



Stewart Says USPTO Wants Early Validity Challenges, Not Late IPRs

**GENE QUINN**JUNE 10, 2025, 03:31 PM  15

“Through the new PTAB processes, the Office is trying to send a message to stakeholders—do not wait to file an IPR.”

Earlier today, Acting U.S. Patent and Trademark Office (USPTO) Director Coke Morgan Stewart addressed the Intellectual Property Business Congress (IPBC) Global 2025, telling those in attendance that the Office is already making headway by chipping away at the record backlog inherited from the Biden Administration. Not surprisingly, however, much of Stewart's remarks focused on new Patent Trial and Appeal Board (PTAB) initiatives and a desire on the part of the Office to see patent challengers migrate away from filing inter partes review (IPR) challenges and toward filing third-party submissions of prior art during examination so examiners can be presented with the best prior art, which will lead to better examination and fewer mistakes.

Leaning into the Inherited Patent Backlog

During her remarks, Stewart discussed how the Trump Administration inherited an historic backlog of unexamined patent applications, with the peak just over 838,000 applications in January of this year. She reported that as of last Friday the Office has already brought that number down to 806,000 unexamined applications.



Acting USPTO Director Coke Stewart speaking at IPWatchdog LIVE. March 4, 2025.

Ultimately, the goal is to bring the inventory of unexamined patent applications down into the 500,000 range, which is where it was during the first Trump Administration under the leadership of then USPTO Director Andrei Iancu. To achieve this goal the Office is prioritizing examination activities over other activities and rewarding examiners and supervisors who work on more applications than required. Indeed, the Office has returned nearly 200 patent examiners to examining applications from various “special assignments” that were unrelated to examination. And the Office has instituted a new bonus plan where examiners and supervisors who examine more applications each quarter can earn bonuses over and above what has traditionally been available.

Significantly reducing the backlog of unexamined applications is not the only goal. Stewart explained that the Office wants to get to an average of 12 months to a first office action on the merits, and to get to an average of 24 months for disposal of

patent applications, which she explained the Office was close to reaching at the end of the Trump Administration.

Encouraging Early Submissions and Challenges

While continually working to improve quality internally, through the use of AI tools that help examiners with Section 101 and 112 rejections, Stewart explained the Office is also considering how to best incentivize third-party submissions of prior art, which would help ensure the best prior art is being considered during examination.

Unfortunately, post-grant review (PGR), which can be used during the first nine months after a patent has issued, and third-party submissions, which notify examiners of prior art during examination, are both seldom used. Challengers prefer to wait until an infringement suit is filed before first challenging what they believe to be improvidently granted patents. Through the new PTAB processes the Office is trying to send a message to stakeholders—do not wait to file an IPR. Use third-party submission opportunities and PGR to address concerns about pending patent applications and recently issued patents. Filing an IPR many years after a patent has been granted should not be the primary mechanism for addressing patent quality, or correcting errors.

Stewart said she is not placing blame on IPR petitioners who have not filed earlier challenges but acknowledged that the Office must make judgment calls on what IPR petitions to institute. The Office needs to focus on important cases, Stewart explained, and patents that have been in force 10, 12, 15 years or more may not be the best cases for the Office to be instituting.



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