Financial institutions
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Advancing the effective filing date in an *inter partes* review proceeding

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Austin, TX
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Why advance effective filing date?

- Challenged patent
  - Patent Owner: antedate invalidating reference
  - Either: apply *Phillips* claim construction standard
  - Petitioner: ensure timely filing of IPR petition

- Invalidating reference
  - Petitioner: make invalidating reference available as prior art

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"Effective Filing Date" under AIA

- Earlier of:
  - Actual filing date, OR
  - Earliest application to which priority/benefit can be claimed
- Applications include:
  - foreign national applications (§ 119(a), (b), (c), and (d));
  - domestic provisional applications (§ 119(e));
  - continuing applications based on prior United States nonprovisional applications (§ 120);
  - divisional applications based on prior United States nonprovisional applications (§ 121); and
  - PCT applications that designate the United States or other countries (§ 365).

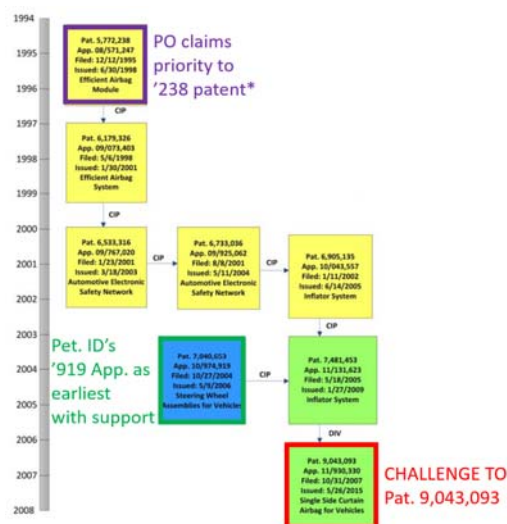NORTON ROSE FULBRIGHT

Examples and Practice Tips

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Literal written description support must be shown in each application in the priority chain

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Autoliv Asp, Inc. v. American Vehicular Svcs.

IPR2016-01794 (Paper 7) (P.T.A.B. March 23, 2017).

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Title search: Advancing the Effective Filing Date in an Inter Partes Review Proceeding

Also available as part of the eCourse
[2017 Advanced Patent Law (Austin) eConference](#)

First appeared as part of the conference materials for the
22nd Annual Advanced Patent Law Institute session
"IPR Case Studies: Why and How to Obtain an Earlier Effective Filing Date"