

Insights: Publications

Trolls Without Boundaries – IPR, A Newfound Application AIA Did Not Anticipate?

Corporate LiveWire

January 25, 2016

"Trolls Without Boundaries – IPR, A Newfound Application AIA Did Not Anticipate?," *Corporate LiveWire*

A new, savage breed of patent troll has pioneered a novel stratagem to prey on the pharmaceutical industry. Under the auspice of reducing the cost of prescription drugs for the public and fostering healthier competition and innovation, the pharmaceutical industry, once thought to be immune from patent trolls, is now under siege by the very procedure that was designed to streamline patent litigation. The trolls leveraged the Leahy-Smith America Invents Act ("AIA") and exploited Inter Partes Review ("IPR") by threatening to invalidate patents without ever having to file an ANDA ("Abbreviated New Drug Application") or having a generic product to launch. Ironically, IPR was originally created to strike a balance between monopoly (promoting innovation) and public interest (expeditiously dedicating science to public when appropriate). Using IPR as a tool to extort quick settlements from the pharmaceutical industries, however, was never in the cards.