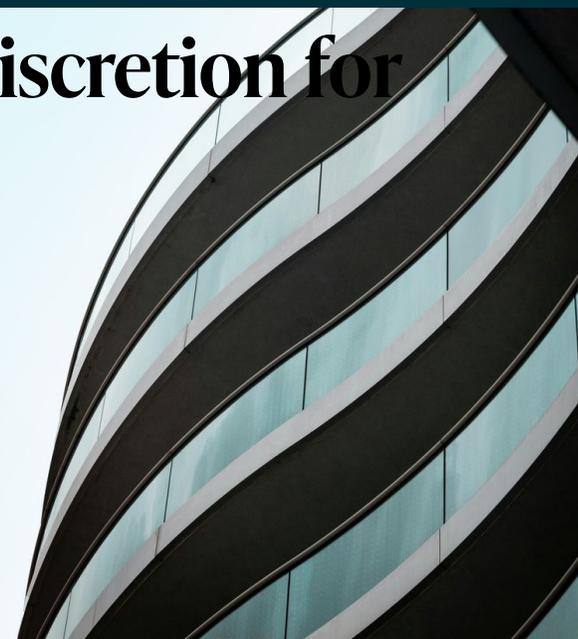


Squires Again Broadens Discretion for Post-Grant Proceedings



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On Wednesday, March 11, 2026, United States Patent and Trademark Office (USPTO) Director John Squires issued a memorandum^[1] announcing that when making institution decisions in *inter partes* review (IPR) and post-grant review (PGR) proceedings, he would consider whether accused or licensed products and components were manufactured in the United States, as well as whether the petitioner was a small business that had been sued for infringement. The Director's stated concern is perceived threats to America's innovation leadership caused by substantial movement of the country's manufacturing base overseas. Squires noted that much of this movement happened when IPR and PGR proceedings had a broad institution framework, and that many of the most frequent filers of such proceedings are large companies that conducted most of their manufacturing offshore.

The Director's reasoning in this memorandum appears to be in line with his previous policies on institution decisions and concerns about foreign threats. In October 2025, he issued a memorandum requiring disclosure of real parties in interest in IPR petitions, based partially on concerns that the IPR process had been exploited by foreign state-backed actors.

This latest memorandum is an extensive and novel expansion of what the Director will consider under his discretion in an institution decision. While IPR and PGR proceedings assess the patentability of a patent claim, this new focus on the manufacturing location of products and related components incorporates elements related to commercialization into

the institution decision. Ultimately, the memorandum offers new institution arguments for small and/or domestic petitioners, while implicitly limiting the IPR and PGR prospects of foreign manufacturers.

[1] The memorandum applies to all IPRs and PGRs where the due date for a patent owner discretionary brief has not yet elapsed.



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