

Proposed Amendments to 35 U.S.C. § 311(d)
(Relating to Standing to Bring IPRs)

35 U.S.C. 311 INTER PARTES REVIEW ...

(d) PERSONS THAT MAY PETITION.—

(1) DEFINITION.—In this subsection, the term “charged with infringement” means a real and substantial controversy regarding infringement of a patent exists such that the petitioner would have standing to bring a declaratory judgment action in Federal court.

(2) NECESSARY CONDITIONS.—A person may not file with the Office a petition to institute an inter partes review of a patent unless the person, or a real party in interest or privy of the person, has been—

(A) sued for infringement of the patent;

Or

(B) charged with infringement under the patent.