

The New Sec'y of Commerce: Will a PTO Director now be Named?

Now that a new Secretary of Commerce has been confirmed by the United States Senate and is presumably ensconced in his headquarters in the Commerce Building in downtown Washington, D.C., the burning question in the patent community is thus:

Director Lee, former Chief Judge Rader, or....: Will the President now nominate a head for the PTO? Will he retain the incumbent, the Hon. Michelle K. Lee? Will he appoint resigned Circuit Judge Randall R. Rader, who has been reported in the press as seeking the position)? Someone else? Or will the uncertain position in Commerce Department stay in a status quo situation? Stay tuned!

Ms. Lee's Departure from Google: In the meantime, none of the circumstances of Ms. Lee's departure from Google have been discussed in the recent press reports.

An excerpt on the ongoing mystery authored by Ryan Davis for IP360 is appended below.

Regards,
Hal

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Report by Ryan Davis (February 27, 2017):¹

Citing ‘unusual circumstances,’ the U.S. Patent and Trademark Office on Friday extended a deadline to respond to a Freedom of Information Act request asking who the director of the agency is, amid continuing confusion surrounding the USPTO’s leadership. * * *

The silence led patent attorney Gary S. Shuster of Coleman & Horowitz LLP to file a FOIA request on Jan. 26 asking the USPTO for any documents about the agency’s current leadership and whether Lee has resigned. In the alternative, he wrote, "you may satisfy this request by simply answering the following question: Who is the current director or acting director of the USPTO?"

[At] the statutory deadline for a response to the request, USPTO FOIA specialist Karon E. Seldon sent Shuster a letter stating that the agency was extending the time limit to March 10, citing FOIA provisions allowing extensions in “unusual circumstances.”

Specifically, the letter cited part of the law that says extensions are warranted when there is a “need for consultation, which shall be conducted with all practicable speed, with another federal agency having a substantial interest in the determination of the request.”

The letter, first reported by the IP Watchdog website, is the only public word the USPTO has issued about who is running the office in the Trump administration.

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Former Federal Circuit Chief Judge Randall Rader, who retired in 2014, and Johnson & Johnson senior vice president for intellectual property policy and strategy Philip Johnson, who is retiring this month, both said last month that they are open to being considered for the USPTO director job.

¹ Ryan Davis, *USPTO Stays Mum on Chief due to “Unusual Circumstances”*, Law360, February 27, 2017).