

Thought Leadership: Quoted

November 9, 2016

Trump's Trademark Ownership Could Signal Pro-IP Positions

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Published in Bloomberg BNA's Patent, Trademark & Copyright Journal

President-elect Donald Trump's extensive trademark portfolio might mean intellectual property rights holders will have a friend in the White House once his administration moves into policy mode, IP lawyers told Bloomberg BNA.

Trump's stump speeches criticizing Chinese trade practices might be a sign that his administration will take steps to curb attacks on U.S. IP rights in China.

Comments on Trade May Hint at China



Although Trump has said little about IP in general, his stance on trade may hint at the direction of his future policy, Maya M. Eckstein, who heads the IP practice at Hunton & Williams LLP, Richmond, Va., and Washington, said.

"Most of his comments have focused on the intersection of IP and trade, suggesting that he will make proposals in an effort to protect IP holders in the U.S. from foreign piracy," Eckstein told Bloomberg BNA in an e-mail message.

Barton E. Showalter, a patent and technology lawyer with Baker Botts LLP, Dallas, agreed that Trump's statements on China may indicate a willingness to take a stronger line on protecting U.S. IP rights in that country. U.S. companies doing business in China have consistently complained about weak IP protections there.

Showalter told Bloomberg BNA that, although Chinese law as written protects IP in ways very similar to U.S. law, it is very difficult for an American IP owner to actually enforce its rights against an alleged infringer in China.

Also, Chinese requirements that foreign businesses take on Chinese partners in joint ventures creates a constant risk that U.S. companies can lose control of their IP to their partners, he said.

"It's still tough to do business in China when it's an IP-dependent business," Showalter said. "Whether Trump can fix it or not remains to be seen."

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Trademarks OK, But Not TPP

Trademarks are one area where Trump clearly understands the value of IP protection, according to John Gary Maynard III, an IP lawyer with Hunton & Williams LLP, Richmond, Va.

Trump “is well aware of and has taken advantage of trademark laws designed to protect and promote brands,” Maynard said. “We don’t envision his administration taking steps to undermine the rights and strengths of brands.”

However, Trump’s stated intent to reject the Trans-Pacific Partnership is not a good sign for IP owners, Daniel Griswold, co-director of the Program on the American Economy and Globalization at George Mason University, Arlington, Va., said.

“If a President Trump scuttles the Trans-Pacific Partnership, the United States will have one less tool to enforce the intellectual property rights of American companies abroad,” Griswold told Bloomberg BNA in an e-mail message. “The U.S. International Trade Commission has found that existing free-trade agreements have boosted U.S. intellectual property receipts by \$10 billion a year. Rejecting TPP and other agreements will make it more difficult for Americans to defend their IP rights in foreign markets.”

Support Weak From Copyright Community

The Obama administration has the reputation of being close with the information technology industry—in particular, Google Inc. The recent ouster of Maria A. Pallante, who was seen as a strong proponent of copyright owners’ rights, was viewed by some as a move that favored Silicon Valley over rights holders.

However, Trump doesn’t have that same close relationship with Silicon Valley, campaign finance data show.

Trump got only \$210,000 from internet and computer software companies, compared to \$5.8 million contributed to Hillary Clinton’s campaign, according to data from OpenSecrets.org, a website maintained by the nonpartisan Center for Responsive Politics, an organization that tracks money’s effects on U.S. politics.

On the other hand, Trump didn’t get much support from copyright interests either.

Companies related to book, magazine and newspaper publishing contributed \$5.2 million to Clinton and \$153,000 to Trump, the data. Similarly, television, movie and music companies contributed \$6.8 million to Clinton and \$139,000 to Trump.

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