

PTAB/USPTO Update - October 2020

OCTOBER 5, 2020

USPTO News

- USPTO launches [National Council for Expanding American Innovation \(NCEAI\)](#)
- The PTAB has added an [online form](#) to the USPTO website that allows any member of the public to nominate any PTAB decision for precedential or informative designation.
- USPTO announced a [reorganization of the senior Patents management team](#). Among other changes, deputy commissioners will no longer have unique titles, emphasizing broader and shared responsibilities.
- USPTO [Director Andrei Iancu announced](#) that, as a result of the COVID-19 pandemic, the growth of patent application filings is lower than expected and requests for continued examination and maintenance fee collections are lower than last year.
- USPTO [COVID-19 Response Resource Center](#) is a central hub for information about the USPTO's efforts in response to the COVID-19 outbreak. The [deferred-fee provisional patent application pilot program](#) was newly added in September.

Notices, Guidance, and Requests

- [Deferred-Fee Provisional Patent Application Pilot Program and Collaboration Database To Encourage Inventions Related To COVID-19](#), 85 Fed. Reg. 58038-58041 (September 17, 2020)
- [Performance Review Board](#), 85 Fed. Reg. 56589–56590 (September 14, 2020)

Final Rules

- [Setting and Adjusting Patent Fees During Fiscal Year 2020](#); Correction, 85 Fed. Reg. 58282–58283 (September 19, 2020) [Summary is [available here](#).]

Interim Rules

- There are no new interim rules.

Proposed Rules

- [Changes to Representation of Others before the United States Patent and Trademark Office](#), 45812–45834 (July 30, 2020) [Written comment period closed on September 28, 2020.]
- [Trademark Fee Adjustment](#), 37040–37057 (June 19, 2020) [Written comment period closed on August 3, 2020.]
- [Patent Trial and Appeal Board Rules of Practice: Instituting on All Challenged Patent Claims and All Grounds and Eliminating the Presumption at Institution Favoring Petitioner as to Testimonial Evidence](#), 31728–31732 (May 27, 2020) [Written comment period closed on June 26, 2020.]
- [Small Entity Government Use License Exception](#), 6476–6482 (February 5, 2020) [Written comment period closed on March 23, 2020.]
- [Facilitating the Use of WIPO's ePCT System to Prepare International Applications for Filing with the United States Receiving Office](#), 5362–5366 (January 30, 2020) [Written comment period closed on March 30, 2020.]

PTAB Decisions

- New Precedential PTAB Decisions
 - There are no new precedential PTAB decisions.
- New Informative PTAB Decisions
 - There are no new informative PTAB decisions.
- New PTAB Decisions of Note
 - [RPX Corp. v. Applications in Internet Time, LLC](#), IPR2015-01750, Paper 128; IPR2015-01751, Paper 128; IPR2015-01752, Paper 126 (October 2, 2020), [Real Party-in-Interest - On remand from the Federal Circuit, the PTAB issued an IPR termination decision authored by Chief Administrative Patent Judge Scott Boalick. The decision considers issues identified by the Federal Circuit and additional evidence admitted subsequent to the Federal Circuit decision to determine the entities that should have been identified as real parties-in-interest. The panel found that Salesforce is a real party-in-interest along with RPX and, because Salesforce was time-barred, the Petitions were time-barred under 35 U.S.C. § 315(b) and terminated.]

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