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Western Digital Joins Tech Chorus Challenging the Patent Office

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- Western Digital Technologies Inc. petitioned the Federal Circuit challenging a test created by US Patent and Trademark Office Acting Director Coke Morgan Stewart that makes it more difficult to administratively contest the validity of older patents.
- The companies argued the director's reliance on "settled expectations" as a grounds to dismiss patent challenges violates both the Constitution and the director's legal authority as authorized by Congress.
- The petitioners said Stewart rejected 64 patent challenges because of settled expectations in a two-month span, which they argued was at odds with the PTO's practice for more than a decade of treating challenged patents equally "no matter their age".

Hard drive maker Western Digital Technologies Inc. petitioned the Federal Circuit Thursday challenging a test created by US Patent and Trademark Office Acting Director Coke Morgan Stewart that makes it more difficult to administratively contest the validity of older patents.

Western Digital and its Sandisk Technologies Inc. spinoff argued the director's reliance on "settled expectations" as a grounds to dismiss patent challenges violates both the Constitution and the director's legal authority as authorized by Congress, according to a petition for a writ of mandamus filed Thursday at the US Court of Appeals for the Federal Circuit.

The companies filed inter partes review petitions in January seeking to invalidate three patents belonging to Polaris PowerLED Technologies LLC after the patent owner sued in California federal court over allegedly infringing solid-state drives. In July, Stewart exercised her discretion to deny the validity challenges under new processes she implemented, noting the three patents had been in force for either nine or a dozen years, which she said created "strong settled expectations" that weigh against the agency considering the wisdom of the original issuance decisions.

That decision relies on guidance that didn't exist when Western Digital and Sandisk filed their validity challenges and was imposed without the necessary notice-and-comment rulemaking, they argued.

"That rule is lawless on every level," the petitioners wrote. "It is not found in any statute."

Stewart rejected 64 patent challenges because of settled expectations in a two-month span, the petitioners said, arguing that was at odds with the PTO's practice for more than a decade of treating challenged patents equally "no matter their age."

"Everything changed this year," they said. "Out of nowhere, the Acting Director began denying institution because patents were too 'old.'"

The companies' mandamus petition is the fifth aimed at new Trump administration policies that have made it more difficult to contest the validity of patents. HighLevel Inc., Google LLC, Samsung Electronics Co., Motorola Solutions Inc., and SAP America Inc. have filed similar challenges, all of which remain pending.

Those prior actions argued the PTO applied the interim processes retroactively, wrongly penalizing the patent challengers for relying on earlier guidance. Western Digital's petition argues that point, as well, but marks the first of the actions to directly take on Stewart's use of "settled expectations."

The PTO declined through a spokesman to comment on the petition.

In its legal responses to the earlier mandamus actions the agency's lawyers have emphasized the broad discretion the Patent Act provisions governing IPRs give the PTO director when it comes to screening out cases, as well as the statute's bar on appeals from IPR institution decisions.

Polaris didn't immediately respond to a request for comment sent to its lawyer at Kramer Alberti.

Haynes and Boone represents Western Digital and Sandisk Technologies Inc.

The case is In re: SanDisk Techs. Inc. , Fed. Cir., 25-152, mand. petition 9/18/25 .

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