



# Notice of Proposed Rulemaking

Allocation of Burdens for Motion to Amend  
with the

Patent Trial and Appeal Board

Prepared By:  
Rachel L. Hankerson

**International PROOF Systems, LLC**

911 Washington, Ave. Suite 501, St. Louis, MO 63101

[WWW.InternationalPROOFSystems.com](http://WWW.InternationalPROOFSystems.com)

[RachelHankerson@InternationalPROOFSystems.com](mailto:RachelHankerson@InternationalPROOFSystems.com)

314-452-6880

### **EXECUTIVE SUMMARY**

International PROOF Systems (IPS) is a Systems Design and Development Firm with a mission to improve antiquated processes and systems through advanced technology. IPS is honored to participate and provide commentary regarding the Notice of Proposed Rulemaking on allocation of burdens for motion to amend, with the Patent Trial and Appeal Board.

IPS has over 6 years of experience with the USPTO regarding Patent Application 15/003,240 with Priority Application Date of 2013. Rachel Hankerson, Founder and CEO of IPS, is the inventor of the world's first computerized license plate system, known as the PROOF Smart Tag System. Please view page 6 for more information regarding this application number.

IPS agrees with the NPRM regarding the petitioner bearing the burden to show the unpatentability of substitute claims proposed in a motion to amend; a patent owner bears the burden to show that a motion to amend complies with certain statutory and regulatory requirements; and the Board may in the interest of justice, make a determination regarding the patentability of substitute claims based on the record in the proceeding regardless of the burdens assigned to any party.

The United State of America (USA) has evolved from the innovation, creativity, and passion of many great inventors, who have maintained America's competitive advantage over other countries, since the 1700s. However, recent reports have projected the possibility of China advancing the competitive advantage over the USA, within the near future. Therefore, in order for the USA to maintain its competitive advantage over other countries, it is imperative for the USPTO to issue and defend the patents of the true inventor.

Many companies are desperate to capitalize off of new innovation, of which some have used unethical means to infringe upon the patent of the true inventors; participated in patent trolling; taken inventions from the USA to capitalize off of in foreign countries; have gone to market without considering patent infringement; and while this list goes on-and-on, a percentage of larger companies with more resources (money) who have maximized off of the vulnerability of new inventors (with less resources), to win the petitions.

The duration of this report would focus on the Notice of Proposed Rulemaking on allocation of burdens for motion to amend, with the Patent Trial and Appeal Board, regarding:

- Inter Parte Review
- Post-Grant Review
- Method Covered Review
- Protection of US Patents not only within the US, but also abroad

# International PROOF Systems

Patent Trial and Appeal Board

Rachel Hankerson

---

## OVERVIEW

<b>Inter Parties</b>	<b>Post-Grant Review</b>	<b>Method Cover Review</b>
Legal actions between parties, who have been given the opportunity to be heard, to challenge the validity of a US patent before the Board of the United State Patent and Trade Mark Office, to determine the patentability of one or more claims in a patent only, on a ground that could be raised under §§102 or 103 and only on the basis of prior art consisting of patents or printed publications.	During the instance of reexamination the inventor or third party could request the patent examiner to reexamine a patent to verify that the invention is patentable; however, the inventor must first submit a prior art in the form of patents or printed publication that would raise the question of patentability.	A petitioner may not file with the Office a petition to institute a covered business method patent review of the patent unless the petitioner, the petitioner's real party-in-interest, or a privy of the petitioner has been sued for infringement of the patent or has been charged with infringement under that patent.

## PROPOSED RULE CHANGES FOR INTER PARTES REVIEW

### [Inter Partes Review](#)

### [Rules 37 CFR Ch. 42, Subpart B](#)

#### **§ Procedure; pendency...**

IPS - No proposed changes.

#### **§ Who may petition for inter partes review**

IPS - The owner of the patent should be made aware of the inquiry of a petition made by the third party.

#### **§ Timing for filing**

IPS - No proposed changes.

#### **§ Inter partes review fee**

IPS - While the First-to-Invent is not bound by the nine month term after the patent has been granted, IPS proposes an adjustments to the fees in accordance to the financial stability of the

## **International PROOF Systems**

### Patent Trial and Appeal Board

Rachel Hankerson

---

First-to-Invent (inventor). Many new inventors may not have the \$15K to defend their patent, allowing larger companies with more resources to come in and assume the patent.

IPS recommends that fees be reimbursed to the inventor whose patent has been defended and that the burden be on the petitioner.

#### **§ Content of petition**

IPS - No proposed changes.

#### **§ Service of petition**

IPS - 42.105 (b) 'Upon agreement of the parties, service may be made electronically'. IPS proposes a clarity statement, regarding the meaning of electronically, as to whether the documents would be accepted via email attachment or through the Electronic Filing on the USPTO website.

#### **§ Filing date**

IPS - 42.106 (3)' is accompanied by the filing fee in 42.15 (b)'. First-to-Invent inventors may not have the financial resources to defend their patent; therefore, the IPS proposes an adjustment of the fee basis, especially for the new inventors. As mentioned earlier, IPS also proposes to allow process to begin with partial payment; however, full payment must be received in order to learn of the consensus of the hearings.

#### **§ Preliminary response to petition**

IPS - No proposed changes.

### **Instituting Inter Partes Review**

#### **§ Institution of Inter Partes Review**

IPS - No proposed changes.

