**STRONGER 2019 Changes**

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| **STRONGER 2017 Provision** | **Developments** | **STRONGER 2019**  |
| PTAB – Right to an immediate interlocutory appeal from aspects of the institution decisions not directly related to the “reasonable likelihood” that the asserted prior art would render the patent invalidate (e.g., one-year filing deadline) | At least some of these non-merits institution decisions are now reviewable on an appeal of the final written decision after *Wi-Fi One v. Broadcom* (Fed. Cir. 2018) (en banc), and the interlocutory approach runs the risk of flooding the Federal Circuit and decreasing overall efficiency. | Dropped interlocutory appeals but codified *WiFi One* – important because STRONGER adds additional limitations at the institution stage, and these should be subject to judicial review.  |
| PTAB – Priority of federal court validity determinations |  | Rewritten for clarity |
| PTAB – Amendment of claims | The USPTO announced a pilot program concerning motions to amend on March 15, 2019. The pilot program provides patent owners with two options not previously available – preliminary guidance from the PTAB and a revised motion to amend. | Dropped in view of the USPTO’s pilot program. |
| Litigation reform **–** Standard for proving induced infringement  |  | Eliminated – Potentially move litigation reforms (other than injunctive relief) to a new bill. |
| Litigation reform – New liability for exporting designs, where the ultimate product would infringe a U.S. patent | *WesternGeco* addressed damages under the same statutory provision (35 U.S.C. § 271(f)), potentially giving this provision too much extraterritorial reach. | Eliminated |
| Litigation reform – Fix divided infringement of method claims (by allowing more than one entity to perform all the steps) | We understand that some case law has helped with the problems this line of case law created for the life sciences. | Eliminated – Potentially move litigation reforms (other than injunctive relief) to a new bill. |