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USPTO Alert



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The U.S. Patent and Trademark Office is issuing a new [Interim Process for Patent Trial and Appeal Board \(PTAB\) Workload Management](#) concerning institution of AIA proceedings.

Under this new interim process, decisions on whether to institute an inter partes review (IPR) or a post-grant review (PGR) will be bifurcated between (i) discretionary considerations, and (ii) merits and other statutory considerations.

To facilitate this bifurcated approach, the USPTO will permit the parties to file briefing pertaining to discretionary considerations separate from briefing on the merits and other statutory considerations.

Upon receipt of the parties' briefing on discretionary considerations as well as briefing on the merits and other statutory considerations, the Director, in consultation with at least three PTAB judges, will determine whether discretionary denial of institution is appropriate. If it is not appropriate, then the Director will refer the petition to a three-member panel of PTAB judges for decision on the merits and other statutory considerations.

The new interim process operates to better manage PTAB workload needs, reduce ex parte appeal pendency, and ensure consistency in AIA decisions on institution. The new interim process is effective immediately and applies in all cases where a patent owner preliminary response has not been filed.

Soon, [the PTAB will host a Boardside Chat](#) to explain the new interim process.



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