

Comparison

Post-Grant Proceedings Before the Patent Trial and Appeal Board (PTAB) and Traditional Reviews Before the United States Patent and Trademark Office (USPTO)

	Post-Grant Proceedings (PTAB)			Traditional USPTO Review (Examiner)	
Type of Procedure	<i>Inter Partes</i> Review (IPR)	Post-Grant Review (PGR)	Covered Business Method (CBM) (sunsets on 9/16/20)	Reissue	Ex Parte Reexam
Eligible Patents	Any patent	Patent has a claim with an effective filing date (priority) that is on or after March 16, 2013	Only "a covered business method patent" (claiming a "financial product or service")	Any patent	Any patent
When It Can Be Used	Anytime (for pre-AIA patents) For those having priority on or after 3/16/13, only after the later of (1) 9 months after patent issue/reissue, or (2) termination of PGR	No later than 9 months after patent issuance/reissue (but limited to qualified patents - see above)	Anytime	Anytime before patent expires	Anytime during enforceability of patent (which can be 6 years past expiration due to past damages)
Who Can Initiate	Third Party (if no prior invalidity DJ was filed)	Third Party (if no prior invalidity DJ was filed)	Third Party that was sued or charged with infringement	Only Patent Owner	Anyone (can be anonymous)

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Grounds for Filing	§§ 102 and 103 based on patents and publications	Any ground (except for failure to comply with the best mode requirement)	Any ground (except for failure to comply with the best mode requirement and § 102(e) prior art)	Patents that through error and without any deceptive intent are considered to be wholly or partly inoperative or invalid	§§ 102 and 103 based on patents and publications
Standard for Institution	"reasonable likelihood that the petitioner would prevail" with respect to at least one challenged claim	"more likely than not" that at least one of the claims challenged in the petition is unpatentable	"more likely than not" that at least one of the claims challenged in the petition is unpatentable	See above grounds for filing	Substantial new question of patentability (SNQ)

For more information contact:

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