

McCombs, Goryunov, and Bowser in Thomson Reuters Westlaw Today: 'IPR Tricks of the Trade: 2023 Revised Director Review Process'

August 22, 2023 David McCombs, Jonathan Bowser

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

Partners [David McCombs](#) and Eugene Goryunov and Counsel [Jon Bowser](#) authored an article in *Thomson Reuters Westlaw Today* discussing the U.S. Patent and Trademark Office director review of Patent Trial and Appeal Board decisions, taking particular note of the expansion of the director review process to cover institutional decisions.

Read an excerpt below:

In *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021), the U.S. Supreme Court held that the U.S. Patent and Trademark Office (USPTO) Director must have the authority and opportunity to review a Patent Trial and Appeal Board (PTAB) final written decision before it becomes the decision of the agency. In response to *Arthrex*, the PTAB implemented an interim Director review process. "USPTO implementation of an interim Director review process following *Arthrex*." Nearly two years later, the USPTO expanded the scope of the Director review process. "Revised Interim Director Review Process," available at: <https://bit.ly/3Orn6O8>.

The purpose of Director review is to resolve issues that implicate the resolution of the specific case or would address broader legal issues. Director review may be initiated *sua sponte* by the Director or requested by a party to a PTAB proceeding. While the original Director review process was limited to review of final written decisions, the revised process allows parties to seek review of the PTAB's " decision whether to institute a trial, final written decision, or decision granting a request for rehearing." Expansion of the Director review process to cover institution decisions is a big deal.

To read the full article on *Thomson Reuters Westlaw Today*, [click here](#).