

Iancu Resigns As USPTO Director, Urges Eligibility Reform

By [Dani Kass](#)

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[U.S. Patent and Trademark Office Director](#)

[Andrei Iancu](#) confirmed Tuesday that he is leaving the agency, and as he said his goodbyes, he joined congressional leaders in calling for immediate patent eligibility reform.

Iancu, who joined the USPTO in 2017 from [Irell & Manella LLP](#), sent a farewell note to his staff announcing his departure and further confirmed that he would be leaving during a speech at a [U.S. Chamber of Commerce](#) event Tuesday.

"It is with great pride and respect that I bid you farewell as director of this remarkable agency, the nation's epicenter of intellectual property policy and the guardian of America's innovation economy," Iancu said in the note. "Thank you for the privilege to serve with you these past three years."

The Trump appointee, who will be leaving when President-elect Joe Biden takes over on Wednesday, added, "I'm leaving a bit of my heart here, at the USPTO, forever."

A USPTO spokesperson declined to say who will serve as acting director. A spokesperson for Irell declined to comment on whether Iancu would be returning to his old firm.



Andrei Iancu

At the Chamber event, which was co-hosted by the Global Intellectual Property Center, the [International Trademark Association](#) and the [Intellectual Property Owners Association](#), Iancu said the most urgent part of patent law that needs to be addressed by courts or Congress is eligibility under Section 101 of the Patent Act, which has been a [point of frustration](#) in the IP world for years.

"We know that this issue is solvable," Iancu said. "We have shown the path, or a path, here at the USPTO. The most important technologies of the future are being impacted, including diagnostics, bioinformatics, artificial intelligence, digital processing and many more. We must resolve this issue, and we must resolve it now. If not, we risk our nation being left behind as others fortify their IP laws and race toward technological dominance."

During the same event, the chair of the Senate Judiciary Committee's Subcommittee on Intellectual Property, Thom Tillis, R-N.C, said he agreed with Iancu on the need for eligibility reform. Tillis is set to become ranking member after the inauguration, switching spots with Sen. Chris Coons, D-Del.

"Our patent eligibility jurisprudence is in shambles," Tillis said. "The fact that we have courts saying a [garage door opener](#) is an abstract idea and that innovative [diagnostic tests](#) are just laws of nature is bewildering to me. If we do not provide great clarity and consistency in this area of law, America will lose the 21st century innovation race."

Tillis added that he will go after patent eligibility at any chance he can, including when confirming Iancu's replacement and with amicus briefs at the [U.S. Supreme Court](#).

Coons had to withdraw from Tuesday's event, but Tillis said the pair have matching priorities and will be working together. Those priorities include stopping IP theft from China, targeting counterfeit goods and treating patent owners fairly, particularly smaller inventors.

Iancu told the Chamber that the USPTO was able to balance the patent system under his leadership, particularly at the Patent Trial and Appeal Board.

"In light of our many carefully calibrated reforms, Senator Tillis recently said the PTAB is no longer a death squad for patents," Iancu told the Chamber audience. "It is indeed a new day at the PTAB."

He added: "I think we have a very fair, balanced system now where folks can be heard but not over and over again on the same issues. I think that's what Congress intended."

The director said that the agency has been able to provide clarity and predictability on a wide range of issues, including by providing [patent eligibility guidance](#) for examinations, aligning the PTAB's [claim construction standard](#) with that of district courts, implementing a [motion to amend](#) pilot program and working to reduce [repeat challenges](#).

Iancu did not address [criticism](#) from the tech industry in particular that some of his precedent about when patent challenges can be denied based on a judge's discretion has created unpredictability.

He called for the country to continue assessing standard essential patents and international decisions over them, consider whether the laws for [design patents](#) need to be updated and stop state-sponsored theft of IP.

Iancu was also hopeful about the work of the National Council for Expanding American Innovation, which is aiming to [increase diversity in innovation](#), noting that the group has very specific goals of figuring out "where along the inventorship pipeline we lose folks," how to keep them from falling off, and then determining measurable results to stay accountable.

Copyright and trademark law were also discussed at the Chamber event, with Tillis and Iancu touting the [passage](#) of the Copyright Alternative in Small-Claims Enforcement Act, Trademark Modernization Act, Protecting Lawful Streaming Act and the Music Modernization Act.

Tillis said he intends to introduce bipartisan legislation, probably about April, to reform the Digital Millennium Copyright Act, citing "rampant" piracy online.

The senator called Iancu's leadership the "gold standard," saying, "He's done probably more than any single person in the last decade to strengthen and restore integrity to our intellectual property system."

He also urged Congress to codify Iancu's administrative reforms, noting that he won't vote for a replacement who won't continue down Iancu's path.

Trump had [nominated](#) Iancu in August 2017, following the departure of Obama appointee Michelle Lee. At the time, Iancu had been the managing partner of Irell for five years. He joined the firm in 1999, after working as an associate at Lyon & Lyon LLP.

Iancu has a Bachelor of Science in aerospace, aeronautical and astronautical engineering; a Master of Science in engineering; and a law degree from the University of California, Los Angeles. He worked as an engineer at Hughes Aircraft Company before turning to law.

Iancu came to the United States 40 years ago as a political refugee from Romania. He said at Tuesday's Chamber event that he had "truly lived the American dream."

"Thank you for the opportunity to serve this great country that I love," he said.

--Editing by Jill Coffey.

Update: This story has been updated with additional details and comment.