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U.S. Patent Policy Reforms and International Trade

Client Alert

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The new Federal government is poised to enact several reforms in patent policy, with a focus on international trade. These reforms will likely aim to fortify U.S. innovation leadership, counter foreign intellectual property (IP) threats, and strengthen patent enforcement mechanisms. Key legislative efforts, including the American IP Defense and Enforcement Advancement (IDEA) Act and the Realizing Engineering Science and Technology Opportunities by Restoring Exclusive Patent Rights (RESTORE) Act, along with enhancements to the International Trade Commission's (ITC) role, form the cornerstone of this agenda.

American IDEA Act: This bipartisan bill addresses the substantial economic impact of IP theft, which costs the U.S. economy \$225–\$600 billion annually. The Act provides small businesses and entrepreneurs with resources like legal aid programs to counter IP misuse. It also strengthens law enforcement partnerships to address violations in United States Trade Representative (USTR) Watch List countries, including China, Russia, and Mexico, where enforcement of IP rights is weak. The bill mandates comprehensive studies by the U.S. Government Accountability Office to explore ways to recover losses from IP theft and enhance protections against foreign actors. Further, it requires annual reports and strategic plans to combat counterfeiting and IP theft, ensuring sustained focus on protecting U.S. innovators from transnational crimes.

RESTORE Act: This legislation seeks to restore the presumption of injunctions in patent infringement cases. Historically, injunctions were a cornerstone of patent enforcement, allowing inventors to block infringing products. The Act establishes a rebuttable presumption for permanent injunctions, shifting the burden to infringers to prove otherwise. This change is critical for small inventors, who often lack the resources for prolonged litigation. By reducing predatory practices and ensuring robust patent

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rights, the Act aims to enhance the confidence of innovators and drive investment in emerging technologies.

International Trade Commission (ITC): Reforms to the ITC, encapsulated in the Advancing America's Interests Act (AAIA) enhance the agency's role in addressing unfair trade practices. The bill amends Section 337 of the Tariff Act of 1930, redefining domestic industry requirements to include substantial investments in licensing activities that foster innovation and commercialization in the U.S. It limits reliance on licensees' activities unless they directly contribute to domestic product development and sales. The Act mandates expedited investigations, requiring administrative law judges to issue initial determinations within 100 days for dispositive issues. Further, it strengthens the ITC's authority to issue exclusion orders and cease-and-desist orders while prioritizing public interest considerations, such as public health, welfare, and competitive conditions. These reforms ensure the ITC operates more efficiently and effectively, deterring unfair import practices and protecting U.S. markets.

The proposed reforms underscore a government's commitment to strengthening U.S. patent rights and addressing global trade challenges. By advancing legislation like the American IDEA Act and RESTORE Act, alongside reinforcing the ITC's enforcement capabilities, the government will likely seek to secure America's leadership in innovation and technology. These measures may provide a robust framework to protect inventors, enhance economic resilience, and combat the increasing threats posed by foreign IP theft. Stakeholders should remain engaged to navigate and capitalize on the evolving IP Ecosystem.

[Click Here for the full details of American IDEA Act.](#)

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