



PTAB Rules That Amendment Date Does Not Qualify a Patent for Post-Grant Review

Jul 27, 2016

Reading Time : **1 min**

The petitioner argued that the effective filing date of the '890 patent is the date on which the claims were amended, March 17, 2015. The PTAB stated that 35 U.S.C. § 100(i), which defines "effective filing date," makes no provision for the effective filing date to be later than the actual filing date of the application, even if the application is later amended, and even if that later amendment lacks written description support in the original specification. Therefore, the effective filing date of the '890 patent cannot be the date the claims were amended. The PTAB held that the effective filing date of the '890 patent must be either the actual filing date or the date to which the patent claims priority. The PTAB declined to rule on the validity of the claim of priority to the earlier provisional application because both the actual filing date and the earlier priority date claimed are before March 16, 2013, the effective filing date required for post-grant review. As a result, the PTAB denied the petition.

Adebimpe v. The Johns Hopkins Univ., PGR2016-00020, (PTAB July 25, 2016).

Categories

Patent Trial & Appeal Board

Patent Litigation

Post-Grant Proceedings

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.