



	<u>PGR</u>	<u>IPR</u>	<u>Derivation</u>	<u>Reexam</u>	District Court <u>DJ</u> Litigation
Eligible Target Patents	AIA patents only: EFD ≥ Mar. 16, 2013	Any patent	AIA patents only: EFD ≥ Mar. 16, 2013	Any patent	Any patent
Grounds	§§ 101, 102, 103, 112 (but no best mode) including double patenting	Only §§ 102 and 103 (patents and printed publications)	Derived invention without authorization	Only §§ 102 and 103 (patents and printed publications)	Any (except best mode)
Timing	Within 9 months of patent grant (or reissue)	<u>AIA patents</u> : After 9 months (end of PGR) <u>Non-AIA patents</u> : after issuance <u>Both</u> : only within 1 year of civil action	Within 1 year of grant or publication of claim, whichever is earlier	Anytime patent remains assertable	Anytime patent remains assertable
Eligible Filing Parties	Any 3 rd party	Any 3 rd party	Inventor	Anyone	Anyone with standing (substantial controversy between parties having adverse legal interests of sufficient immediacy and reality; requires affirmative act by patentee)
Claim Interpretation	Same as district court civil action (Phillips)	Same as district court civil action (Phillips)	Same as district court civil action (Phillips)	Broadest reasonable interpretation (BRI) <i>except</i> <u>Expired patents</u> : Phillips	Markman / Phillips
Threshold	More likely than not unpatentable	Reasonable likelihood petitioner will prevail	Substantial evidence	Substantial new question of patentability (SNQ)	Plausibility (Iqbal / Twombly)
Estoppel (for Challenger)	Raised or reasonably could have raised	Raised or reasonably could have raised	None by statute, but derivation-specific administrative estoppel and deference	None by statute, but administrative estoppel and deference	<i>Res judicata</i> and collateral estoppel (for civil actions only)