

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

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So, what's happening at the PTAB? Antedating prior art, challenging a continuation with its parent, using different claim constructions without explanation, and more!

Remember, for pre-AIA: Prior art isn't always prior art. Raven Crossbows, LLC v. MCP IP, LLC, IPR 2024-00522, Paper 37 (Sept. 9, 2025) (Peslak, joined by Petravick and Weatherly) (determining no challenged claims unpatentable because, although Petitioner identified prior art with a priority date before Patent Owner's invention, Patent Owner provided enough evidence that it made an archery bow, that worked for its intended purpose, and shipped it before the earliest date of the identified prior art).

Wait, my family patent anticipates my continuation? Tesla, Inc. v. Iqar Inc., IPR2024-00630, Paper 24 (Sept. 18, 2025) (O'Hanlon, joined by Kinder and Dougal) (determining all challenged claims anticipated because, although the identified prior art is an original patent in a family of continuations, Petitioner proved that it did not disclose all features of an "at least of" feature of the independent claims. Thus, the challenged patent does not have priority benefit to the first filed patent in the family, yet still anticipates the challenged patent since it disclosed one of the "at least one of" features.)

The right hand doesn't know what the left hand is doing. Sun Pharmaceuticals Industries Inc. v. Nivagen Pharmaceuticals, Inc., IPR 2025-00893, Paper 18 (Sept. 19, 2025) (Acting Director Stewart) (Director Discretionary Decision denying institution because, although multiple factors favor institution, Petitioner argued for plain and ordinary meaning of the term "composition" in the IPR while proposing a narrow construction in the district court proceeding without providing any reason for the difference.)

Check storefronts—inventor's Amazon posting kills your prior art. LifeVac, LLC v. DCSTAR Inc., IPR2025-00454, Paper 14 (Sept. 8, 2025) (Hardman, joined by Worth and Meyers) (denying institution because the asserted prior art, Zhongnan, was disqualified under § 102(b)(1)(B) given the inventor had already publicly disclosed the same anti-choking device on Amazon before Zhongnan's publication).

File fast, stipulate broadly: Director lets PGR proceed. Toyota Motor Corp. v. AutoConnect Holdings LLC, PGR2025-00041, Paper 9 (Sept. 8, 2025) (Acting Director Stewart) (no discretionary denial—despite trial set to finish before the PTAB's final decision, early PGR filing and broad stipulation not to raise invalidity in court outweighed the trial timing).

No nexus, no rescue—secondary considerations slip. Under Armour, Inc. v. Athalonz, LLC, IPR2024-00637, Paper 39 (Sept. 10, 2025) (DeFranco, joined by Jung and Meyers) (Board found claims of Athalonz’s athletic shoe patent obvious over Kim, giving little weight to evidence of need, praise, skepticism, or copying. Lacking corroboration and nexus, the secondary considerations could not overcome the obviousness showing).

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