

Our Latest Industry Insights

IP File

July 28, 2014

Estoppel effects of post-grant patent proceedings under the AIA

By: Andrew Choung

By now, most patent practitioners are quite familiar with the post-grant patent proceedings (e.g., IPR, PGR, CBM) newly established by the AIA, and their key features, such as the stay and estoppel provisions. Numerous courts have addressed the issue of a stay of civil litigation during the pendency of a post-grant proceeding. The growing defense strategy, upon being sued for patent infringement, is to file a post-grant patent proceeding and seek a stay of the civil litigation, which allows the defendant to move the patent validity issue into a more favorable and usually less expensive forum. Most statistics show that courts in the various jurisdictions with active patent case dockets are quite willing to stay cases.

TAGS: cbm, civil litigation, estoppel, et al, evolutionary intelligence, evolutionary intelligence llc v. millennial media inc., intellectual property, ipr, itc, locata lbs, locata lbs llc v. yellowpages.com llc, motions to stay, patent case, patent litigation, pgr, post-grant patent proceedings, ptab