1999 Act, including the requirement that the terms of the USPTO Public Advisory Committee members be realigned by 2014, so that December 1 be used as the start and end date, with terms staggered so that each year three existing terms expire and three new terms begin on December 1. Through this Notice, the USPTO is requesting nominations for up to three (3) members of the

Patent Public Advisory Committee, and for up to three (3) members of the Trademark Public Advisory Committee, for terms of three years that begin on December 1, 2018.

DATES: Nominations must be postmarked or electronically transmitted on or before July 6, 2018.

ADDRESSES: Persons wishing to submit nominations should send the nominee's resumé by postal mail to Brendan McCommas, Chief of Staff, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313-1450 or by electronic mail to: PPACnominations@uspto.gov for the Patent Public Advisory Committee, or TPACnominations@uspto.gov for the Trademark Public Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Brendan McCommas, Chief of Staff, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, at (571) 272-8600.

SUPPLEMENTARY INFORMATION: The Advisory Committees' duties include:

- Review and advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on matters relating to policies, goals, performance, budget, and user fees of the USPTO relating to patents and trademarks, respectively; and
- Within 60 days after the end of each fiscal year: (1) prepare an annual report on matters listed above; (2) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and (3) publish the report in the Official Gazette of the USPTO.

Advisory Committees

The Public Advisory Committees are each composed of nine (9) voting members who are appointed by the Secretary of Commerce (the “Secretary”) and serve at the pleasure of the Secretary for three-year terms. Members are eligible for reappointment for a second consecutive three-year term. The Public Advisory Committee members must be citizens of the United States and are chosen to represent the interests of diverse users of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee. Members must represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants. The Committees must include individuals with “substantial background and achievement in finance, management, labor relations, science, technology, and office automation.” 35 U.S.C. 5(b)(3). Each of the Public Advisory Committees also includes three (3) non-voting members representing each labor organization recognized by the USPTO.

Administration policy discourages the appointment of federally registered lobbyists to agency advisory boards and commissions (Lobbyists on Agency Boards and Commissions, <http://www.whitehouse.gov/blog/2009/09/23/lobbyist-agency-boards-and-commissions> (Sept. 23, 2009)); cf. Exec. Order No. 13490, 74 Fed. Reg. 4673 (January 21, 2009) (While Executive Order 13490 does not specifically apply to federally registered lobbyists appointed by agency or department heads, it sets forth the Administration’s general policy of decreasing the influence of special interests in the Federal Government).

Procedures and Guidelines of the Patent and Trademark Public Advisory Committees

Each newly appointed member of the Patent and Trademark Public Advisory Committees will serve for a three-year term that begins on December 1, 2018, and ends on December 1, 2021. As

required by the 1999 Act, members of the Patent and Trademark Public Advisory Committees will receive compensation for each day (including travel time) while the member is attending meetings or engaged in the business of that Advisory Committee. The enabling statute states that members are to be compensated at the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of Title 5, United States Code. Committee members are compensated on an hourly basis, calculated at the daily rate. While away from home or regular place of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code.

Applicability of Certain Ethics Laws

Public Advisory Committee Members are Special Government Employees within the meaning of Section 202 of Title 18, United States Code. The following additional information includes several, but not all, of the ethics rules that apply to members, and assumes that members are not engaged in Public Advisory Committee business more than 60 days during any period of 365 consecutive days.

- Each member will be required to file a confidential financial disclosure form within thirty (30) days of appointment. 5 C.F.R. 2634.202(c), 2634.204, 2634.903, and 2634.904(b).
- Each member will be subject to many of the public integrity laws, including criminal bars against representing a party in a particular matter that came before the member's committee and that involved at least one specific party. 18 U.S.C. 205(c); *see also* 18 U.S.C. 207 for post-membership bars. A member also must not act on a matter in which the member (or any of certain closely related entities) has a financial interest. 18 U.S.C. 208.
- Representation of foreign interests may also raise issues. 35 U.S.C. 5(a)(1) and 18 U.S.C. 219.

Meetings of the Patent and Trademark Public Advisory Committees

Meetings of each Advisory Committee will take place at the call of the respective Committee Chair to consider an agenda set by that Chair. Meetings may be conducted in person, telephonically, on-line through the Internet, or by other appropriate means. The meetings of each Advisory Committee will be open to the public except each Advisory Committee may, by majority vote, meet in executive session when considering personnel, privileged, or other confidential information. Nominees must have the ability to participate in Committee business through the Internet.

Dated: May 9, 2018.

Andrei Iancu,
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office.

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