

David McCombs, Eugene Goryunov, Brooke Cohen Author IP Watchdog Article

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PRACTICES Intellectual Property, Patents, Patent Office Trials

Haynes Boone Partners David McCombs and Eugene Goryunov and Associate Brooke Cohen published an *IPWatchdog* article titled “Terminating an IPR: File Your Settlement Agreement Without Concern – At Least for Now.”

Below is an excerpt:

Once an *inter partes* review (IPR) has been instituted at the Patent Trial and Appeal Board (PTAB), it will generally proceed to final written decision, unless the parties settle their dispute and agree to terminate the IPR. As a prerequisite to termination, [the PTAB requires](#) the parties to file their settlement agreement, as well as any collateral agreements, with the PTAB before an IPR will be terminated.

Interestingly, 35 U.S.C. § 317(b) also provides that filed settlement agreements “shall be made available only to Federal government agencies on written request, or to any person on a showing of good cause.” This language has, understandably, caused some concern for parties about filing their settlement agreements with the PTAB. As a general matter, settlement agreements are highly confidential and could be harmful to either or both parties to the IPR if disclosed. Yet the language of Section 317(b) makes it at least facially possible for anyone to request access to these agreements without defining the circumstances under which the agreements could be disclosed.

Excerpted from *IP Watchdog*. Read more [here](#).