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USPTO advances proposed rule governing inter partes review

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Patent Trial and Appeal Board



USPTO advances proposed rule governing PTAB *inter partes* review practices

Today, the U.S. Patent and Trademark Office (USPTO) announced a [Notice of Proposed Rulemaking \(NPRM\)](#) seeking public input on a proposal to limit repeated challenges to patents.

The Office is concerned that even extremely strong patents become unreliable when subject to serial or parallel challenges. Congress gave the USPTO Director broad discretion to identify circumstances when inter partes review (IPR) proceedings would or would not benefit the patent system. And repeated challenges do not benefit the patent system. The Office, therefore, is proposing a rule that would focus IPR proceedings before PTAB on patent claims that have not been previously challenged and patent claims challenged in prior litigation that settled at an early stage. The proposed rule is intended to enhance fairness, efficiency, and predictability in IPR proceedings.

Specifically, the proposed rule would:

- Require an IPR petitioner to file a stipulation not to pursue invalidity challenges under 35 U.S.C. §§ 102 or 103 in other forums;
- Provide that the USPTO will not institute an IPR when the USPTO or another forum already has adjudicated patentability or validity of the claims;
- Provide that the USPTO will not institute an IPR when another proceeding is likely to determine patentability or validity of the claims under §§ 102 or 103 first; and
- Permit the USPTO to institute an IPR notwithstanding a prior adjudication or expected earlier determination on patentability or validity when exceptional circumstances exist.

The deadline to comment is **November 17, 2025**. All comments must be submitted in writing through the Federal eRulemaking Portal at www.regulations.gov.



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