

USPTO extends Director Review (DR) option to institution decisions, retires the Precedential Opinion Panel (POP), and updates interim DR procedures

July 24, 2023

Beginning July 24, 2023, the United States Patent and Trademark Office (USPTO) has updated our procedures for the interim Director Review (DR) of Patent Trial and Appeal Board (PTAB) decisions. Updates to the interim DR process include:

- Expanding the process to permit parties to request DR of PTAB decisions on institution in America Invents Act (AIA) proceedings;
- Providing updated guidance as to what types of issues the Director will consider in DR, as well as additional guidance on various topics, such as the initiation of DR at the sole discretion of the Director (sua sponte DR), remands to PTAB for further proceedings, and sanction authority of the Director;
- Providing the Director the option to delegate review to a new independent panel called the Delegated Rehearing Panel (DRP); and
- Creating a new Appeals Review Panel (ARP), which may be convened by the Director sua sponte, to review PTAB ex parte, reexamination, or reissue appeal decisions.

In light of these revisions, PTAB processes have been updated to reflect the retirement of the Precedential Opinion Panel (POP) process. [\[1\]](#)



“With these changes, we are enhancing and streamlining the Director Review and related processes, thereby making our procedures more efficient and effective for America’s innovators,” said Under Secretary of Commerce for Intellectual Property and Director of the USPTO Kathi Vidal. “Director Review has been an important way for parties to request another look at certain PTAB decisions with which they may disagree, and I’m excited to expand and refine that process based on feedback we received from our stakeholders.”

The USPTO will engage in a public notice and comment rulemaking process on these interim updates in the near future to allow stakeholders to weigh in on the changes.

In addition, for applicant requests to appeal the rejection of their patent application, also known as ex parte appeals, PTAB leadership has issued a [memorandum](#) and an [internal operating procedure \(IOP\)](#) that consolidate and describe current practices related to opinion writing and other internal procedures.

Learn more about the [revised interim processes for Director Review](#), the [DRP](#), and the [ARP](#) on our website.

[1] The Director, in review of this update and subsequent decisions, de-designates Proppant Express Investments, LLC v. Oren Techs., LLC, Case No. IPR2018-00914, Paper 38, from precedential status.

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