

## Shier in Law360: Federal Circuit Arguments Don't Bode Well For Patent Term Adjustment

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**PRACTICES** Intellectual Property, Patents, Patent Office Trials

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Partner Vincent K. Shier, Ph.D. authored an article discussing patent term adjustment. Read an excerpt below:

Patent term adjustment, or PTA, plays an essential role in ensuring the intention of Congress — to guarantee to inventors an effective 17-year patent term in cases where U.S. Patent and Trademark Office delays would otherwise shorten that effective patent term — is preserved.

PTA factors heavily into prosecution strategies of applicants and can serve as an important determinant of when to secure allowance of some claims while continuing examination of others. In some industries, for example pharmaceutical and biotechnology fields, PTA is critically important to life-cycle management and ensuring commercialization of innovation.

Double patenting serves as an important safeguard against abusive and unjustified extensions of the patent term beyond that which is granted under the quid pro quo of the U.S. patent system. However, modification of the patent term following the Uruguay Round Agreements Act, or URAA, has led to uncertainty in the interplay between double patenting on the one hand and PTA on the other.

A number of district court cases have probed the interplay between obviousness double patenting, or ODP, and PTA under Title 35 of the U.S. Code, Section 154(b).

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