

What Increased Success Rates for Amending Claims During Post-Grant Proceedings Means for Patent Litigation

As reported by the Patent Trial and Appeal Board (PTAB) [here](#) and by [others](#), the motion to amend pilot program (*see* [84 Fed. Reg. 9497](#)), which took effect in March 2019, has increased patent owners' success in obtaining claim amendments during post-grant proceedings, including inter partes reviews (IPRs). Specifically, the success rate for motions to amend has more than doubled under the pilot program to nearly 30% as compared to roughly 14% before the program. In fact, when patent owners use one of the options the Board added to motion to amend practice by way of the pilot program—seeking preliminary guidance and/or filing a revised motion to amend—the grant rate jumps to 36%. The graph below, taken from slide 24 of a [Board presentation](#), reflects these data.

This begs the question: what does the increased motion to amend success rate mean for patent litigation in 2021 and beyond? As described below, the higher success rate could affect Board practice in several ways, and may even influence district court litigation.

Click here to read the full article on [IPWatchdog](#).

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