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Published on: 10/17/2025 14:31 PM

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Patent Trial and Appeal Board



USPTO issues memorandum on Director institution of AIA trial proceedings

Today, the U.S. Patent and Trademark Office (USPTO) issued a [Memorandum](#) announcing that, effective October 20, 2025, the Director will determine whether to institute trial of inter partes review and post-grant review proceedings as provided in the America Invents Act.

This new process flows from the discretionary considerations process that the Office implemented in March 2025. After reviewing discretionary considerations, the merits, and non-discretionary considerations in consultation with at least three PTAB judges, the Director will issue a summary notice to the parties that either grants or denies institution. In proceedings involving novel or important issues, the Director may issue a decision on institution addressing those issues. Additionally, where appropriate, the Director may refer the decision on institution to one or more members of the PTAB. If the Director institutes review, the proceeding will be referred to the PTAB to conduct the trial.

The processes for briefing discretionary considerations, the merits, and non-statutory considerations will not change. Further, three-member panels will issue decisions on institution for all petitions referred under the discretionary considerations process before October 20, 2025.

The USPTO will host a [USPTO Hour](#) to explain the process.



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