

Proposed Amendments to 35 U.S.C. § 316(e)
(Relating to Burden of Proof and Presumption of Validity)

35 U.S.C. 316 CONDUCT OF INTER PARTES REVIEW ...

(e) EVIDENTIARY STANDARDS. —

(1) PRESUMPTION OF VALIDITY.—The presumption of validity under section 282(a) shall apply to a previously issued claim that is challenged during an inter partes review under this chapter.

(2) BURDEN OF PROOF.—In an inter partes review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence of a previously issued claim by clear and convincing evidence.