Patent Public Advisory Committee
Quarterly Meeting

Patent Trial and Appeal Board Update

Nathan K. Kelley
Acting Chief Administrative Patent Judge, PTAB

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May 5, 2016
Appeals Statistics
PTAB Inventory – Pending Ex Parte Appeals
(excluding appeals from reexamination proceedings)
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(excluding appeals from reexamination proceedings)
AIA Statistics
Narrative:
This pie chart shows the total number of cumulative AIA petitions filed to date broken out by trial type (i.e., IPR, CBM, and PGR).

*Data current as of: 3/31/2016*
Data current as of: 3/31/2016

Narrative:
This bar graph depicts the number of AIA petitions filed each fiscal year, with each bar showing the filings for that fiscal year by trial type (i.e., IPR, CBM, and PGR).

*Data current as of: 3/31/2016
Narrative:
These line graphs display the number of IPR, CBM, and PGR petitions filed each month and the total number of all petitions filed each month from the effective date of the AIA trial provisions.

*Data current as of: 3/31/2016*
Narrative:
This pie chart shows the total number of AIA petitions filed in the current fiscal year to date as well as the number and percentage of these petitions broken down by technology.

### 770 Total AIA Petitions in FY 16*
(Technology Breakdown)

- Electrical/Computer - TCs 2100, 2400, 2600, 2800: 415 (54%)
- Mechanical/Business Method - TCs 3600, 3700: 205 (26%)
- Chemical - TC 1700: 44 (6%)
- Bio/Pharma - TC 1600: 100 (13%)
- Design - TC 2900: 6 (1%)

*Data current as of: 3/31/2016

### 1897 Total AIA Petitions in FY 15*
(Technology Breakdown)

- Electrical/Computer - TCs 2100, 2400, 2600, 2800: 1,193 (63%)
- Mechanical/Business Method - TCs 3600, 3700: 443 (23%)
- Chemical - TC 1700: 167 (9%)
- Bio/Pharma - TC 1600: 90 (5%)
- Design - TC 2900: 4 (0%)

### 1489 Total AIA Petitions in FY 14*
(Technology Breakdown)

- Electrical/Computer - TCs 2100, 2400, 2600, 2800: 962 (65%)
- Mechanical/Business Method - TCs 3600, 3700: 318 (21%)
- Chemical - TC 1700: 114 (8%)
- Bio/Pharma - TC 1600: 92 (6%)
- Design - TC 2900: 3 (0%)
Narrative:
This chart shows the percentage of petitions instituted of all decisions on petition, by technology area.

*Data current as of: 3/31/2016
Narrative:
This chart shows claim outcomes for instituted trials, by technology area.

Note: Claims involved in instituted trials that settle or are dismissed are not depicted. Accordingly, a bar may not add up to 100%.

*Data current as of: 3/31/2016*
**Narrative:**
This graph shows a stepping stone visual depicting the outcomes for all IPR petitions filed to-date that have reached a final disposition.

**Disposition of IPR Petitions Completed to Date**

*Data current as of: 3/31/2016*
Disposition of CBM Petitions Completed to Date*

Narrative:
This graph shows a stepping stone visual depicting the outcomes for all CBM petitions filed to-date that have reached a final disposition.

*Data current as of: 3/31/2016
AIA Trial Rules Update
AIA Rulemaking

In response to stakeholder requests, the Office moved forward with two rule packages:

1. A first final rule package that encompassed less difficult “quick-fixes” based upon both stakeholder comments and internal PTAB suggestions, including more pages for briefing for motions to amend and for petitioner’s reply brief; and

New Rules - Summary

• Claim Construction for Expiring Patents
• Patent Owner Preliminary Response
• Oral Hearings
• Word Count
• Rule 11-Type Certification
PTAB Initiatives
Expedited Patent Appeal Pilot (EPAP)

- Ex parte appeal accorded special status when another is withdrawn
- Pilot effective June 19, 2015 for up to a year
- Timing Goal - 2 months to decide petition & 4 months from the date of petition grant to decide appeal
- Data through April 25, 2016: 23 petitions filed (20 granted and 3 denied); Average time to decide petition approximately 2 days
- Will run until 2,000 appeals have been accorded special status or until June 20, 2016
Small Entity Pilot Program

- Published 09/16/2015
- Provides opportunity for small entities to secure expedited review
- Small entities with a single pending appeal
- Agree to review based on one claim
- No rejections under §112
- Timing Goal - 2 months to decide petition & 4 months from the date of petition grant to decide appeal
- Data through April 25, 2016: 18 petitions filed (11 granted and 7 denied); Average time to decide petition approximately 10 days
- Will run until 2,000 appeals have been accorded special status or until September 16, 2016
Proposed Single Judge Pilot Program

- The Office received eighteen written submissions from intellectual property organizations, associations, businesses, law firms, patent practitioners, and others.

- The majority of comments opposed the proposed pilot program; however, several comments supported modified pilot programs.

- Taking into account the comments received, the Office has decided not to go forward with the proposed pilot program at this time.
Questions and Comments

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