



PTAB Highlights | Takeaways from Recent Decisions in Post-Issuance Proceedings

So, what's happening at the PTAB? Successful use of secondary considerations, showing expectation of success, hindsight findings, and more!

Secondary Considerations...they do exist! Samsung Electronics Co., Ltd. v. Ouraring, Inc., PGR2024-00039, Paper 54 (December 5, 2025) (Horner, joined by Powell and Valek) In its Final Written Decision, the Board found claims non-obvious based on secondary considerations of commercial success and copying. In doing so, the Board found that a nexus was established because the challenged patent claims are coextensive with a specific product. The Board also noted that circumstantial evidence of copying is sufficient and found that "Patent Owner presented a compelling case of copying based on such evidence."

There's no need to modify what is already expressly disclosed. fuboTV Media Inc. v. DISH Technologies LLC, IPR2024-00917, Paper 73 (November 19, 2025) (Wormmeester, joined by Dang and Hudalla) Patent Owner's argument that Petitioner failed to show or argue that a POSITA would have had a reasonable expectation of success in implementing any of its proposed modifications is misplaced when Petitioner relied on an alternative embodiment that is expressly disclosed.

Uhh... care to finish that sentence perhaps? SyngentaCrop Protection AG v. Inflexion Point Technologies, LLC, PGR2025-00045, Paper 9, (December 1, 2025) (Dennett, joined by Paulraj and Peslak) The Board found Petitioner's purported reason to combine the references is tainted by impermissible hindsight because Petitioner's quotations of a reference stopped short of including a relevant fact that cut against Petitioner's position.

Focus on the correct obviousness inquiry. Valve Corporation v. Ironburg Inventions Ltd., IPR2017-00858, Paper 105 (December 2, 2025) (Weatherly, joined by Petravick and Reimers) As the CAFC held, the correct obviousness inquiry is on "whether a person of ordinary skill in the art would have been motivated to combine [the two references], not whether the combination would with absolute certainty result in the desired outcome."

Ask and you shall receive...a bit more detail. PGR2025-00060, -00061, -00062, -00066, IPR2025-00993, -00994, -01029, -01030, -01031, -01032, -01033, -01112, -01113, -01130, -01174, -01176, -01184, -01210, -01211, -01212, -01214, -01234, -01235, -01244, -01247, -01263, -01268,

-01279, -01284, -01285, -01286, -01287, -01288, -01305, -01317, -01318, -01319, -01322, -01323, -01324, -01325, -01330, -01331, -01332, -01333, -01338, -01339, -01357, -01358, -01359, -01360, -01366, -01370, -01371, -01372, -01373, -01380, -01381, -01382, -01164, -01165, -01169, -01173, -01179, -01185, -01199, -01215, -01217, -01237, -01238, -01241, -01242, -01245, -01246, -01264, -01265, -01269, -01273, -01274, -01275, -01276, -01302, -01328, -01342, -01353, -01355, -01383 (November 20, 2025) (Director Squires) After much public criticism of the Director's first two summary notices for denying institution of numerous IPRs without any indication of the basis for denial, the Director's third summary notice indicated that 56 IPR/PGR petitions were denied for discretionary considerations and separately indicated that 1 IPR was denied on the merits. The notice also indicated that, after review of discretionary considerations, 31 other IPRs/PGRs would be reviewed for merits.

Align your IPR and district court claim constructions. Samsung Electronics Co., Ltd. v. Wilus Institute of Standards and Technology Inc., IPR2025-01069, Paper 16 (December 10, 2025) (Galligan, joined by McMillin and Jurgovan) The Board denied Patent Owner's bid to get the petition denied for having inconsistent claim constructions, because Petitioner dropped its assertions that certain claim terms were indefinite and agreed with Patent Owner that the plain and ordinary meaning applies.

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