



In The Press:

IPWATCHDOG turns to Partner Charles R. Macedo for his insights on the Supreme Court granting certiorari in *Oil States*

Industry Reaction to SCOTUS Granting Cert. in *Oil States*

By Gene Quinn June 13, 2017

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There is little doubt that the creation of Inter Partes Review (IPR) proceedings as part of the American Invents Act (AIA) — and to a lesser degree Post Grant Reviews (PGR) and Covered Business Method Reviews (CBM) — have had a profound impact on U.S. Patents. In these proceedings, an Article I administrative tribunal, the Patent Trial and Appeal Board (PTAB), has become the *de facto* arbitrator of whether a previously issued patent claim survives or dies.

In the next Term, the Supreme Court will hear two important cases revolving around these new proceedings: *SAS*, where the Court will likely cut back or eliminate *Chevron* deference to an administrative agency; and *Oil States*, where the Court will address the fundamental question of whether a patent, once issued, is a “private right” or a “public right.” If the Federal Circuit maintains its zero batting average of recent times at the Supreme Court, it is foreseeable that the Court will reverse in both instances, finding that the PTAB needs to finish completely whatever it starts, but in any event shouldn’t be the entity that gets to hear the dispute.

Charles Macedo is a partner with Amster Rothstein & Ebenstein LLP. He litigates in all areas of intellectual property law, including patent, trademark and copyright law, with a special emphasis in complex litigation and appellate work.

<http://www.ipwatchdog.com/2017/06/13/industry-reaction-scotus-granting-cert-oil-states/id=84460/>