

After a patent is issued, an opponent will be able to challenge the patent on any grounds—current procedures are limited to prior art for anticipation and obviousness—within the first nine months. That provision takes effect Sept. 16, 2012.

Dickinson, for example, worried that not many at the agency—where he once served as director—are used to such “quasi-litigation.”

Kappos, Budens, and PTO Commissioner for Patents Robert Stoll all mentioned post-grant review as a concern, but the latter two focused on other parts of the bill as being of more pressing interest.

Budens said that examiners would have to be educated on the revised and expanded definition of prior art that is accompanying the change to a first-inventor-to-file system.

Stoll said a key piece of upcoming rulemaking will be the PTO’s proposal for its fee structure, since H.R. 1249 gives the agency fee-setting authority.

Armitage, reflecting his attitude on this day at least, when asked what rule he was most concerned about, simply praised the PTO and Kappos.

“When I look at the patent office and its senior management team right now, somehow I can’t describe my feelings as ‘worried,’ ” he told BNA.

BY TONY DUTRA

H.R. 1249 is posted at <http://pub.bna.com/lw/HR1249VotedJun23.pdf>.

More information from the PTO on implementations of the new patent reform law is available at [http://www.uspto.gov/patents/init\\_events/aia\\_implementation.jsp](http://www.uspto.gov/patents/init_events/aia_implementation.jsp).

## In Brief

### Twittering Jurors Could Face Jail Time in California

California jurors could face jail time if they engage in internet research or use social networks to communicate on any subject of the trial under a new California law.

A.B. 141 expands existing criminal penalties for juror misconduct by adding trial-related electronic communications to a long list of prohibited juror activities, Cal. Civ. Proc. Code § 1209. Other prohibited activities set forth under Section 1209 include disorderly conduct, failure to appear for jury duty, general misbehavior, and unlawfully detaining a witness.

The law now requires courts to “clearly explain” to jurors that they must refrain from e-communications about the subject of the trial and internet research about the trial. Willful disobedience of a court’s admonishment against prohibited online conduct is punishable as either civil or criminal contempt of court.

A.B. 141, as enacted, is available at <http://pub.bna.com/lw/calab141.pdf>.

### SEC Rethinks Whistleblower Communication Policy

The Securities and Exchange Commission’s Office of the Whistleblower is wrestling with the issue of how best to communicate with whistleblowers and their counsel, chief Sean McKessy said Sept. 13.

Currently, the office operates under the Enforcement Division’s traditional communication policies, McKessy said.

However, in support of a possible change, McKessy cited a recent Government Accountability Office report on the Internal Revenue Service’s whistleblower program and the report that the SEC Office of the Inspector General must issue to Congress under the reform statute. With these two reports in mind, the commission is focusing on ways in which its staff can communicate with informants and their attorneys, he said.

GAO released a report Sept. 9, that found problems in the IRS’s bounty program, including incomplete data collection. Meanwhile, the OIG is required, within 30 months of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to study and report on the SEC’s bounty program. The statute directs the OIG to review, among other factors, how the commission communicates with “interested parties.”

The GAO report is posted at <http://pub.bna.com/lw/GAO11683.pdf>.

### NOMINATIONS AND CONFIRMATIONS

**Judicial Confirmations.**—The Senate Sept. 6 confirmed the nomination of Bernice Bouie Donald (6th Cir.).

**Executive Confirmations.** The Senate Sept. 15 confirmed the nomination of Wendy Ruth Sherman to be undersecretary of state for political affairs.

**Judicial Nominations.** The president Sept. 15 nominated Kevin A. Ohlson (C.A.A.F.) and Ronald Lee Buch (T.C.); Sept. 14 nominated David Campos Guaderrama (W.D. Texas); and Sept. 8 nominated Stephanie Dawn Thacker (4th Cir.) and Gregg Jeffrey Costa (S.D. Texas).

**Executive Nominations.** The president Sept. 15 nominated Brad Carson to be general counsel of the Department of the Army and Alastair M. Fitzpayne to be a deputy undersecretary of the treasury; Sept. 8 nominated Cyrus Amir-Mokri to be an assistant secretary of the treasury and a member of the board of directors of the National Consumer Cooperative Bank and Kathryn Keneally to be an assistant attorney general (Tax Division); and Sept. 6 nominated James R. Hannah and Daniel J. Becker to be members of the board of directors of the State Justice Institute, Alan B. Krueger to be a member of the Council of Economic Advisers, Michael A. Khouri to be a federal maritime commissioner, Dana Katherine Bilyeu and David Avren Jones to be members of the Federal Retirement Thrift Investment Board, and Michael James Warren to be a member of the board of directors of the Overseas Private Investment Corporation.