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## U.S. Senator Requests Study on Potential Unified United States Intellectual Property Office

Senator Thom Tillis (R-NC), the ranking Republican on the Senate Judiciary Committee’s Intellectual Property Subcommittee, is “exploring the possibility” of completely restructuring the current U.S. intellectual property administrative system by combining the United States Patent and Trademark Office (“USPTO”) and the United States Copyright Office into a single, unified intellectual property agency.

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In a [letter dated January 26, 2022](#), Senator Tillis asked the Administrative Conference of the United States (“ACUS”)—an independent federal agency that recommends improvements to administrative processes and procedures—to conduct a study on whether Congress should combine America’s disparate patent, trademark, and copyright agencies to create a new, unified agency with overarching responsibility for U.S. intellectual property issues.

### Senator Tillis’s Proposal—A United States Intellectual Property Office?

Specifically, Senator Tillis proposed exploring the idea of combining the USPTO, the Copyright Office, the Intellectual Property Enforcement Coordinator, and other relevant intellectual property authorities housed within administrative agencies into a stand-alone, unified, independent intellectual property-focused agency. In his letter, Senator Tillis notes that he envisions a potential “‘one stop shop’ to assist Americans with engaging in their intellectual property system.” If appropriate, these responsibilities would fall under the directorship of a single, presidentially appointed, Senate-confirmed director, who would oversee separate commissioners for patent, trademark, copyright, and policy coordination.

Senator Tillis’s proposal appears to be prompted by perceived inefficiencies in the current administrative structure concerning intellectual property rights, enforcement, and policy issues. Under the current federal system, multiple intellectual property functions are housed in different agencies and in separate branches of government. The USPTO and Intellectual Property Enforcement Coordinator operate in the executive branch—within the Department of Commerce and the Executive Office of the President, respectively. The Copyright Office, on the other hand, is part of the Library of Congress and falls within the legislative branch. According to Senator Tillis, this “fractured system” contributes to conflicting policy agendas and unnecessary bureaucracy—problems that he believes may be ameliorated if these federal agencies were joined under one roof.

### The ACUS’s Upcoming Study

To gather data in support of this proposition, Senator Tillis has asked the ACUS to examine his proposal, along with its potential implementation and implications. Specifically, he requested that the ACUS examine (1) how the unified office should be funded, (2) the key functions of the unified office, and (3) how to streamline existing duplicative functions.

1. **Funding:** Senator Tillis envisions that the proposed unified agency would likely be funded entirely by fees or a combination of fees and taxpayer dollars. Currently, the USPTO is funded only by user fees paid by patent and trademark owners. The Copyright Office, by contrast, is funded from both fees as well as appropriations from the Library of Congress’s budget requests. In light of these differing fee structures, Senator Tillis asked the ACUS to examine whether the unified office should be fully fee-funded or should use a hybrid model of fees and taxpayer dollars. Likewise, he asked the ACUS to consider whether money from fees should be directed to the system that collected it (patent, copyright, or trademark) or cross-subsidized across groups.
2. **Key Functions:** The proposed unified agency would be responsible for performing the functions that are currently carried out by at least two federal agencies, the USPTO and the Copyright Office. Thus, Senator Tillis

asked the ACUS to examine how the unified agency would perform these functions. The letter lists a series of 15 functions currently performed by the USPTO and the Copyright Office for the ACUS to consider, including the granting and issuing of patents, federal registration of trademarks and copyrights, providing information to the public about intellectual property, advising the President, Congress, and courts on national and international issues relating to intellectual property, issuing rules and regulations, and providing administrative tribunals, such as the Patent Trial and Appeal Board, the Trademark Trial and Appeal Board, and the Copyright Royalty Board.

3. Streamlining: Lastly, Senator Tillis asked the ACUS to consider how to streamline key functions and responsibilities of each current agency in the unified agency, particularly those functions that overlap or are duplicative of each other. For example, both the USPTO and the Copyright Office engage in domestic and international copyright policy activities.

Senator Tillis has asked for the ACUS to submit the results of its study by February 1, 2023, and implied that the results will inform potential future legislation. The prospect of a proposal for a unified U.S. intellectual property agency has been rumored for months, and the idea of such a proposal has already faced [opposition](#) from some industry stakeholders. That said, Senator Tillis is not the first member of Congress to propose the idea of a unified intellectual property agency. For example, in the 1990s, Senator Orrin Hatch (R-UT) introduced the [Omnibus Patent Act of 1996](#) and Rep. Carlos Moorhead introduced the [United States Intellectual Property Organization Act of 1995](#), each of which would have established a “United States Intellectual Property Organization”—but those bills failed to gain traction in Congress. Ropes & Gray’s Capital Insights team will follow the results of the ACUS study and any future proposals or legislation that may ensure.