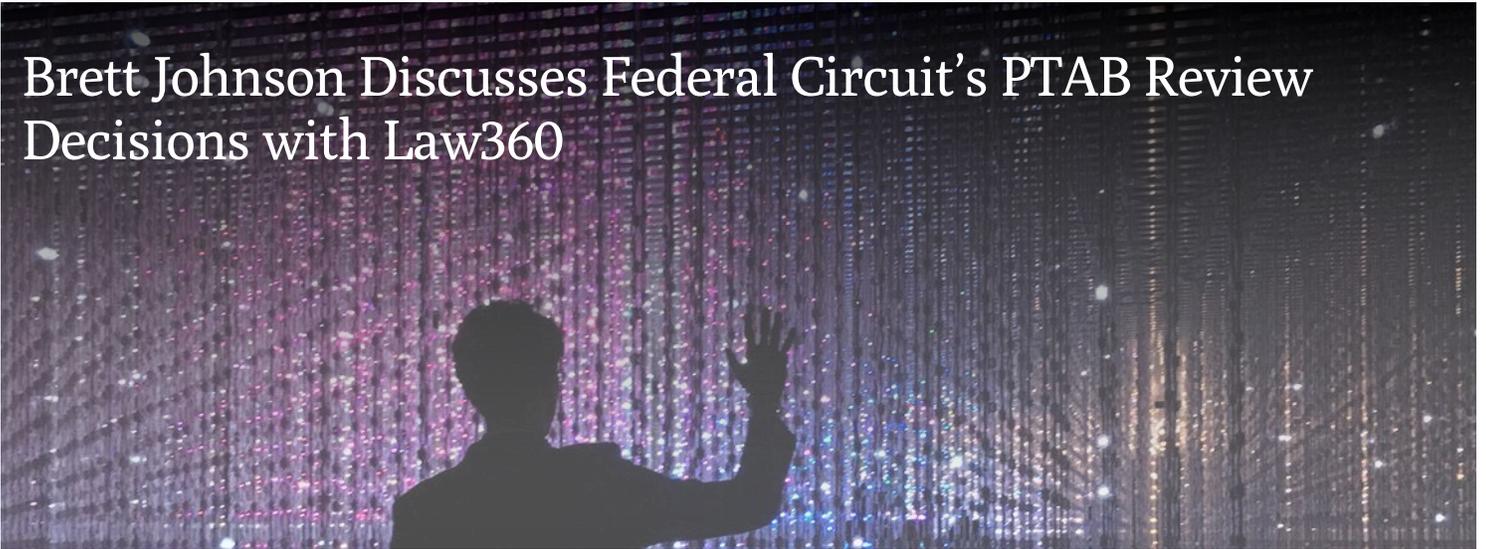


Brett Johnson Discusses Federal Circuit's PTAB Review Decisions with Law360



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Winston & Strawn partner Brett Johnson was quoted in a Law360 article examining the U.S. Court of Appeals for the Federal Circuit's recent decisions declining to review the U.S. Patent and Trademark Office director's discretionary denials of inter partes review (IPR) and post-grant review (PGR) petitions. Companies have filed constitutional arguments at the Federal Circuit challenging the high and evolving threshold for having an inter partes or post-grant review instituted, which has led to an unprecedented level of denied petitions. The companies had hoped to fit into a narrow exception to the America Invents Act that allows appeals for unconstitutional "shenanigans," but the Federal Circuit has rejected all of the mandamus petitions since November.

"It's extraordinary that no one has written up a dissent taking up the issue from a petitioner's perspective," Brett said. "It truly is the Federal Circuit maintaining judicial restraint in their reluctance to look at what is truly a policy change."

That policy change is in fact a "complete seismic shift," but the Federal Circuit has been telling litigants to address policy changes with those who make policy, not courts, he added.

In one ongoing case, a Patent Trial and Appeal Board panel previously granted Verizon's petition for an IPR of an Omega Patents LLC vehicle tracking patent, and then invalidated the challenged claims in January 2025. The USPTO director later vacated a final written decision in May, before de-instituting the IPR in June. Verizon has since filed a joint direct appeal and mandamus petition.

"It sets up an interesting question, but it seems like a very narrow window for Verizon to steal a victory there," Brett added.

[Read the full article.](#)

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