

**From:** Britten Sessions  
**To:** [PTABNPR2018](#)  
**Cc:** [director@lincolnipclinic.com](mailto:director@lincolnipclinic.com)  
**Subject:** Support of Proposed Changes by USPTO  
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USPTO,

I am writing in support of proposed changes by the USPTO to the claim construction standard for interpreting claims in trial proceedings before the patent trial and appeal board. I am writing from the perspective of an associate dean of intellectual property at Lincoln Law School of San Jose, a Silicon Valley patent attorney, and a patent owner.

I support applying the Phillips standard of claim construction used in Article III courts. Currently, applying the broadest reasonable interpretation introduces ambiguity and a lack of uniformity. Using a claim construction standard that is consistent in federal courts removes the argument that the AIA trial proceeding is inherently unfair. Additionally, it ensures a consistent standard of review for any patent disputed after issuance, regardless of the court that inspects such patent.

Additionally, I support deferring to prior constructions, absent clear error. Often an accused infringer will seek a broad construction for purposes of invalidating a patent and a narrow construction for purposes of arguing non-infringement. This is inconsistent. If a court (including a civil action, ITC proceeding, etc.) has previously adopted a construction of the same term, such construction should also be adopted by the PTAB. This would ensure uniformity and consistency in review regardless of the court that applies such term.

I encourage you to support the recent proposed changes to claim changes per <https://www.federalregister.gov/documents/2018/05/09/2018-09821/changes-to-the-claim-construction-standard-for-interpreting-claims-in-trial-proceedings-before-the>.

Thank you for your consideration,

Britten Sessions

**Britten Sessions**

Associate Dean of Intellectual Property  
Director/Founder, Intellectual Property Clinic  
Lincoln Law School of San Jose  
408.685.1436 Cell  
408.977.7227 Office  
408.977.7228 Fax  
[director@lincolnipclinic.com](mailto:director@lincolnipclinic.com)

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Intellectual Property Clinic  
Lincoln Law School of San Jose  
Office (408) 977-7227

Fax (408) 977-7228  
[www.lincolnpclinic.com](http://www.lincolnpclinic.com)  
[www.lincolnlawsj.edu](http://www.lincolnlawsj.edu)

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