

O'Brien in Law360: Stewart Broadens Denials Again

June 23, 2025 David O'Brien

PRACTICES Patents, Patent Office Trials

Haynes Boone Partner [David O'Brien](#) spoke with *Law360* after the acting U.S. Patent and Trademark Office director Coke Morgan Stewart again held that patent owners eventually have the right to assume their patents won't be challenged in *inter partes* reviews.

"The considerations are changing on a weekly basis," O'Brien told *Law360*. "It's ironic, given that what we're talking about here is a 'settled expectations' policy that's being espoused by the acting director."

In a short period of time, Stewart has applied settled expectations to petitions filed before June 6 and, in the newer case, without the patent owner raising it.

"I understand a policy projection or a desire to make that the go-forward position, but to frame it as a settled expectation, it's really hard to rationalize," O'Brien said. "It turns on its head not only the settled expectations in reality, but the expectations that parties and counsel and members of the bar would have had just two weeks ago."

The six-year damages law was in place when the AIA was being crafted and when it went into effect in 2013, O'Brien said. Stewart is basically creating a laches doctrine — essentially, waiting too long to act — tied to when the patent owner's expectations can be considered settled, he claimed.

"In the bigger scheme of things, Congress knows how to express its intentions regarding a laches doctrine," O'Brien said. "They did so exactly in the provision she cites to. In the context of the AIA, they specified the limit in one type of proceeding but not the other. They knew how to do it and didn't do it here."

To read the full article from *Law360*, click [here](#).