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The Impact of Prior Claim Constructions Since The PTAB Adopted The Same Claim Construction Standard As Other Courts



In 2018, the Patent Trial and Appeal Board aligned its claim construction standard in post-grant proceedings with the standard applied by the federal courts and the International Trade Commission. Greater consistency was the goal, but since the realignment, questions have surfaced about how to deal with terms previously construed by other courts under the same standard.

In this paper, we look at the Patent Trial and Appeal Board's revised regulations and recent decisions relating to prior constructions to identify strategies for post-grant practitioners to achieve desired outcomes.

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