### **After Institution of Inter Partes Review**

#### **§ Patent owner response**

IPS - No proposed changes.

#### **§ Amendment of the patent**

IPS - No proposed changes.

#### **§ Multiple proceedings and joinder**

IPS - No proposed changes.

#### **§ Filing of supplemental information**

## International PROOF Systems

Patent Trial and Appeal Board

Rachel Hankerson

---

IPS - No proposed changes.

## PROPOSED RULE CHANGES FOR POST-GRANT REVIEW

### Post-Grant Review

#### Rules 37 CFR Ch. 42, Subpart C

##### **§ Procedure: pendency**

IPS - No proposed changes.

##### **§ Who may petition for a post-grant review**

IPS - No proposed changes.

##### **§ Time for filing**

IPS - No proposed changes.

##### **§ Post-grant review fee**

IPS - While the First-to-Invent is not bound by the nine month term after the patent has been granted, IPS proposes adjustments to the fees in accordance to the financial stability of the First-to-Invent (inventor). As mentioned earlier, the objective of many inventors is to capitalize on the creativity and innovation of their invention; however, many new inventors may not have the \$16K or \$22K to defend their patent, allowing larger companies with more resources to come in and assume the patent.

IPS recommends that a filing date and hearings be performed with partial payment; however, a consensus of the outcome could be held confidential, until full payment has been received. As mentioned before, the objective of the USPTO should be to encourage and protect the innovation and creativity inventor. It is believed that the opposing parties would be more eager to pay the fee, as they see progress come to termed completion.

##### **§ Content of petition**

IPS - No proposed changes.

##### **§ Service of petition**

IPS - 42.205 (b) 'Upon agreement of the parties, service may be made electronically'. IPS proposes as statement that clarifies electronically, as to whether the documents would be received via email attachment or through the Electronic Filing on the USPTO website.

##### **§ Filing date**

## International PROOF Systems

### Patent Trial and Appeal Board

Rachel Hankerson

---

IPS - 42.206 (3) is accompanied by the filing fee in 42.15 (b)'. First-to-Invent inventors may not have the financial resources to defend their patent; therefore, the IPS proposes an adjustment of the fee basis, especially for the new inventors. As mentioned earlier, IPS also proposes to allow process to begin with partial payment; however, full payment must be received in order to learn of the consensus of the hearings.

#### **§ Preliminary response to petition**

IPS - No proposed changes.

### **Instituting of Post-Grant Review**

#### **§ Institution of post-grant review**

IPS - No proposed changes.

### **After Institution of Post-Grant Review**

#### **§ Patent Owner Response**

IPS - No proposed changes.

#### **§ Amendment of Patent**

IPS - No proposed changes.

#### **§ Multiple proceedings and joinder**

IPS - No proposed changes.

#### **§ Filing of supplemental information**

IPS - No proposed changes.

#### **§ Discovery**

IPS - No proposed changes.

#### ***IPS – Honor of NDA both domestically and internationally (New proposed rule)***

IPS – Proposes a clause that would protect US Patents in foreign countries, at least until the inventor is able to obtain the needed funds to claim other countries through the PCT (if so desired). The world is becoming very connected through the IoT ( Internet of Things) , inventors may have inventions that are designed to service other countries; however, if the inventor(s)only has enough money to claim one country, there is a great possibility of them becoming vulnerable to other companies capitalizing off of their invention in other countries.

## International PROOF Systems

Patent Trial and Appeal Board

Rachel Hankerson

---

### PROPOSED RULE CHANGES FOR COVERED BUSINESS METHOD

#### Post-Grant Review

#### Rules 37 CFR Ch. 42, Subpart D

##### **§ Procedure: pendency**

IPS – No proposed changes.

##### **§ Definitions**

IPS - IPS proposes that the Covered Business Method and Technological Invention review extends beyond that of performing data processes, operations, and management solely for financial products, but also include other Technology products that services processes, operations, and management protocols that extends beyond data processes, operations, and management of financial products.

##### **§ Who may petition for covered business method review**

IPS – No proposed changes.

##### **§ Timing for filing**

IPS – No proposed changes.

##### **§ Content of petition**

IPS – No proposed changes.

REQUEST – Rachel Hankerson is a very creative and innovative Systems Engineer. She has created many ventures that would be very beneficial to various industries. Since 2013, she has tried earnestly to obtain the issuance of her patent in association with Patent Application 15/003,240 with claim date of 2013. While it has been proven that this invention is unique and authentic; there has been an enormous amount of turbulence regarding the claims.

Rachel Hankerson responded to the final action; however, the examiner rejected the response because it was submitted in email form, in compliance with the ‘Authorization For Internet Communications In a Patent Application or Request To Withdraw Authorization For Internet Communications’. The examiner thus placed the Patent Application in Abandoned status.

Rachel Hankerson’s invention associated with 15/003,240 is a universal connected platform that would be exported to other countries. The technology improves compliance, security, increase revenue, and reduce cost for state and federal government. Rachel Hankerson is a woman, minority, economically disadvantaged small business owner. She is part of the Patent Pro Bono Program; please help her obtain the issuance of her patent so that she can receive investment to maximize the world’s first computerized license plate system, known as the PROOF Smart Tag System. As well as begin to the patent applications process on her other great inventions.