

Post-Grant Proceedings

The recent enactment of the America Invents Act significantly changed one aspect of the United States patent system. It now may be more appealing to challenge patents at the U.S. Patent and Trademark Office rather than in the courts. The intent of the legislation is to improve the quality of patents and reduce the costs of litigation. The law introduced new procedures, including post-grant review, to allow parties to challenge the validity of issued patents.

Post-grant review is a trial proceeding to determine the patentability of one or more claims in a patent. A post-grant review may be instituted upon a showing that it is more likely than not that at least one claim challenged is unpatentable. Companies facing patent infringement suits in a wide variety of industries – including consumer products, manufacturing and agribusiness, software development, telecommunications systems, biotechnology/pharmaceuticals and medical devices – may find these new proceedings to be very helpful in achieving business objectives and lowering overall litigation costs.

Larkin Hoffman's post-grant proceedings team has the experience and business acumen to challenge as well as defend the validity of patents in post-grant proceedings. After a thorough review of a client's options, we will recommend post-grant strategies if they are well suited to protect assets or achieve desired business objectives.