



## In The Press:

# IPWatchdog Turns To Partner Charles R. Macedo For His Insight Into SCOTUS Decision in *Oil States v. Green Energy*

[Industry Reaction to Supreme Court Decision in \*Oil States v. Green Energy\*](#)

By Gene Quinn & Renee C. Quinn on Apr 24, 2018 06:17 pm

Earlier today the United States Supreme Court issued its decision in *Oil States v. Green Energy*, finding that inter partes review is constitutional both under Article III and the Seventh Amendment to the United States Constitution. In a 7-2 decision, the Court determined that patents are a government franchise that are subject to review by the Patent Office even after granting, and can be revoked at any time.

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In order to get a diverse array of views, we held open comments through early evening for this instant reaction piece. We will have much more to write in the coming days and weeks. Nevertheless, what follows is reaction to the Supreme Court *Oil States* decision from a distinguished panel of industry experts.

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[Charles R. Macedo](#)

Amster Rothstein & Ebenstein LLP

In *Oil States*, the seven member majority of the Supreme Court confirmed (at least for now)



the constitutionality of inter partes review proceedings, as set up by Congress in the American Invents Act of 2011. The Court reaffirmed that the Patent Trial and Appeals Board — an adjudicatory body within the PTO created to conduct inter partes reviews, has authority to examine the validity of a patent which was previously issued by the PTO. The Court found “Inter partes review falls squarely within the public-right doctrine”, as it “is simply a reconsideration of that grant, and Congress has permissibly reserved the PTO’s authority to conduct that reconsideration. Thus, the PTO can do so without violating Article III.” The Court’s emphasis of the “narrowness of our holding” does leave the door opened a crack to consider other constitutional challenges that don’t turn on a public right vs. private right distinction. At least as of today, *Oil States* leaves intact inter partes reviews, and other post-issuance proceedings before the USPTO.

Available at <http://www.ipwatchdog.com/2018/04/24/industry-reaction-oil-states/id=96296/>