

POST GRANT PROCEEDINGS

Congress provided parties with access to powerful administrative procedures to contest the validity of U.S. patents via the Leahy-Smith America Invents Act (AIA). The outlined alternatives to traditional litigation include post grant review (PGR), *Inter Partes* Review (IPR), covered business method (CBM) review and derivation proceedings. These proceedings are adjudicated by a panel of three Administrative Patent Judges of the Patent Trial and Appeal Board (PTAB) at the U.S. Patent and Trademark Office (USPTO).

Compared to litigation, PTAB proceedings provide an inexpensive and effective mechanism for challenging the patentability of issued patents. Because the statutory presumption of validity does not apply in these proceedings, it is easier to prove unpatentability at the PTAB than it is to invalidate a patent in court. And, under the AIA, the PTAB must issue its final decision within 18 months of a petition being filed (within one year of the date on which the PTAB institutes review). After the PTAB issues its final written decision, the decision is appealed directly to the U.S. Court of Appeals for the Federal Circuit.

Armstrong Teasdale has a robust PTAB practice led by established patent litigators with extensive experience using these proceedings—as an alternative to, or in parallel with, district court litigation—to achieve our clients’ goals. Our PTAB team also includes numerous patent lawyers and patent scientists with advanced degrees spanning a variety of disciplines.

Armstrong Teasdale has successfully represented both patent owners and petitioners before the PTAB. When representing patent owners, Armstrong Teasdale crafts strategies to protect our clients’ patents from the validity challenge with the goal of not only weathering the challenge, but also emerging from the PTAB proceeding with strengthened patent rights better protecting our clients’ inventions. When representing petitioners, our team invests significant time up-front by conducting a thorough analysis in order to prepare a petition aimed at fully eliminating the threat posed by invalid patents owned by our clients’ competitors.

THOUGHT LEADERSHIP

February 5, 2019

Patent Term Adjustment Calculations Changing – Will the *Supernus Pharmaceuticals v. Iancu* Decision Stand?

April 25, 2018

Trio of Cases Will Significantly Impact Post Grant Proceedings