

# Major Differences Between IPR, PGR & CBM

Inter Partes Review	Petitioner	Estoppel	Standard	Basis
<b>Post Grant Review (PGR)</b>	<ul style="list-style-type: none"> <li>Person who is not the patent owner and has not previously filed a civil action challenging the validity of a claim of the patent</li> <li>Must identify all real parties in interest</li> </ul>	<ul style="list-style-type: none"> <li>Raised or reasonably could have raised</li> <li>Applied to subsequent USPTO/District Court/ITC action</li> </ul>	<ul style="list-style-type: none"> <li>More likely than not OR</li> <li>Novel or unsettled legal question important to other patents/applications</li> </ul>	101, 102, 103, 112, double patenting but not best mode
<b>Inter Partes Review (IPR)</b>	<ul style="list-style-type: none"> <li>Person who is not the patent owner, has not previously filed a civil action challenging the validity of a claim of the patent, and has not been served with a complaint alleging infringement of the patent more than 1 year prior (exception for joinder)</li> <li>Must identify all real parties in interest</li> </ul>	<ul style="list-style-type: none"> <li>Raised or reasonably could have raised</li> <li>Applied to subsequent USPTO/District Court/ITC action</li> </ul>	Reasonable likelihood	102 and 103 based on patents and printed publications
<b>Covered Business Method (CBM)</b>	<ul style="list-style-type: none"> <li>Must be sued or charged with infringement</li> <li>Financial product or service</li> <li>Excludes technological inventions</li> <li>Must identify all real parties in interest</li> </ul>	<ul style="list-style-type: none"> <li>Office—raised or reasonably could have raised</li> <li>Court-raised</li> </ul>	Same as PGR	Same as PGR (some 102 differences)

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Proceeding	Available	Applicable	Timing
<b>Post Grant Review (PGR)</b>	From patent grant to 9 months after patent grant or reissue	Patent issued under first-inventor-to-file	<ul style="list-style-type: none"> <li>▪ Must be completed within 12 months from institution</li> <li>▪ 6 months good cause exception possible</li> </ul>
<b>Inter Partes Review (IPR)</b>	<ul style="list-style-type: none"> <li>▪ For first-inventor-to-file, from the later of:               <ul style="list-style-type: none"> <li>• 9 months after patent grant or reissue</li> <li>• The date of termination of any post grant review of the patent</li> </ul> </li> <li>▪ For first-to-invent, available after grant or reissue (technical amendment)</li> </ul>	Patent issue under first-to-invent or first-inventor-to-file	<ul style="list-style-type: none"> <li>▪ Must be completed within 12 months from institution</li> <li>▪ 6 months good cause exception possible</li> </ul>
<b>Covered Business Method (CBM)</b>	<ul style="list-style-type: none"> <li>▪ Available 9/16/12</li> <li>▪ For first-inventor-to-file only after PGR not available or completed</li> </ul>	Patent issue under first-to-invent or first-inventor-to-file	<ul style="list-style-type: none"> <li>▪ Must be completed within 12 months from institution</li> <li>▪ 6 months good cause exception possible</li> </ul>