

PUBLIC SUBMISSION

As of: 12/4/19 7:10 AM
Received: October 23, 2019
Status: Pending_Post
Tracking No. 1k3-9cwf-fhin
Comments Due: December 23, 2019
Submission Type: API

Docket: PTO-P-2019-0011

Changes to Rules of Practice to Allocate the Burden of Persuasion on Motions to Amend in Trial Proceedings Before the Patent Trial and Appeal Board

Comment On: PTO-P-2019-0011-0001

Rules of Practice to Allocate the Burden of Persuasion on Motions to Amend in Trial Proceedings Before the Patent Trial and Appeal Board

Document: PTO-P-2019-0011-DRAFT-0001

Comment on FR Doc # N/A

Submitter Information

Name: Dan Fishman

Address:

PO Box 311

Silverthorne, CO, 80498

Email: dafish1900@yahoo.com

Phone: 303-415-0613

Organization: USPTO/PTAB

General Comment

Regarding new part 121/221(d)(3) discretion to determine unpatentability based on any "evidence of record." Although a PTAB panel is not obliged to search for relevant prior art, MAY the panel add to the "evidence of record"? If the panel feels strongly regarding the unpatentability of a proposed amended claim, BUT Petitioner (1) has chosen not to response to the MTA, (2) is no longer a party to the case, or (3) has inadequately (in the view of the panel) responded to the MTA, is the panel permitted to add evidence to the record (i.e., better prior art) to support a determination of unpatentability?