



Timeline for an *Inter Partes* Review



PTO is authorized to limit the number of petitions but does not expect to do so. 77 Fed. Reg. 48688.

Under the proposed rules filings for *inter partes* reviews that are beyond the limit are dismissed as untimely. 77 Fed. Reg. 48727 (codified at 37 C.F.R. § 42.102).

Petition to Request *Inter Partes* Review

- Can be filed (1) 9 months after issue/reissue date or (2) after completion of post-grant review for any patent issued before, on, or after Sept. 16, 2012. AIA § 6, but not more than a year after being served with a compliant. *Id.*
- Has to establish “a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request.” *Id.*
- Complete petition must include filing fee and be served on patent owner. 77 Fed. Reg. 48728 (Aug. 14, 2012) (codified as 37 C.F.R. § 42.106).

Preliminary Response to Petition by Patent Owner

Optional response has to be filed no more than 3 months after filing date of petition. 77 Fed. Reg. 48728 (codified at 37 C.F.R. § 42.107).

Institution to *Inter Partes* Review (no more than 6 months after petition)

- Only if reasonable likelihood standard is met. 77 Fed. Reg. 48728 (codified as 37 C.F.R. § 42.108).
- *Inter Partes* Review can proceed on all or some of the challenged claims. *Id.*
- Initiated within 3 months of the preliminary response or the last day during which such a response could have been filed. AIA § 6 (codifying 35 U.S.C. § 314(b)).

Patent Owner Response

- Patent owner may file response to the petition addressing any grounds not already denied. 77 Fed. Reg. 48728 (codified at 37 C.F.R. § 42.120).
- Due date for response is either as specified in board order or three months after institution of post-grant review. *Id.*

Final determination no more than 1 year after initiation of post-grant review

(Extendable by no more than 6 months for a good cause or more if joinder). 77 Fed. Reg. 48727 (codified at 37 C.F.R. § 42.100).