Insights: Publications

Where Have All of the Ex Parte Appeals Gone?

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Once a rejection by the U.S. Patent and Trademark Office (USPTO) is designated as at least one “final” office action (which typically occurs when the office action is at least a second office action issued after filing), the applicant has the opportunity to engage with a different decision-maker. That is, the applicant can appeal a pending rejection to the Patent Trial and Appeal Board (PTAB), and at least three PTAB judges will then evaluate the rationale provided by the examiner and applicant (referred to as an “appellant” when the PTAB is handling a matter). Alternatively, the applicant can continue to engage with the examiner (which may require filing a Request for Continued Examination and paying the associated fee) or can let the application go abandoned.

Related People



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