

## Andy Ehmke in Law.com: PTAB Ready to Bid Adieu to BRI

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May 10, 2018 Andrew Ehmke

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**PRACTICES** Patent Office Trials, Patents, Intellectual Property

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*Law.com* quoted Haynes Boone Partner [Andy Ehmke](#) in its “Skilled in the Art” column covering Intellectual Property law developments.

The topic was the U.S. Patent and Trademark Office’s proposal to drop the broadest reasonable interpretation (BRI) claim construction standard and replace it in *inter partes* review proceedings with the Phillips standard used in district court.

Here’s an [excerpt](#):

Ehmke, whose firm typically represents petitioners before the PTAB, said he doesn't expect a big impact on institutions, because many petitioners have been anticipating the end of BRI and framing their petitions accordingly. But he said the new rule, assuming it's adopted, will should limit litigants from taking inconsistent positions on claim construction in different forums. "It's important in that it clearly shows the patent office is trying to head toward more consistency," Ehmke said.

Ehmke said it remains to be seen how much weight individual district judges will afford PTAB constructions, even using the same standards. "To date, there's not been a lot of deference," he said, but district judges could always chalk it up to the BRI standard. Ultimately, the PTAB, district courts and Federal Circuit will have to figure out how much deference is owed among the various bodies, Ehmke said.

To read the full column, click [here](#). (Subscription required)