

Inter Partes Review: How this year's hot-topic could revolutionize your business

May 1, 2015

Inter partes review (IPR) is this year's hot-button issue, whether in the news or on Capitol Hill. **Which begs the question, what's the fuss about IPR and what can it do for your business?** Our team at Lathrop Gage can help.

Created in September 2012 by the Leahy-Smith American Invents Act (AIA), IPR is **an expeditious alternative to litigation that has slashed the timeline and cost to challenge patent validity.**

Introduced as a replacement to inter partes reexamination, IPR has already transformed post-grant proceedings. In stark contrast to expensive and lengthy litigation that can drag on for years, totaling in the millions, IPR typically averages just 15 months in duration and less than 20% of the cost of district court litigation.

In less than 3 years, IPR has also been recognized for a series of unprecedented milestones. Look no further than *Munchkin, Inc. v. Luv N' Care, LTD*: **the first and only design patent to be instituted, invalidated and appealed using inter partes review (IPR).**

On Tuesday, just four days after oral arguments for the case concluded, the Patent Trial and Appeal Board (PTAB)'s April 2014 decision was upheld by a three-judge appellate panel in the Federal Circuit, affirming invalidation of Luv N' Care's baby drinking cup patent. This case has brought about a series of firsts:

- Just six months after the AIA was signed into law - establishing IPR as a new post-grant challenge procedure - our attorneys pioneered the case, which was **the first-ever design patent IPR to be instituted by the USPTO.**
- One year ago this April, the case again made headlines when the USPTO issued its ruling in favor of Munchkin, Inc., invalidating Luv N' Care's baby drinking cup as obvious in view of its own prior patent application, making the case **the first and only design patent invalidated using IPR.**
- Tuesday was yet another first for the case: **the first IPR invalidation affirmed by a Federal Circuit appellate panel.**

The facts are in, and so is the jury: IPR is the expeditious, cost-effective, perfect tool for your IP toolkit, whether you've been threatened with litigation or are attempting to invalidate a competitor's suspect patent.



With a wealth of experience handling IPR cases on behalf of both patentees and challengers and the first and only design patent invalidated utilizing IPR, Lathrop Gage is uniquely positioned to help you defend against or challenge the validity of patent claims.

If you have any questions, our IPR team can help.