

USPTO publishes final rule on claim construction standard in PTAB proceedings

October 11, 2018

The USPTO has published the final rule with respect to which claim construction standard will be used in PTAB proceedings. The USPTO adopted the proposed rule that it had published in May, changing the standard from “Broadest Reasonable Interpretation” to the standard found in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). The ABA-IPL Section supported this rule change.

The effective date of the new rule is Nov 13, 2018, and this claim construction standard will be implemented on all new IPR, PGR, and CBM petitions filed on or after that date (i.e. no retroactive application).

The [Federal Register notice](https://www.federalregister.gov/documents/2018/10/11/2018-22006/changes-to-the-claim-construction-standard-for-interpreting-claims-in-trial-proceedings-before-the) will officially be published on October 11, and can be found here: <https://www.federalregister.gov/documents/2018/10/11/2018-22006/changes-to-the-claim-construction-standard-for-interpreting-claims-in-trial-proceedings-before-the>