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

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So, what's happening at the PTAB? Director summary notices, addressing errors in references, construing "at least one of," and more!

A man of few words. IPR2025-01014, -01105, -01106, -01114, -01117, -01118, -01137, -01139, -01154, -01166, -01167, -01221, -01240 (October 31, 2025) (Director Squires) (issuing, for the first time ever, a single summary notice denying institution of 13 different IPRs without providing any reasoning or even indicating whether the denials were based on the merits or discretionary).

Figure fiasco: bad drawings make bad obviousness. Micron Technology Inc. v. Yangtze Memory Technologies Co. Ltd., IPR2024-00794, Paper 30 (October 22, 2025) (Cygan, joined by Kokoski and McGraw) (rejecting Petitioner's obviousness grounds that relied on inconsistent/error-ridden figures incorrectly illustrating memory device structures.)

A "super guide" to conjunctive construction. Amazon.com, Inc. v. BSD Crown Ltd., IPR2025-00057, Paper 24 (October 21, 2025) (Bui, joined by Daniels and Jurgovan) (denying institution, rejecting Petitioner's obviousness grounds for failing to rebut the presumption that "at least one of" is conjunctive, citing the Federal Circuit's decision in SuperGuide Corp. v. DirecTV Enters., Inc.)

Privity panic averted: contracts don't make co-petitioners. Berkshire Hathaway Energy Co. et al. v. Birchtech Corp., IPR2025-00278, Paper 49 (September 8, 2025) (granting institution, holding that the petition was timely and accurately identified the real parties in interest, noting that indemnity and supply agreements are insufficient to establish privity, without more.)

Just because you can find it, doesn't make it publicly accessible. Samsung Electronics Co., Ltd. v. Maxell Ltd., IPR2024-00735, Paper 51 (October 30, 2025) (Lee, joined by McMillin and

Trock) (finding that a manual is not publicly accessible and thus does not qualify as a printed publication under § 102 because, in part, it was not shown that an interested and ordinarily skilled person exercising reasonable diligence would have found the manual buried on the website).

On second thought…we will discretionarily deny your petition. Google LLC v. Bootler, LLC, IPR2025-00967, Paper 10 (October 31, 2025) (Director Squires) (after previously referring the case to the Board, Director Squires discretionarily denied institution because the challenged claims were found invalid under § 101 in the related district court proceeding).

As a leader in post-issuance proceedings, Banner Witcoff is committed to staying on top of the latest PTAB developments. Our PTAB Highlights series is designed to keep you up-to-date and informed of rulings affecting this constantly evolving area of the law.

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