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Patent Trial and Appeal Board



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Today, the United States Patent and Trademark Office (USPTO) issued a [memorandum](#) that applies to patent claims being challenged before the Patent Trial and Appeal Board (PTAB) in an America Invents Act (AIA) trial proceeding, or substantially similar patent claims, that have already been adjudicated before the Office, in district court, or at the U.S. International Trade Commission. The memorandum explains that the PTAB will consider a prior adjudication and, if the PTAB's decision on a finding of fact or conclusion of law is different, then the PTAB will explain why a different outcome is warranted. A more detailed explanation will be required when the PTAB decision involves the same or substantially similar prior art and arguments that were presented in the other proceeding.

To help the PTAB with its assessment, parties to an AIA proceeding will be required to apprise the PTAB of developments regarding validity or patentability adjudications in matters identified as related matters under 37 C.F.R. § 42.8(b)(2). The PTAB's scheduling order (or a revised scheduling order) in the AIA trial proceeding will communicate this requirement to the parties.

[Learn more](#) about this memorandum and other resources related to proceedings before the PTAB.



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