

# Skilled in the Art: Introducing Iancu

By Scott Graham

New PTO Director Andrei Iancu delivered his first public remarks to a bar association Thursday at the PTAB Bar Association's annual conference in Washington. Immediate takeaway: Iancu has a wicked dry sense of humor.

PTAB Bar president Bob Steinberg of Latham & Watkins kicked off the Q&A by asking Iancu what it meant to be managing partner of Irell & Manella. "I ran the firm," Iancu said, adding, "Those of you who are managing partners of law firms know that you don't actually run things."

Iancu went from managing a 120-lawyer firm to the 13,000-employee, \$3.5 billion USPTO. "So it's not all that different," he deadpanned. He said he told his former law partner, Morgan Chu, "one of the biggest changes is that now I found a couple of people who actually listen to what I say."

Iancu got serious, though, when Steinberg asked why he left a lucrative gig at Irell to tackle the PTO. "Everything I have, I owe a huge debt of gratitude to this country, coming in as an immigrant with literally nothing from a communist country as a political refugee," he said. Iancu came to the U.S. from Romania with his family at age 12.

On policy, Steinberg pressed Iancu about two hot-button areas of PTO practice: Section 101 patent eligibility and "panel stacking"—the Patent Trial and Appeal Board's occasional practice of adding administrative law judges to panels



**Latham & Watkins partner Bob Steinberg interviews PTO Director Andrei Iancu at the PTAB Bar Association's annual conference.**

during IPR proceedings. Iancu didn't shy away.

- **ON SECTION 101:** Iancu said that while Supreme Court and Federal Circuit decisions are binding on the PTO, there's still some room for the PTO to provide examiners "forward-looking guidance, where we think the lines should be drawn from the PTO's point of view. We're looking at that question right now."

He also voiced cautious support for legislative Section 101 reform, noting that "it hasn't been touched since 1952, and even then it was barely touched." He acknowledged that by doing so "you perhaps are opening up a can of worms," but said other countries have successfully navigated it. "If we at least engage in the discussion, we have a chance to provide better clarity," he said.

- **ON PTAB PANEL STACKING:** Iancu defended the PTAB, saying panel stacking is "a loaded phrase" that implies a result-driven procedure. He said panels are expanded instead to provide more consistency and predictability, but acknowledged that the PTAB needs to be more transparent with the procedure. "As one of our former partners at Irell would say, if you have a perception problem, you have a problem," Iancu said.

Steinberg asked if the PTO was drawing up contingency plans for the *Oil States* decision on IPR constitutionality. Iancu said it has, then turned the question around on Steinberg. "I want to know what the plan for the PTAB Bar Association is for next year if *Oil States* ..."

"We have an insurance carrier outside, actually," Steinberg joked.