

David O'Brien Speaks to Bloomberg Law on SCOTUS Decision Impact to Patent Authority

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PRACTICES Design Patents, Patents, Patent Prosecution and Counseling, Patent Litigation, Patent Office Trials, U.S. Supreme Court

Last week, the U.S. Supreme Court overturned the *Chevron* doctrine, in a 6-3 opinion in *Loper Bright v. Raimondo*. The decision impact the authority of regulatory agencies, and Haynes Boone Partner [David O'Brien](#) spoke to Bloomberg Law to share how the decision may impact the US Patent and Trademark Office.

Read an excerpt from the article below:

The [US Patent and Trademark Office] controversially has given its Patent Trial and Appeal Board—which reviews the validity of previously granted patents—the discretion to deny merit reviews of certain validity challenges and recently proposed a rulemaking that could deter inventors from seeking continuation patents by making them more vulnerable to subsequent legal challenges.

“There’s a lot that the Office has traditionally tried to do in the PTAB space through policy making, precedential decisions, or standard operating procedures, that probably is not fully commensurate with the” Administrative Procedures Act, said David O’Brien a patent lawyer and partner at Haynes Boone, referring to the law governing agency actions.

O’Brien and Jonathan Stroud, general counsel at Unified Patents LLC, separately identified the ongoing rulemaking relating to continuation patents and rules granting the PTAB discretionary denial powers as likely targets for challenges tied to the new Supreme Court precedent.

To read the full article in *Bloomberg Law*, [click here](#).