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IP Litigation: New Options for Rights Holders and Strategy Changes for Defendants

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2025 has been a transformative year for intellectual property (IP) law, marked by significant legal and procedural changes across the US and Europe.

These shifts are expected to reshape the landscape for IP rights holders, accused infringers and litigation strategies in 2026 and beyond, as well as increase the amount of patent litigation. Key developments include expanded access to the US International Trade Commission (ITC), new European avenues for enforcing US patents and substantial restrictions on the use of inter partes reviews (IPRs) as a defence mechanism.

The Supreme Court decision in *Loper Bright Enterprises v. Raimondo* has the potential to be the most impactful decision on IP in decades. By vacating courts' Chevron deference to administrative agencies' interpretation of statutes, it made it substantially easier to overturn agency decisions, such as decisions by the US Patent and Trademark Office (PTO) to reject patent applications, by the PTO's Patent and Trademark Appeals Board (PTAB) to invalidate patents or by the US International Trade Commission (ITC) to enforce patents and trademarks.

While the most immediate impacts may be increases in litigation and appeals generally, the long-term impacts in terms of reversal of longstanding agency practices or bodies of law will be the most significant.

Indeed, its impact has already been demonstrated with respect to the ITC. The ITC is one of the most popular, effective forums for IP rights enforcement due to factors such as its speed, the availability of injunctive relief and its ability to stop the importation of knockoffs.

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