

## A Surge at the PTAB? Filing and Litigation Strategy in Light of the Upcoming Change to the Phillips Standard

OCTOBER 17, 2018  
WEBINAR

The USPTO announced earlier this month that inter partes review, post-grant review, and covered business method patent proceedings will switch from the current broadest reasonable interpretation claim construction standard to the same standard used by district courts, the *Phillips* standard, starting on November 13. Soon after the announcement, many began to predict a rush of petitioners to the Patent Trial and Appeal Board. The surge is expected because litigants may try to preserve the flexibility now allowed by differing standards in the different forums by acting to institute proceedings before the change occurs.

WilmerHale Partner David Cavanaugh, along with other experienced PTAB litigators, will share their views of how the move to *Phillips* at the PTAB is likely to change optimal litigation strategies going forward for both petitioners and patent owners. The issues they will discuss include:

- Will institution rates at the PTAB be changed by the switch to the *Phillips* standard?
- Will district court judges be less likely to grant stays now that a PTAB claim construction will be more of a true preview of a *Markman* finding?
- Advantages and disadvantages of delaying an IPR filing.
- The timing of PTAB and district court decisions—and the potential for collateral estoppel.
- The additional complications involved in multi-defendant litigation.

[READ MORE ABOUT THE EVENT](#)

---

## Speakers



**David L. Cavanaugh**

PARTNER

✉ [david.cavanaugh@wilmerhale.com](mailto:david.cavanaugh@wilmerhale.com)

📍 WASHINGTON DC

☎ + 1 202 663 6025

---

## Related Solutions

Intellectual Property  
Counseling and Prosecution

Intellectual Property Litigation

Post-Grant Proceedings

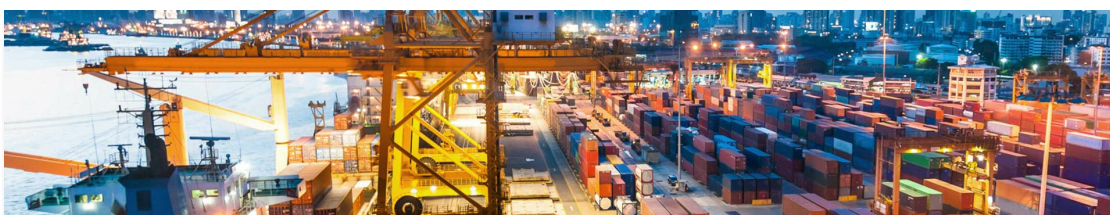
## *You May Be Interested In*



### **FIA Law & Compliance Division Conference 2024**

APRIL 24–26, 2024

**SPEAKING ENGAGEMENT**





## 18th Annual Flagship Conference on Economic Sanctions Enforcement and Compliance

APRIL 29, 2024

SPEAKING ENGAGEMENT



## Essentials of the European Union's Artificial Intelligence Act

MAY 2, 2024

WEBINAR

[VIEW ALL EVENTS](#)