LAW360
K&L Gates LLP
News, cases, companies, firr

Try our Advanced Search for more refined results

LAW360
News, cases, companies, firr
Toggle Dropdown

- Search Law360
- Search News Only
- Search Cases Only
- Search PTAB Only
- Search TTAB Only
- Advanced Search

K&L Gates LLP

- My Account
- Emails & Alerts
- Newsletter Signup

Close

- Law360
- Law360 UK
- Law360 Pulse
- Law360 Employment Authority
- Law360 Tax Authority
- Law360 Insurance Authority
- Law360 Real Estate Authority
- Law360 Healthcare Authority
- Law360 Bankruptcy Authority

- Products
- Lexis®
- Law360 In-Depth
- Law360 Podcasts

- Rankings
- Leaderboard Analytics
- Regional Powerhouses
- Law360's MVPs
- Women in Law Report
- Law360 400
- Diversity Snapshot
- Practice Groups of the Year
- Rising Stars
- Titans of the Plaintiffs Bar

- Sections
- Adv. Search & Platform Tools
- **About all sections**
- **Browse all sections**
- Banking
- Bankruptcy
- Class Action
- Competition
- Employment
- Energy
- Expert Analysis
- Insurance
- Intellectual Property
- Product Liability
- Securities

- Beta Tools
- Track docs
- Track attorneys
- Track judges

- Site Menu
- Join the Law360 team

ENTROPIC EXHIBIT 2005
Comcast v. Entropic
IPR2025-00185

- Search legal jobs
- Learn more about Law360
- Read testimonials
- Contact Law360
- Sign up for our newsletters
- Law360 Company
- About Law360 Authority
- Resource Library
- Site Map
- Help

Intellectual Property Securities Bankruptcy Competition Employment White Collar Legal Industry Access To Justice Law360 UK Pulse || See all sections ||
NEWSLETTERS

How competitive is your compensation?
Click here to take the Law360 survey.

Acting USPTO Leader Says New Policies Will Bolster Patents

By Ryan Davis · Listen to article

Law360 (April 1, 2025, 9:03 PM EDT) -- Acting U.S. Patent and Trademark Office Director Coke Morgan Stewart said at a conference Tuesday that new policies including having her take an active role in determining whether patent challenges should be denied are part of an effort to "reinvigorate our IP system."

Speaking at the LeadershIP 2025 event organized by the Center for Strategic & International Studies, Stewart said that the patent system is at times "at war with itself, but there's hope for change," and that the USPTO is "encouraging the innovation community to help strengthen patent rights."

She noted that the 2011 America Invents Act created a mechanism where third parties can submit information to the office about whether inventions described in patents that are being examined are new and non-obvious, along with post-grant reviews, in which patents can be challenged within nine months of when they are issued.

"Unfortunately, these early tools are rarely used because there are other portions of the AIA that encourage competitors to wait until they are actually sued for infringement to participate in this joint exercise to improve the IP system," Stewart said.

Those later challenges at the Patent Trial and Appeal Board, known as inter partes reviews, are the focus of a new procedure Stewart announced last month, where she and board judges will decide whether IPR petitions should be denied for discretionary reasons before the PTAB considers the merits of the invalidity arguments.

"Fortunately, the AIA permits the director of the USPTO considerable discretion in overseeing AIA proceedings," Stewart said Tuesday. Under the new process, she said, parties can file briefs about whether inter partes review petitions "negatively impact settled expectations" due to how long the patent has been in force, "or whether they will positively impact compelling economic, national security, or other health needs."

Stewart also said the office wants to ensure that PTAB proceedings are in line with district court standards so they "complement instead of conflict with district court case law."

"Finding this right balance between offering scientific, technical, and legal expertise that the agency has, while still acting with humility in the face of co-pending proceedings in our court system has been a challenge, but I think we're making progress," she said.

She pointed to a PTAB decision that was designated as informative last month, which held that if patent challengers make a different claim construction argument at the board than they made in district court, "at a minimum, they need to explain why they change that position."

In addition, Stewart said the office is "considering ways to encourage early challenges provided by the AIA over late ones." She framed the procedures to question the validity of patents during the examination process or shortly after they are issued as being preferable to inter partes reviews mounted by accused infringers after they are sued.

