

## Broadest Reasonable Interpretation and Claim Amendments in Post-Grant Patent Challenges

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Monica Grewal and Michael Smith, in an article published in the American Constitution Society's (ACS) blog, discuss the recent debate over whether the Patent Office should apply BRI or *Phillips* constructions in post-grant proceedings.

The United States Patent and Trademark Office has used a “broadest reasonable interpretation” (BRI) standard for claim interpretation when examining pending patent applications. Under the BRI standard, a claim term is generally given its broadest reasonable interpretation consistent with the ordinary and customary meaning of the term, its use in the specification, and how it would have been understood by those skilled in the art. Federal district courts, by contrast, have utilized the approach provided in *Phillips v. AWH Corp.* Under the *Phillips* approach, courts construe claim terms based on the meaning they would have had to a person of ordinary skill in the art at the time of the invention, based on review of the patent specification, file history, and extrinsic evidence such as dictionaries. [Read the full article.](#)

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