

The graphic consists of a vertical stack of small squares on the left side, resembling a spiral binding, followed by the text "IP News Alert" in a serif font. The "IP News" is in a larger font size than "Alert".

## IP News Alert

### **BREAKING NEWS**

## **ALL CHALLENGED CLAIMS MUST BE DECIDED IN INTER PARTES REVIEW: SAS INSTITUTE, INC. V. IANCU**

April 2018

In *SAS Institute, Inc. v. Iancu*, the Supreme Court holds that institution of inter partes review by the Director of the United States Patent and Trademark Office (USPTO) requires, by statute, a decision as to the patentability of all challenged claims of a patent, rather than only a portion of those claims.

In explanation, the Court stated that, while the Director decides whether an inter partes review is to be instituted, it is the petitioner that defines the contours of the proceeding itself, meaning that the scope of the Director's decision to institute inter partes review is limited to the challenged claims as a whole. The Court noted, in particular, that the statute is silent as to any discretion the Director might have to assert "partial institution," and categorically denied judicial deference to the Director in this regard.

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