

USPTO Reinstates Iancu-Era Discretionary Denial Policy

Media Mentions

February 28, 2025 | *IAM Magazine* | 1 minute read | Austin

The United States Patent and Trademark Office rescinded a 2022 memorandum that drastically limited the number of discretionary denials of *inter partes* review petitions, while dismissing former USPTO Director Kathi Vidal's policy memo.

"The most significant impact of this change is the return to uncertainty. Whether you liked or disliked Director Vidal's guidance that has been rescinded today, it provided certainty in the application of precedent across various panels of APJs. Now we're back to a much more uncertain state of the law, which is bad for clients trying to navigate the IPR process," Bracewell's **Kit Crumbley** explained to *IAM Magazine*.

"Practically speaking, patent challengers and owners now face less predictable outcomes when parallel district court litigation exists. The PTAB may return to applying the *Fintiv* and *Sotera* precedents inconsistently across panels, making strategic decisions more difficult for all parties. This kind of regulatory whiplash makes it challenging for companies to develop consistent IP strategies and increases costs as they must prepare for multiple contingencies."

Related People

Christopher "Kit" L. Crumbley

Partner

AUSTIN

+1.512.244.3621

kit.crumbley@bracewell.com

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