

McCombs and Bowser in Westlaw Today: USPTO Director Establishes Strict Real Party-In-Interest Requirement for IPRs

November 12, 2025 David McCombs, Jonathan Bowser

PRACTICES Intellectual Property, Patents, Patent Prosecution and Counseling, Patent Litigation, Intellectual Property Litigation

In the latest IPR Tricks of the Trade for *Westlaw Today*, Haynes Boone Partners [David McCombs](#) and [Jon Bowser](#) examine the USPTO director's restoration of strict real party-in-interest requirements for inter partes reviews and the national security concerns around the policy shift.

Read an excerpt below.

In the America Invents Act (AIA), Congress created *inter partes review* (IPR) and post-grant review (PGR) proceedings for third parties to challenge the validity of issued patent claims before the Patent Trial and Appeal Board (PTAB). When filing an IPR or PGR petition, the challenger must identify all real parties-in-interest (RPIs) for that proceeding.

On Oct. 28, 2025, USPTO Director John Squires restored strict requirements that a petitioner must name all RPIs before a trial may be instituted. In doing so, Director Squires rescinded the PTAB's prior RPI policies that were established under former Director Andrei Iancu during the first Trump administration.

The PTAB's Trial Practice Guide (TPG) provides that "the core functions" of the RPI identification requirement are "to assist members of the [PTAB] in identifying potential conflicts, and to assure proper application of the statutory estoppel provisions" that may exist if the PTAB institutes a trial and the petitioner is ultimately unsuccessful in proving invalidity in the PTAB's final written decision at the conclusion of the trial.

The TPG indicates that whether an unnamed party is an RPI to a particular IPR or PGR proceeding is "a highly fact-dependent question," and the PTAB "will handle such questions on a case-by-case basis."

Due to the fact-intensive nature of an RPI inquiry and minimal discovery before the PTAB issues an institution decision, former Director Iancu previously designated *SharkNinja* as precedential. *SharkNinja Operating LLC v. iRobot Corp.*, IPR2020-00734, Paper 11.

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