

Vermont Senator Patrick Leahy to Retire
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Vermont Democrat Senator and attorney Patrick Leahy has announced he will not run for re-election next year after eight terms in the US Senate.

Leahy began his career as a lawyer, he was admitted to the bar after graduating in 1964 and became an associate at a firm headed by former Vermont senator Philip H Hoff.

In 1966, Hoff appointed Leahy as the State Attorney of Chittenden County, he was re-elected for a second term in 1970 and went on to run for the Senate in the wake of the Watergate scandal in 1974.

In a speech announcing his retirement yesterday, he said, "I am proud to be Vermont's longest serving Senator. While I will continue to serve Vermont, Marcelle and I have reached the conclusion that it is time to put down this gavel. It is time to pass the torch to the next Vermonter who will carry on this work for our great state. It's time to come home."

Leahy has contributed to some notable moments in US intellectual property law, not least 10 years ago he was a lead sponsor on the Leahy-Smith America Invents Act (AIA), a US federal statute that was passed by Congress and was signed into law by President Barack Obama on 16 September 2011.

The AIA made several significant changes to the US patent system, including transitioning the US from a first-to-invent system to a first-to-file system and introducing alternative routes to more efficiently challenge questionable patents outside of federal court.

Commenting on Leahy's retirement, Axinn's Aziz Burgy said, "Senator Leahy has undoubtedly been one of the key legislative advocates for patent reform over the last half century. Indeed, the most impactful patent legislation since the Patent Act of 1952 bears his name; the Leahy- AIA was passed in 2011. Chief among its provisions, the AIA created the Patent Trial and Appeal Board, which allowed for *inter partes* review of patents and changed the US patent system from a 'first to invent' to a 'first to file' system."

He added, "At its inception, many stakeholders were concerned that the PTAB's post-grant proceedings were skewed against patent holders, but the data (eg, institution rates) over the last ten years have moderated such that many of those initial outcries have been somewhat pacified. In addition to patent legislation, Senator Leahy also authored and sponsored several anti-piracy bills. With his decision to forego reelection, many pundits believe that the new leaders of the intellectual property subcommittee, which Senator Leahy chaired, will likely seek to weaken the PTAB and strengthen patentee rights."

More recently, Leahy has pushed for the Copyright Office to study the extent to which copyright owners are experiencing infringement by state entities without adequate remedies under state law.

His intervention followed comments by the Register of Copyrights Shira Perlmutter, who said that infringement by state entities is "an issue worthy of congressional action".

Leahy also recently introduced a pair of bipartisan bills aimed at improving the participation of Americans in the patent system, alongside chair of the Senate Intellectual Property Subcommittee senator Thom Tillis.

The Unleashing American Innovators Act requires the US Patent and Trademark Office's satellite offices to conduct outreach to increase participation in the patent system by women, people of colour, military veterans, individual inventors and other groups that are underrepresented in the system.

Leahy served on the Senate Judiciary Committee as either chairman or a ranking member for 20 years. “My oath was to protect the Constitution and I fiercely defended our civil liberties, the First Amendment, our right to privacy and the free flow of information from the government to the people it represents. This has resulted in legislation including the Innocence Protection Act, the Justice for All Act, and Freedom of Information Reform Act”, he said yesterday.

“Year after year, I worked with and at times pushed back, on administrations and their judicial nominations. I always worked to keep the Federal Judiciary independent for all Americans, regardless of their political background.”

If Leahy serves out the rest of his term to 3 January 2023, he will become the third-longest serving senator of all time.

McKool Smith’s Nick Matich commented that Senator Leahy’s “substantial contributions to IP policy” and the debates around it “are undeniable”.

He stated, “The America Invents Act that bears his name was the most significant change in patent law in the last seventy years. It achieved some important and widely-praised goals, like establishing USPTO’s fee setting authority and moving to a first-to-file system.

“But, the expansion of the executive branch’s authority over patent litigation, through the Patent Trial and Appeal Board, was likely the biggest and most controversial change Senator Leahy’s legislation made. The debates on how the PTAB can best help achieve a balanced patent system are unlikely to stop any time soon, as the Senator’s own recently introduced bill to revamp the PTAB demonstrates.”