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USPTO issues precedential decision to treat AIA eligibility the same for both the United States government and foreign governments

March 18, 2026

In the Tianma Microelectronics Co., Ltd. v. LG Display Co., Ltd. Decision on March 18, 2026, the USPTO Director holds that, under the Supreme Court's decision in *Return Mail, Inc. v. United States Postal Service*, 587 U.S. 618 (2019), and the Director's broad institution discretion, a foreign government—just like the United States government—is not permitted to be a petitioner or a real party in interest (RPI) in an inter partes review or post-grant review proceeding. The decision puts all sovereigns on equal footing—none is deemed a "person" under the America Invents Act. The Director denies institution after finding that the patent owner came forward with evidence sufficient to put into dispute whether the petition identified all RPIs and whether at least one RPI was a foreign government, and the petitioner failed to rebut that evidence and satisfy its burden to show that it had named all RPIs and that none was a foreign government or an entity that a foreign government had the ability to control.

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