

Cert petition granted in Oil States

June 12, 2017 Patent Dennis Crouch

Question: Whether inter partes review, an adversarial process used by the Patent and Trademark Office (PTO) to analyze the validity of existing patents, violates the Constitution by extinguishing private property rights through a non-Article III forum without a jury.

The decision here is very big news for the IPR system because it has the potential of bringing down the entire AIA trial regime. The conventional wisdom with Supreme Court cases is that they usually reverse the path set by the Federal Circuit. Here, that results may well be a holding that PTO cancellation of issued patents is a constitutional violation.