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

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So, what's happening at the PTAB? Claim constructions of "first" and "second," a delegated director review decision vacating a prior Board decision based on a jury verdict, inconsistent claim constructions, and more!

First. Second. Different? Not necessarily. Apple Inc. v. MemoryWeb, LLC, PGR2022-00006, Paper 51 (July 8, 2026) (Repko, joined by Braden and Trock) The Board rejected Patent Owner's argument that "second map image" required a map image distinct from the first. Instead, it held that "first" and "second" merely identified the map image associated with different person views, allowing the same prior-art feature to satisfy both limitations.

The jury has entered the chat. Facebook, Inc. v. Express Mobile, Inc., IPR2021-01226, Paper 68 (June 25, 2026) (Abraham, joined by White and Boudreau, Acting Vice Chief APJs) On delegated Director Review, the panel vacated the remand decision and concluded that Petitioner had not proven claims 1–4 and 6 unpatentable. Petitioner failed to identify meaningfully different evidence or arguments from those underlying an intervening jury verdict finding claim 1 not invalid over the same prior art. When the Board reaches a different result on a substantially overlapping record, it must explain why.

You can't have your claim construction and eat it too. Apple, Inc. v. WeCrevention, Inc., IPR2026-00239, Paper 11 (June 24, 2026) (Squires, Director) The Director denied five IPR petitions because Apple took unexplained, conflicting claim-construction positions before the Board and district court. Petitioners should present one construction and apply it consistently; hedging between a broad IPR mapping and a narrower or indefinite district-court position may support discretionary denial.

Nothing to see here—literally. Light & Wonder, Inc. v. Evolution Malta Limited, IPR2025-01072, Paper 30 (June 22, 2026) (Squires, Director) The Director vacated institution in three IPRs after a district court dismissed the same claims as patent-ineligible under § 101 with prejudice. Continuing would be unnecessary and inefficient. The order also extends the deadline for Director Review of institution decisions from 14 to 30 days, with further extensions possible in exceptional circumstances.

Better evidence beats an early impression. Micron Technology, Inc. v. Yangtze Memory Technologies Co., Ltd., IPR2025-00191, Paper 59 (July 6, 2026) (Cygan, joined by Kokoski and McGraw) The Board found several claims obvious after concluding that additional trial evidence established a persuasive motivation to add dummy channels for structural support, after initially expressing skepticism in its Institution Decision. Petitioners should not overlook the importance of developing the factual record after institution.

Do not read "only" into the claims. Tesla, Inc. v. Intellectual Ventures II LLC, IPR2025-00221, Paper 29 (July 6, 2026) (Daniels, joined by Droesch and Laney) The Board declined to rewrite the claims by adding exclusivity requirements such as "[only] … when time synchronized" or requiring a single "same" control message—where those restrictions did not appear in the claim language. Claim construction must begin with what the claims actually say—not with limitations inferred from a preferred embodiment.

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