PANITCH
Intellectual Property Law
SCHWARZE

Post-Grant Proceedings for Patents

	INTER PARTES REVIEW (IPR)	POST-GRANT REVIEW (PGR)	*EX PARTE* REEXAMINATION	REISSUE	SUPPLEMENTAL EXAMINATION
Purpose	Cancel one or more claims as unpatentable	Cancel one or more claims as unpatentable	Cancel one or more claims as unpatentable or compel narrowing amendments	Cancel or add one or more claims (broadening amendments only within two years of issuance of patent)	Cure possible defects relating to inequitable conduct
Standing (Who May Seek Review)	Third party (not patent owner) who has not previously filed a civil action challenging the validity of the patent	Third party (not patent owner) who has not previously filed a civil action challenging the validity of the patent	Third party or patent owner	Patent owner only	Patent owner only
Qualification of Patent	Any patent	Any patent having at least one claim with an effective filing date on or after March 16, 2013	Any patent	Any patent	Any patent
When Proceeding Can Be Filed	For pre-AIA patents, any time; for AIA patents, 9 months after issuance or reissuance of patent or termination of PGR	Within 9 months of issuance or reissuance for patents having at least one claim with an effective filing date on or after March 16, 2013	Any time during enforceability of patent (up to 6 years after lapse or expiration)	Any time before patent expires	Any time during enforceability of patent (up to 6 years after lapse or expiration)
Eligible Grounds	35 U.S.C. §§ 102 and 103 based on patents and printed publications	Any invalidity ground, except § 112 failure to comply with "best mode" requirement	35 U.S.C. §§ 102 and 103 based on patents and printed publications	The patent, through error, is wholly or partly inoperative or invalid	Any "information relevant to patentability"
Standard for Initiating Review	"Reasonable likelihood" that the petitioner would prevail with respect to at least one challenged claim (intended to be higher than in PGR)	"More likely than not" at least one of the challenged claims is unpatentable	"More likely than not" at least one of the challenged claims is unpatentable	N/A	Raises "substantial new question" of patentability
Burden of Proof	Preponderance of evidence	Preponderance of evidence	Preponderance of evidence	Preponderance of evidence	Preponderance of evidence
Decision Maker	Patent Trial and Appeal Board	Patent Trial and Appeal Board	Central Reexamination Unit	Central Reexamination Unit	Examiner
Estoppel	Estopped from challenging patent in PTO, district court, or ITC based on any ground raised or reasonably could have been raised during IPR	Estopped from challenging patent in PTO, district court, or ITC based on any ground raised or reasonably could have been raised during PGR	No legal estoppel	N/A	N/A
Possibility of Settlement	Yes	Yes	No	N/A	N/A

WE PROVIDE EXPERIENCED REPRESENTATION IN COMPLEX INTELLECTUAL PROPERTY MATTERS

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