MEMORANDUM

To: All PTAB Users

From: John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Subject: Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions

Date: November 17, 2025

In certain *inter partes* review (IPR) and post-grant review (PGR) proceedings under the America Invents Act (AIA), petitioners often rely on prior art that was not identified by the examiner during the original examination, a reexamination, or a reissue proceeding at the Office. This discovery of previously undisclosed prior art may result from sophisticated search methodologies, repository knowledge, and/or analytics not routinely used by the Office. Capturing such information has the potential to meaningfully improve Office search practices and, over time, improve examination quality.

Effective immediately, petitioners may submit a **Search Disclosure Declaration (SDD)** that explains, in detail:

- the databases and repositories in which the asserted prior art was located,
- the general search approach, search terms, filters, queries, or classification pathways employed,
- other analytics or publicly accessible resources consulted,
- the amount of time spent on the search, and
- the amount of time spent reviewing search results.

A petitioner may further provide any other information relevant to its search methodology. An SDD submission is **entirely voluntary**. A petitioner who does not provide an SDD will not be disadvantaged.

The voluntary submission of an SDD will be considered as a non-exclusive, non-dispositive **favorable discretionary factor** supporting institution, particularly where the SDD reveals new or underutilized pathways relevant to Office search practice. An SDD also may be helpful in demonstrating Office error during examination.

For new petitions, an SDD must be submitted as a standalone exhibit at the time the petition is filed. Where an IPR or PGR petition has already been filed, a petitioner may file an SDD within seven business days of this memorandum.

A petitioner may file its SDD as Filing Party and Board, with a motion to seal and an accompanying request for in camera review under 37 C.F.R. § 42.14. Any proposed protective order must indicate that the Office may use the information in a SDD for internal training, improving examination processes, and analytics. If filed as confidential, the SDD will not be publicly disclosed except as required by law. Absent extraordinary circumstances, deposition testimony related to an SDD will not be permitted.

This memorandum is effective immediately and applies to all IPR and PGR proceedings in which a patent owner preliminary response due date has not yet elapsed.

Cytek Exhibit No. 1116
PGR2025-00088 - Page 002