

August 17, 2018

The Federal Circuit Reverses Long Standing PTAB Precedent on the IPR Time Bar Exception

On August 16, 2018, the Federal Circuit overruled the Patent Trial and Appeal Board's ("PTAB") long-standing practice of accepting certain *inter partes* review ("IPR") petitions outside of the one-year time bar window prescribed by Section 315(b) of Title 35. The PTAB has consistently held that, where the underlying district court action was dismissed without prejudice, service of the complaint does not trigger the one-year time bar. The Federal Circuit in *Click-to-Call Techs., LP v. Ingenio, Inc.* (opinion [here](#)) reversed and found that service of the complaint does trigger the one-year time bar, even if the action is later dismissed voluntarily without prejudice. Petitioners now have one year to file IPR petitions even if the underlying district court action is eventually voluntarily dismissed without prejudice.

Attorneys
[Scott A. McKeown](#)

We will continue to monitor further developments regarding the impact of these decisions. If you have any questions about this Alert, please contact [Scott McKeown](#).