

Bowser for Westlaw Today: Federal Circuit Defines Contours of the 'Skilled Searcher' Standard for IPR Estoppel

August 27, 2026

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Haynes Boone Partner [Jonathan Bowser](#) authored an article for *Thomson Reuters Westlaw Today* examining a recent Federal Circuit decision that provides further guidance on the scope of estoppel following an inter partes review (IPR). Bowser explains how the decision clarifies when IPR petitioners may be estopped from raising prior art in later litigation and highlights the importance of thorough, well-documented searches.

Read an excerpt below.

Challenging the validity of a patent in an inter partes review (IPR) comes with risk. If the Patent Trial and Appeal Board (PTAB) institutes review and issues a final written decision upholding the claims, the IPR petitioner is statutorily estopped from challenging the validity of the patent on any ground that the petitioner "raised or reasonably could have raised during" the IPR. 35 U.S.C. § 315(e). This estoppel extends to validity challenges in district court, the International Trade Commission, or at the Patent Office.

For years, the pivotal question has focused on what grounds "reasonably could have [been] raised" when a patent owner seeks to enforce IPR estoppel. The Federal Circuit recently revisited that question for the second time in the same case, this time defining the contours of what grounds could have been "reasonably" raised based on efforts to find the prior art references in the grounds.

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*In *Ironburg Inventions Ltd. v. Valve Corp.*, 64 F.4th 1274 (Fed. Cir. 2023) (*Ironburg I*), as addressed in my previous article, [opens new tab](#), the Federal Circuit adopted the "skilled searcher" standard for determining whether grounds could have been reasonably raised.*

*Specifically, in *Ironburg I*, the Federal Circuit held that an IPR petitioner "'reasonably could have raised' any grounds that a skilled searcher conducting a diligent search reasonably could have been expected to discover."*

*In *Ironburg Inventions Ltd. v. Valve Corp.*, 178 F.4th 1328 (Fed. Cir. 2026) (*"Ironburg II"*), the second time the Federal Circuit addressed this estoppel issue in the same case, the Federal Circuit was asked to define the contours of the "skilled searcher" standard it adopted in *Ironburg I*.*

*In *Ironburg II*, the Federal Circuit reversed a grant of estoppel and provided new guidance on search methodology, hindsight bias, and the ground-level nature of the "skilled searcher" inquiry.*

Read the full *Westlaw Today* article [here](#).