

IP Law Issues Impacting New York and New Jersey Businesses in 2013

by KENNETH C. OH on JANUARY 21, 2013

For New York and New Jersey businesses, 2013 is slated to be a big year for intellectual property law. In addition to the further implementation of the America Invents Act, several important copyright, trademark, and patent cases are working their way through the court system.

Below is a brief summary of IP issues to watch in the coming year:

Supreme Court Decisions: The U.S. Supreme Court will decide several important IP cases this term. In *Kirtsaeng v. John Wiley & Sons, Inc.*, the justices will determine how the first-sale doctrine applies to so-called “gray market” goods that are purchased legally overseas and re-sold in the United States. In *Association for Molecular Pathology (AMP) v. Myriad Genetics*, the Court will again consider the patentability of human genes.

The America Invents Act: While many new patent rules under the America Invents Act were rolled out last year, 2013 will bring the most significant change to the U.S. patent system. On March 16, 2013, the United States will officially move from a “First-to-Invent” system to a “First-Inventor-to-File” system.

International IP Rights: As the world becomes more interconnected, protecting and enforcing IP rights around the globe will continue to grow in importance. Earlier this month, the U.S. Patent and Trademark Office (USPTO) and the European Patent Office (EPO) launched the Cooperative Patent Classification (CPC) system, a global classification system for patent documents. In addition, the European Union is expected to continue efforts to implement a unified patent system.

Technology and IP: As IP law continues to struggle to keep up with advances in technology, businesses should expect more legal developments in this arena. The Second Circuit is poised to decide the legality of TV streaming over the Internet under U.S. copyright law. In the wake of the “software” wars between companies like Apple and Samsung, the USPTO has announced a series of roundtable discussions focused in improving software patents. Congress is also expected to take up royalty rates for digital music providers, online piracy, and a number of other IP-related bills.

If you have any questions about these trends or would like to discuss how to protect and enforce your intellectual property, please contact me, Kenneth Oh, or the Scarinci Hollenbeck attorney with whom you work.