

## The Headless PTO: Top Ten List of Vacancy Issues

It remains a mystery whether the incumbent, the Hon. Michelle Lee, is still the Director of the PTO, and if there is no Director or Acting Director, a variety of questions are raised.

(Historically, when there was a change in political parties the Director of the PTO was out by the time of the change of Administration, and a new Acting Director was in place for the several months before a successor is named and confirmed by the Senate.)

Without either the incumbent Director in Office nor a succession in place, there are open questions including the following Top Ten List, which was supplied by a former government official with intimate knowledge of the inner workings of the Office:

(1) If there is a crisis, such as the time the systems all went down for a day and data issues arose, who decides what to do and who speaks for the Office?

(2) Many litigations require that you name the Director by name – so who do you name and do you risk dismissal (and timing issues if done at deadline) if you're wrong?

(3) In litigation which the PTO is a party or has a significant interest, who decides and speaks for the Office when those positions and strategy are being decided? Who signs the briefs?

(4) What if there is testimony or responses to inquiries from the Hill required – who decides and who responds?

## The Headless PTO: Top Ten List of Vacancy Issues, page 2

(5) When the Administration requires regulations to be revoked or not issue in the first place (e.g. the fee increases), who decides what cuts and who speaks for the Office in defense of those actions?

(6) Various budget and staffing issues are coming quickly , such as freezes on both. Who decides, especially when a hiring freeze would quickly become a huge problem, and who speaks for the Office in defense of those actions?

(7) The Director has to personally decide and approve various ethics and discipline related matters out of OED, such as disbarments, suspensions, etc. Who is doing that legally?

(8) When staff go out to attend stakeholder meetings and speak, after Ethics review, all of that has to be approved by the Director. Who's doing that and under what authority? Will that freeze these appearances?

(9) Who manages the personnel issues for those direct reports to the Director, especially if this drags on, i.e. promotions, transfers, discipline, routine performance reviews, requests for leave of various types, etc.

(10) If the Director is "on vacation" is she collecting pay and benefits and if so, what is the public getting in return for such compensation? Is the Director is still on the various benefits plans, such as 401(k), or the health plan, if she's technically resigned?