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Intellectual Property Alert: Notes from the USPTO and Patent Public Advisory Committee Quarterly Meeting Part 5 of 8: Artificial Intelligence

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The United States Patent and Trademark Office (the Office) and the Patent Public Advisory Committee (PPAC) recently held their Patent Public Advisory Committee Quarterly Meeting to review policies, goals, performance, budget, and user fees. Topics addressed included 1) Update on Patents business units; 2) Finance/Budget; 3) IT update; 4) Artificial Intelligence; 5) International update; 6) Pendency and Quality; and 7) PTAB update.

This is the fifth of eight alerts Vorys will be publishing to summarize topics discussed at the Quarterly Meeting. This note summarizes the Office's comments on artificial intelligence (AI) for enhanced searching, Cooperative Patent Classification (CPC) auto-classification efforts, and AI policy.

Director Andrei Iancu addressed the attendees and stated that one of the Office's top priorities is to ensure that the United States maintains its leadership in innovation, especially in emerging technologies such as AI. To further that end, Director Iancu said the Office has been actively engaging with the innovation community and experts in AI to determine whether further guidance is needed to promote the predictability and reliability of IP rights relating to AI technology and to encourage further innovation in and around this critical area.

PPAC AI Subcommittee Co-Chairs, Bernard Cassidy and Jeremiah Chan, stated that AI enhanced search and CPC auto-classification efforts both present great potential to deliver significant patent strategy return on investment in terms of cost saving, personal hours saved, and improved quality (e.g., improved access to international art).

AI for enhanced search

Matthew Such, Director in Patent Operation, TC 2800, mentioned that the Office is currently developing a prototype search system that provides AI functionality to assist examiners with patent searching. The Office is also leveraging a plug-in technology that will work with

Chrome browsers in which the PE2E search tool resides. This integration will supplement an examiner's access to information to help the examiner make informed decisions that ensure a more efficient and thorough patent search. The prototype was presented to various examiners to solicit feedback on workflow and performance. The Office is also refining some of the key performance indicators and metrics around which a business' value and efficiency can be quantified.

CPC auto-classification

The Office also developed a prototype tool for CPC auto-classification, which provides two basic outputs that are fundamental to usage of CPC data. The tool establishes full CPC classification and claim designations (C*). The Office is also taking a data driven approach for evaluating outputs. The current focus is on the intellectual validation process to ensure accuracy, performance, and efficiency of the output when compared to the classification picture. Additionally, the Office is continuing to refine some of the key performance indicators and metrics for identification of potential business values.

AI is expected to produce a new wave of innovation and creativity, while simultaneously posing novel challenges and opportunities for IP policy. Coke Stewart, Senior Policy Advisor and Acting Chief of Staff at the Office, noted that the Office is advised weekly on the best practices, and stated that the Office is one of the many federal agencies working to ensure that the U.S. is the world leader in AI technology. The Office has long been examining patent applications through AI innovation, and is proactively working on IP policy in order to be well prepared to effectively incorporate AI innovation.

In March 2020, the Office launched an AI portal accessible from the USPTO home page, wherein the public can find, for example, a collection of resources devoted to shaping the Administration's and federal government's approach to AI.