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The Ripple Effect of SAS Institute v. Iancu on IPR Practice

In April 2018, the U.S. Supreme Court held in *SAS Institute Inc. v. Iancu* that the Patent Trial and Appeal Board must institute *inter partes* review either on all claims raised in a petition or none of them.

In interpreting the mandate for the board to "issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner," the Supreme Court ruled that the "Board must address every claim the petitioner has challenged." In other words, "[r]ather than contemplate claim-by-claim institution," the statute "anticipates a regime where a reasonable prospect of success on a single claim justifies review of all."

Prior to the SAS ruling, the board often adopted a piecemeal approach, instituting review on some claims while denying review on others. Now that approach is no longer an option. In guidance issued after the Supreme Court's ruling, the board clarified that it "will institute as to all claims or none." [Click here to read the full article on Law360.](#)*

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