Insights: Publications

Open Question: Use of IPR and CBM Institution Decisions in District Court

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As the number of *inter partes* review (IPR) and covered business method (CBM) petition filings continues to increase, an unresolved but significant issue remains: The extent to which preliminary decisions from the Patent Trial and Appeal Board (PTAB) denying or granting institution of a petition can be used in district court litigation. Although many district courts are staying litigation once a petition has been granted, those cases in which a stay has not issued (be it for denied or granted institution decisions) need to address the potential use of institution decisions, and in particular the extent to which institution decisions are admissible in jury trials.