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Real Parties-In-Interest: Guidance On Who Is An RPI—And Who Is Not—In Post-Grant Proceedings

In post-grant review proceedings before the U.S. Patent and Trademark Office's Patent Trial and Appeal Board, practitioners who omit any of the parties with an interest in the matter could face consequences as severe as dismissal of the proceeding. To consider a post-grant proceeding, the Patent Trial and Appeal Board insists all real parties-in-interest be identified. But the rules determining if a party is a real party-in-interest are far from clear. In this article, we examine caselaw to clear some of the confusion and frustration practitioners encounter when assessing who is—and who is not—a real party-in-interest, and offer practical guidance.

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