

New PTAB Rules Under Consideration

A photograph of a modern building's curved glass facade, showing multiple floors with large windows, set against a light blue sky.

1 MIN READ

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On April 15, 2024, in response to feedback on last year's ANPRM, Director Vidal issued an invitation to comment on the new NPRM governing PTAB review practices, including:

- Definition of “serial petition” as a petition that challenges overlapping claims of the same patent already challenged by petitioner/RPI/privy, filed after POPR or expiration of the time to file POPR to the first petition
- Definition of “parallel petitions” as two or more petitions that challenge the same patent, filed by the same petitioner on or before the POPR to any of the petitions or the due date for POPR to the first petition
- Separate briefing on discretionary denial (10 pages for patent owner/10 pages for opposition/5 pages for reply), due 2 months after date of notice according filing date to petition, opposition due 1 month after request for discretionary denial, and reply due 2 weeks after opposition (Board may raise discretionary denial *sua sponte* and provide opportunity for briefing or authorize patent owner to address discretionary denial in POPR)
- Unless later-filed joinder petition implicates other bases for discretionary denial, Board will not consider discretionary denial arguments for instituted petitions

- Parties will continue to be required to file settlement agreements in order to seek termination prior to a decision on institution.

The deadline for comments through the [Federal eRulemaking Portal](#), Docket number PTO-P-2023-0048, is June 18, 2024.

USPTO advances rules governing PTAB review practices in various proceedings, improving fairness, transparency, and efficiency



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