Insights: Alerts

Rule Changes for Post Grant Practice

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The Patent Office has decided to make several rule changes that will be unveiled in three phases, as announced by Commissioner Michele Lee said in a March 27, 2015 blog post: http://www.uspto.gov/blog/director/entry/ptab_s_quick_fixes_for.

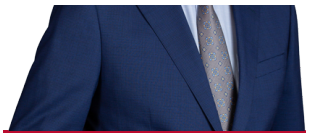
The immediate rule changes announced increase the page limits for motions to amend and reply briefs from 15 to 25 pages.

The additional rules being considered would address the following:

- Modifications to the motion to amend process
- Adjustments to the allowable evidence in the patent owner preliminary response
- Clarification of the claim construction standard as applied to expired patents
- Adjustments to the scope of additional discovery
- How to handle multiple proceedings involving the same patent
- Use of live testimony at oral hearing
- A rule 11 type certification for filings
- No need for prior art representation as to the patentability of the narrowed amended claims beyond the art of record before the Office.
- Discovery re the real-party-in-interest (RPI)
- Pilot program with single judge to decide institution, then 2 additional judges added

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