

# USPTO Announces Proposal To Facilitate Amendments In AIA Challenges

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On Oct. 26, 2018, the USPTO published a [proposal](#) for implementing a new 2-phase procedure for patent owners to make amendments during AIA patent challenges. A key difference under the new process would be that patent owners get a second chance after receiving an initial determination on their proposed amended claims to make further changes. If implemented, this will represent a significant new option for patent owners who do not have pending continuations at the time of an AIA challenge. The current process for amending claims is very restricted and seldom successfully used by patent owners, despite recent decisions that have relaxed certain requirements for motions to amend (see “[CAFC Eases Amendment Process in IPR Proceedings](#)”).

The proposed new practice for motions to amend is shown in the following diagram:

The proposal requests comments from the public by Dec. 14, 2018, and it indicates that this change in practice may be implemented as a pilot program first within the existing motion to amend rules framework. Because it does not appear to require new rulemaking to implement, the USPTO would be able to implement the change in practice relatively quickly (compared to a change in rules) following its review of the public comments it receives.

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