



Drafting Patent Applications to Withstand Post-Grant Proceedings

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Agenda

- Post-Grant Proceedings
- Prior Art Search
- Claims
- Specification
- Prosecution History
- Patent Portfolio
- Budget





Post-Grant Proceedings



Types of Post-Grant Proceedings

Proceeding	Who Initiates	Filing Timing	Filing Grounds	Responsible USPTO Branch
Reissue	Patent Owner	Before patent expires	Due to error, some or all of patent is invalid	Original Examiner
Supplemental Examination	Patent Owner	Before patent expires	Any "information" relevant to patentability	Examiner
<i>Ex Parte</i> Reexamination (EPR)	Patent Owner Third Party	Up to 6 years after patent expires	§§ 102 and 103 based on patents and publications	Different Examiner
Post-Grant Review (PGR)	Third Party	Within 9 months of patent issuance	Any ground except best mode noncompliance	PTAB
<i>Inter Partes</i> Review (IPR)	Third Party	9+ months after patent issuance	§§ 102 and 103 based on patents and publications	PTAB

Prior Art Search



Drafting with the Prior Art in Mind

- Conduct Patentability Search before filing patent application
- Tailor specification and claims to survive Post-Grant Proceedings, including IPR challenges, down the road
- Devote resources on front end to draft clear and concise patent applications



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Title search: Drafting Patent Applications to Withstand Post-Grant Proceedings

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