

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

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So, what's happening at the PTAB? Functional language, establishing priority, adding new annotations in Reply, and more!

Heads I win, tails you lose—argue functional language both ways. Samsung Elecs. Co. v. Harbor Island Dynamic, LLC, IPR2024-01404, Paper 32 (Mar. 11, 2026) (Jung, joined by Anderson and Peslak). Because Petitioner's anticipation challenge gave functional recitations no patentable weight and Petitioner's obviousness challenge gave the same recitations patentable weight, the Board determined that resolving the claim construction dispute was "not necessary to resolve the parties' dispute." Petitioner prevailed on both grounds.

Implicit support keeps the priority chain intact. Fluidmaster, Inc. v. Danco, Inc., IPR2024-00634, Paper 47 (Mar. 5, 2026) (Petravick, joined by Tartal and Silverman). Petitioner's attempt to use a parent application as prior art failed because the Board found the earlier applications implicitly supported "bowl fill restriction"—a POSITA would understand that "appropriate valves" for regulating water flow includes non-adjustable restrictors, even without word-for-word disclosure.

No Second Puff at Particularity. RJ Reynolds Vapor Co. v. Healthier Choices Mgmt. Corp., IPR2024-01458, Paper 25 (Mar. 9, 2026) (Kalan, joined by Kokoski and Ross). Petitioner's belated attempt to re-identify the "air inlet" element—adding new annotations to figures in its Reply that weren't in the Petition—failed to satisfy the statutory particularity requirement and undercut its obviousness argument.

No control, no privity, no problem. Monolithic Power Systems, Inc. v. Greenthread, LLC, IPR2024-00469, Paper 91 (Sept. 10, 2025) (Turner, joined by Droesch and Belisle) The Board determined Petitioner is not in privity with Intel, and the Petition is not time-barred under 35 U.S.C. § 315(b). Petitioner's declarant testified that Petitioner first learned of the Intel litigation after that lawsuit had concluded, and that Petitioner did not actually control, nor was it in a position to control, Intel's defense.

Friend request denied. Apple Inc. v. Ginko, LLC, IPR2025-01388, Paper 14 (March 2, 2026) (Director Squires) The Board denied institution, finding Petitioner did not show that the prior art's permission settings were part of the request to become a contact.

The Director giveth, and the Director taketh away. Notice of Decisions on Institution, Paper 19 (March 3, 2026) (Director Squires) In a single notice, the Director denied institution

in four IPRs on discretionary grounds, granted institution in three IPRs and two PGRs on the merits, and sent one more back for further review.

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