

UNITED STATES
PATENT AND TRADEMARK OFFICE

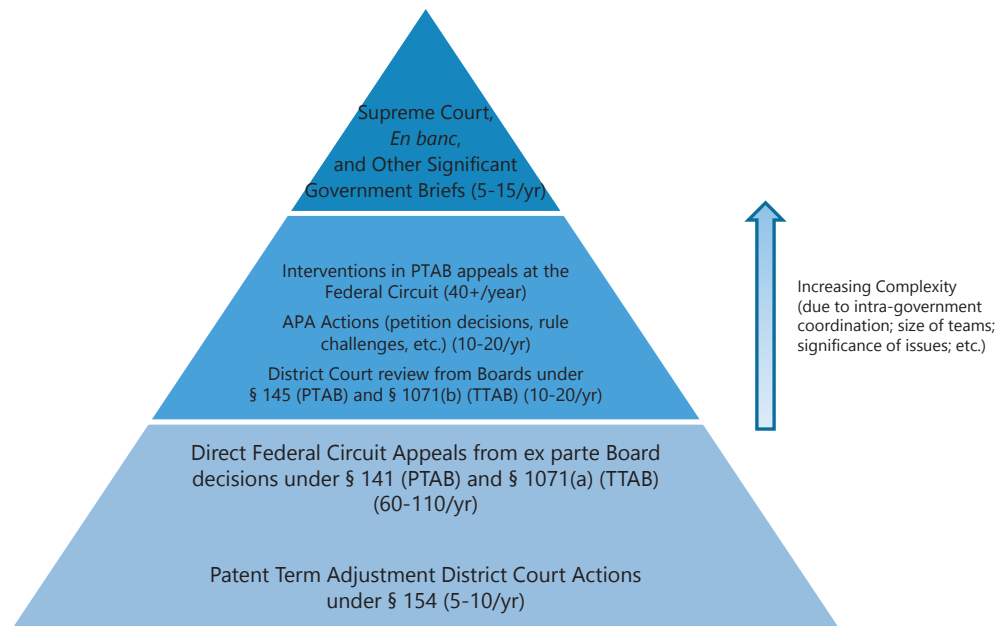


Update from the Office of the Solicitor

11th Annual Advanced Patent Law Institute

Scott C. Weidenfeller
Acting Deputy Solicitor





Types of Cases Handled by the Solicitor's Office

Director's Right to Intervene

"The Director shall have the right to intervene in an appeal from a decision entered by the Patent Trial and Appeal Board in a derivation proceeding under section 135 or in an inter partes or post-grant review under chapter 31 or 32."

35 U.S.C. § 143

Director's Decision to Intervene – Appellant's Responsibility

"In appeals arising out of an inter partes review, a post-grant review, a covered business method patent review, or a derivation proceeding, notice of the appeal must provide sufficient information to allow the Director to determine whether to exercise the right to intervene in the appeal pursuant to 35 U.S.C. 143, and it must be served as provided in § 42.6(e) of this title."

37 C.F.R. § 90.2(a)(3)(ii)

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Director's Decision to Intervene

- Solicitor's Office reviews the notices of appeal as they are filed
- Key focus:
 - Constitutional challenges
 - Statutory interpretation
 - Challenges to rules
 - Challenges to PTAB procedures
- USPTO must obtain approval to intervene from the Solicitor General (DOJ)

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