

UNITED STATES
PATENT AND TRADEMARK OFFICE



1

17th Annual Advanced Patent Law Institute

Patent Trial and Appeal Board

Michael Tierney, Vice Chief Administrative Patent Judge

Kalyan Deshpande, Senior Lead Administrative Patent Judge

March 17, 2022



2

Implementation of interim procedure

Post-*Arthrex*: Director review

3

Director review

- *Arthrex* provided the Director authority to review a PTAB final decision in an *inter partes* review by rehearing.
- The Office has implemented an interim procedure for Director review, consistent with the *Arthrex* decision.
- In this interim procedure, such a review may be initiated *sua sponte* by the Director or requested by a party to an AIA proceeding in relation to a final written decision.

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Director review

- If initiated *sua sponte* by the Director, the parties to the proceeding will be given notice and may be given an opportunity for briefing.
- The Director's review may address any issue, including issues of fact and issues of law, and will be *de novo*.



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Director review - procedure

- A party may request Director review of a final written decision in an *inter partes* review or a post-grant review by concurrently:
 - filing a request for rehearing by the Director of a PTAB decision, and
 - submitting a notification of that request by email to Director_PTABDecision_Review@uspto.gov, and copying counsel for the parties.



6

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"Practice and Issues Before the PTAB"