

UNITED STATES
PATENT AND TRADEMARK OFFICE



Patent Trial and Appeal Board (PTAB) USPTO Hour: Process relating to Director institution of AIA trial proceedings

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UNITED STATES
PATENT AND TRADEMARK OFFICE ®

Notice

This content is for informational purposes only and is not legal advice. Please consult the October 17, 2025 Director Institution of AIA Trial Proceedings Memorandum for guidance on this matter.

Question/comment submission

To send in questions or comments during the webinar, please email:

- USPTOHour@uspto.gov



Agenda

1. Relevant statutes
2. Process for Director institution of AIA trial proceedings
3. Q&A

Relevant statutes

35 U.S.C. § 6(a)

(a)In General.—There shall be in the Office a Patent Trial and Appeal Board.

The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board.

35 U.S.C. § 314(a)

The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition ... shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

See 35 U.S.C. § 324(a) (similar).



35 U.S.C. § 3(b)(3)(B)

The Director shall—

define the title, authority, and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

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Process for Director institution of AIA trial proceedings

Background

- Acting Director Stewart issued a memorandum on new PTAB interim processes on March 26, 2025.
 - www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf
- Processes aim to improve PTAB efficiency, maintain capacity to conduct AIA proceedings, reduce pendency in *ex parte* appeals, and promote consistent application of discretionary considerations in the institution of AIA proceedings.



Overview

- Director Squires issued a memorandum concerning decisions on institution in AIA trial proceedings on October 17, 2025.
 - [www.uspto.gov/sites/default/files/documents/Director Institution of AIA Trial Proceedings.pdf](http://www.uspto.gov/sites/default/files/documents/Director_Institution_of_AIA_Trial_Proceedings.pdf)
- This process aims to improve efficiency, consistency, adherence to the statutory requirements for institution of trial, and promote consistent application of considerations for institution of AIA trial proceedings.

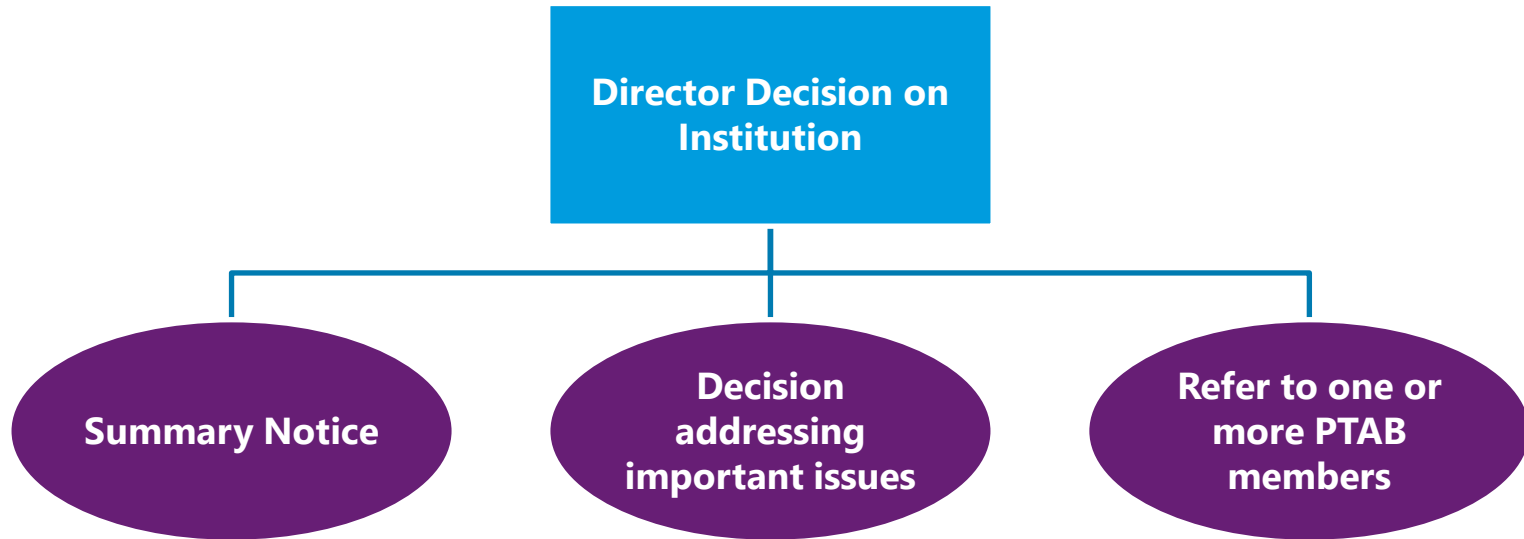


Process

- All party briefings will remain the same.
- All briefing due dates will remain the same.
- The Director will consult at least three PTAB judges and determine whether to institute trials in all IPR and PGR proceedings.

Decisions

Decisions on Institution have three different types:



Trials

- Instituted IPR or PGR proceedings will be referred to PTAB to conduct the trial.
- There are no changes to the conducting of the AIA trials.

Takeaways

- All party briefings will remain the same.
- All briefing due dates will remain the same.
- Prior to institution, send all requests and questions to [Director DI@uspto.gov](mailto:Director_DI@uspto.gov)

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Questions

