

# How the rise of PTAB discretionary denials impacts Hatch-Waxman strategies

Thursday, February 11, 2021

Blake Coblenz was quoted in *IAM* discussing how the recent denial of a Mylan IPR petition suggests that some pharma patents may be insulated from controversial administrative challenges, with serious implications for generic litigation strategies. He points out that “at least three of the six Fintiv factors favour a discretionary denial in Hatch-Waxman cases”. The invalidity defences are typically similar, a stay of litigation is rare and the parties involved are always the same. What this means is that generic drug producers may have to adapt their strategies by filing their PTAB petitions earlier. “They will have to file earlier and do their homework earlier, so that the district court trial does not happen before the written decision coming out,” he said – especially if the imitator is second ANDA filer, as was the case in the Mylan petition.

To read more of this article, [click here](#).

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