

## David O'Brien in World Intellectual Property Review: SCOTUS to Mull Constitutionality of IPRs

---

June 13, 2017 David O'Brien

---

**PRACTICES** Patent Office Trials, Intellectual Property

---

The US Supreme Court has agreed to consider whether *inter partes* reviews (IPRs) violate the US Constitution.

Today, June 12, the Supreme Court justices granted a petition for a writ of certiorari filed by Oil States Energy Services, a provider of services to oil and gas companies, in November last year.

In its petition, Oil States argued that the IPR process at the US Patent and Trademark Office (USPTO) violates the right to a jury in an Article III court (a federal court established under Article III of the US Constitution)...

In April, the USPTO filed a reply brief, arguing that patents are “quintessential public rights”, and that Congress is authorised to designate public rights for adjudication in non-Article III tribunals....

The Federal Circuit didn't explain its reasoning, but affirmed the PTAB's decision.

[David O'Brien](#), a partner in Haynes Boone's patent office trials practice group, said: “It is hard to understate the potential significance of the question on which certiorari was granted for post-grant proceedings under the 2011 America Invents Act (AIA)....”

**Excerpted from *World Intellectual Property Review*. To read the full article, click [here](#).**