

**From:** Robert Friedman  
**To:** [PTABNPR2018](#)  
**Subject:** Change in PTAB Rules  
**Date:** Wednesday, June 27, 2018 3:51:06 PM

---

I agree with the United States Patent and Trademark Office (“USPTO” or “Office”) proposal to change the claim construction standard for interpreting claims in *inter partes* review (“IPR”), post-grant review (“PGR”), and the transitional program for covered business method patents (“CBM”) proceedings before the Patent Trial and Appeal Board (“PTAB” or “Board”). In particular, the proposal to replace the broadest reasonable interpretation (“BRI”) standard for construing unexpired patent claims and proposed claims in these trial proceedings with a standard that is the same as the standard applied in federal district courts and International Trade Commission (“ITC”) proceedings. I also agree with the Office proposal to amend the rules to add that the Office will consider any prior claim construction determination concerning a term of the involved claim in a civil action, or an ITC proceeding, that is timely made of record in an IPR, PGR, or CBM proceeding.

Applying BRI, as is now the case, to an issued patent is incorrect and harmful because that is same standard used during examination. Inspection prior to issuance necessarily must be stricter than inspection after issuance. This is a basic premise of quality control (6 sigma, TQM, lean, etc.). If the original examination is not done to a tighter standard than what is desired for the final product, then the final product is doomed to a high failure rate. More importantly, a patent claim can only be permitted to have a single scope, regardless of the adjudication venue. The patent owner, the public, and any accused infringer must all have notice and be able to rely on fixed metes and bounds in order for the patent to serve any useful purpose.

Sincerely,

Rob Friedman  
Chairman & CEO  
Chestnut Hill Sound Inc.  
189 Windsor Road  
Waban, MA 02468