The ability of third parties to submit information to the office during the examination process solves the problem of examiners not having the best information to determine if a patent should be issued, Stewart said, because "who knows better whether an invention is truly new than other inventors in the same field?"

Post-grant reviews filed soon after a patent is issued "can also help improve the durability of patent rights," she said. Those proceedings are rarely used, however: according to patent office statistics, only 38 post-grant review petitions were filed during the 2024 fiscal year, compared with 1,250 inter partes review petitions.

Stewart said she has heard concerns that post-grant reviews are too difficult to pursue since the USPTO issues hundreds of thousands of patents a year, but she argued that many companies scour issued patents for those that could impact their business, and if they focus on the subject matter relevant to them, "the number is not so great."

Stewart also described other steps the USPTO is taking that she said would benefit the patent system. She said the office plans to work with the Justice Department to persuade the U.S. Supreme Court to take up cases to make it "simple and clear" which inventions are eligible for patents.

The USPTO is considering new guidance on the use of artificial intelligence in inventions that "does not unintentionally suggest" that people using AI are any less able to get a patent than people using any other type of machine, Stewart said.

The office also intends to pursue a "back-to-basics operating philosophy" for patent examination aimed at finding ways to review applications "in a quick and thorough manner," she said.

Stewart said the Trump administration will focus on intellectual property, and "we will reinvigorate our IP system. We will enable our nation to prosper economically like never before."

She called President Donald Trump "one of the most important brand owners in the world," and noted that Vice President JD Vance has a copyright on his best-selling memoir, Commerce Secretary Howard Lutnick is a prolific inventor and USPTO Director nominee John Squires is the former chief IP counsel at Goldman Sachs.

"This is truly unprecedented," Stewart said. "It is a sign that IP policy will play an important role in the administration's economic agenda, and that we will have leadership that speaks, finally, with a strong voice on IP," she said.

The issues of patent eligibility and artificial intelligence were also discussed by other speakers during the conference.

Sen. Thom Tillis, R-N.C., said in a pre-recorded message to the event that "patent eligibility has become increasingly confusing and restrictive" due to Supreme Court rulings, which he said "poses a real threat to the United States leadership in emerging technology sectors."

Tillis touted the Patent Eligibility Restoration Act he has introduced, which he said "is designed to restore clarity and predictability to our patent system, ensuring that the U.S. remains the world's innovation leader."

Andrei Iancu, who was USPTO director in the first Trump administration, criticized artificial intelligence guidance the office issued during the Biden administration that said in order to get a patent on an invention developed with AI, humans need to have made "significant contribution" to its creation.

That was "a total overreaction, I believe, by the last administration to artificial intelligence," Iancu said. AI "really is just a tool," and IP rights have never before depended on what tools someone uses, he said.

Iancu said that is an issue for Congress to take action on, but unless IP rights are allowed when AI is used in creative endeavors, "we're going to stifle this area of technology and in particular we're going to stifle the United States' ability to compete."

--Editing by Emily Kokoll.

For a reprint of this article, please contact reprints@law360.com.

0 Comments

Sign In To Comment

Related Articles

IP Legal Groups Tell High Court AIA Reviews Are Beneficial

USPTO Eyes Fee Hikes For AIA Petitions, Patent Filings

Sequester Will Scale Back AIA's Gains, Experts Warn

USPTO Eliminates AIA's Patent Review 'Dead Zone'

Starting An AIA Post-Grant Proceeding

Here's What You Missed

BigLaw Partners, Judges Back Susman Godfrey In EO Suit

Santos Gets Over 7 Years For Campaign Finance Fraud

Calif. High Court Wants Answers On Bar Exam AI Use

Wis. Judge Charged With Shielding Migrant From ICE Arrest

Bertucci's Says Uncertain Economy Sparked Latest Ch. 11

NJ AG Gives Chief Counsel Role To Former Civil Rights Head

Insulet's $452M Trade Secrets Award Reduced To $59.4M

Playing Football Made Me A Better Lawyer

Feds Say They'll Reactivate Foreign Student Visa Records

Ex-Sen. Menendez Can't Avoid Prison During Appeal

Useful Tools & Links

- Add to Briefcase
- Save to PDF & Print
- Rights/Reprints
- Editorial Contacts

Related Sections

- Corporate
- Intellectual Property
- Public Policy
- Technology

Companies

- The Goldman Sachs Group Inc.

