

# INTELLECTUAL PROPERTY

**Q** Are there ways to challenge the validity of a patent other than in a federal court lawsuit?

**A** Yes. The America Invents Act (AIA) provides several proceedings for challenging a patent's validity in the U.S. Patent and Trademark Office (PTO). They are initiated by filing a petition and include an "*inter partes* review," a "post-grant review," a "covered business method" patent review, and a "derivation" proceeding. These proceedings allow for limited discovery but participation by the parties, and culminate in a hearing before a three-judge PTO panel. Pre-AIA proceedings, including "interferences" for competing parties seeking a patent on the same invention, and "*ex parte* reexaminations," are also still available. Important timing and legal requirements determine which are available for a particular patent.

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