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The Federal Circuit Further Defines the Contours of the APA's Procedural Safeguards at the PTAB

JD Supra

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In a recent decision, the Federal Circuit held that the PTAB violated the Administrative Procedures Act ("APA") by adopting in its final written decision a claim construction that neither party had proposed. In *Qualcomm Inc. v. Intel Corp*, No. 20-1589 (Fed. Cir. Jul. 27. 2021), Intel filed six petitions for *inter partes* review challenging the validity of a single Qualcomm patent. The parties disagreed on the construction of the claim term "a plurality of carrier aggregated transmit signals," although there was no dispute that the term required that the bandwidth be increased. In the final written decision, the PTAB's construction "omit[ed] any requirement that the signals increase or extend bandwidth."

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