Government Agencies

- Patent Trial and Appeal Board
- U.S. Patent and Trademark Office
- U.S. Supreme Court

The 2025 AI Survey

Law firms are actively looking for ways to incorporate artificial intelligence into their workflow as it becomes ever more common. More than half of surveyed attorneys at U.S. law firms use generative AI for some purpose — up significantly from less than a third of attorneys who participated in the Law360 Pulse AI Survey last year.

Top 10 trending in Corporate

- 1State Privacy Enforcers Push For Stronger Corporate Dialogue
- 2AI Patents Face Eligibility Hurdles After 1st Fed. Circ. Case
- 3PCMag, Mashable Publisher Latest To Sue OpenAI Over IP
- 4The SEC's Administrative Law Courts Are At A Crossroads
- 5Starbucks Sued Over Human Rights Abuses On Coffee Farms
- 6Ex-CEO Of Trump-Tied SPAC Reaches Deal With SEC
- 7Skadden Meddled With Internal Trump Deal Talk, NLRB Told
- 88th Circ. Quizzes SEC About Fate Of Climate Regs
- 9Lawmakers Seek Answers From Law Firms Over Trump Deals
- 10Jackson Lewis Adds Associate GC For Chewy In Miami

Hello! I'm Law360's automated support bot.

How can I help you today?

For example, you can type:

- I forgot my password
- I took a free trial but didn't get a verification email
- How do I sign up for a newsletter?

Ask a question!

Ask a question!

© 2025, Portfolio Media, Inc. | About | Contact Us | Advertise with Law360 | Careers at Law360 | Terms | Privacy Policy | Cookie Settings | Processing Notice | Ad Choices | Help | Site Map | Resource Library | Law360 Company | Testimonials

×

Already have access? Click here to login

Get instant access to the one-stop news source for business lawyers

Register Now!

Sign up now for free access to this content

Email (NOTE: Free email domains not supported)

First Name

Last Name

Job Title

Password (at least 8 characters required)

Confirm Password

Select at least one primary interest:

- ☐ Access To Justice
- ☐ Aerospace & Defense
- ☐ Appellate
- ☐ Banking
- ☐ Bankruptcy
- ☐ Benefits
- ☐ California
- ☐ Cannabis
- ☐ Capital Markets
- ☐ Class Action
- ☐ Colorado
- ☐ Commercial Contracts
- ☐ Competition
- ☐ Compliance
- ☐ Connecticut
- ☐ Consumer Protection
- ☐ Corporate
- ☐ Cybersecurity & Privacy
- ☐ Delaware
- ☐ Employment
- ☐ Energy
- ☐ Environmental
- ☐ Fintech
- ☐ Florida
- ☐ Food & Beverage
- ☐ Georgia
- ☐ Government Contracts
- ☐ Health
- ☐ Illinois
- ☐ Immigration
- ☐ Insurance
- ☐ Intellectual Property
- ☐ International Arbitration
- ☐ International Trade
- ☐ Legal Ethics
- ☐ Life Sciences
- ☐ Massachusetts
- ☐ Media & Entertainment
- ☐ Mergers & Acquisitions
- ☐ Michigan
- ☐ Native American
- ☐ New Jersey
- ☐ New York
- ☐ North Carolina
- ☐ Ohio
- ☐ Pennsylvania
- ☐ Personal Injury & Medical Malpractice
- ☐ Private Equity
- ☐ Product Liability
- ☐ Public Policy
- ☐ Securities
- ☐ Sports & Betting
- ☐ Technology
- ☐ Telecommunications
- ☐ Texas
- ☐ Transportation
- ☐ Trials
- ☐ Washington
- ☐ White Collar

Law360 may contact you in your professional capacity with information about our other products, services and events that we believe may be of interest.

You'll be able to update your communication preferences via the unsubscribe link provided within our communications.

We take your privacy seriously. Please see our Privacy Policy.

Register

×

Sign up for our Corporate newsletter

You must correct or enter the following before you can sign up:

Please provide a professional email:

Select more newsletters to receive for free

Law360 takes your privacy seriously. Please see our Privacy Policy.

No Thanks Sign up now

Thank You!