

Preview of the Patent Review Processing System for the AIA Board Proceedings

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I just returned from a focus session at the PTO previewing the PTAB Patent Review Processing System's web interface and providing feedback, as part of a focus group. This is the interface that the PTO will launch 9/16/2012 for the new Patent Trial and Appeal Board proceedings established by the AIA. These proceedings are:

Inter Partes Review (IPR)
Post Grant Review (PGR)
Covered Business Methods (CBM)
Derivations (DER)

These Board proceedings will be procedurally very similar to the existing Board Interferences, an area in which my firm has a substantial practice. Therefore, I expect that my firm will have a substantial practice in these new proceedings. So I have personal interest in the system the PTO will require us to use to file papers for these proceedings.

Sadly, I was the only interference practitioner, and in fact the only patent practitioner to appear at the focus group. Several of the major firms sent paralegals, but no other patent attorneys were present. However, there are a few important points about the new interface that all registered US patent practitioners should know.

First, a user has to register before they can file papers as either a petitioner or patentee representative. All practitioners should make it a point to register 9/16/2012. Only registered users can associate with a proceeding (as petitioner or patentee representative). Firm paralegals, for example, cannot register as users and associate with a proceeding. (Currently, there is no provision for a firm paralegal to sign in as the attorney and then identify that they are working under the authority of the attorney; I suggested they change that.) One reason to register now, is in case a proceeding is initiated against your client's patent; you'll need to be registered with the PTAB proceedings web interface before you can make an appearance.

Second, if you or your paralegals play around on the system to test it out, it is possible to inadvertently pay for a proceeding. This is because the "Withdraw Petition" button (which cancels out all of your data entries and file uploads for a to-be-filed petition) is available on all pages until the petition is filed. However, the payment information appears prior to actually filing the petition, and you have to click through the payment information to get to the screen to actually file the petition. But once you click through the payment information screens, you have paid, and then it would be up to you to request a refund from the PTO for a withdrawn petition.

Third, as it stands, although this system contains some of the design features of the pre-existing Board Interference Web portal, this system is far more complicated to use. It has more

and different types of interface pages, many of the existing text labels on actions taken in the interface are ambiguous or mis-descriptive, and the logical flow from one screen to the next is in some places counter intuitive. Hopefully feedback provided today will result in more descriptive text, and a better flow.

Fourth, the file and data format currently follows that for the Interference Web Portal instead of EFS; there are validation requirements for filenames and embedding of fonts, as in EFS.

Fifth, unlike the Interference Web portal, and a distinct improvement over the Interference Web portal, there will be the ability for the public to identify existing Board Proceedings. This is because the search function for searching by proceeding number provides for implied wild cards before and after a text string. The proceeding numbering is in the form[TYPE][YEAR]-[NUMBER]. For instance, the proceeding I had the PTO officials enter during the our session today was assigned "IPR2012-01306". Searching on "IPR" or "PGR" or "CBM" should therefore pull up a list of links to all proceeding records of that proceeding type; searching on "2012" should pull up a list of links to all proceeding records containing "2012", etc.

The link to Patent Review Processing System has not yet been released. However, it should appear in the first minute of 9/16/2012 on the PTAB web page, <http://www.uspto.gov/ip/boards/bpai>, in the "Trials" section.

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