
Pre-Conference Session - Master Class

PTAB Bar Association Conference
Wednesday, March 13, 2019

Master Class - Panel 1

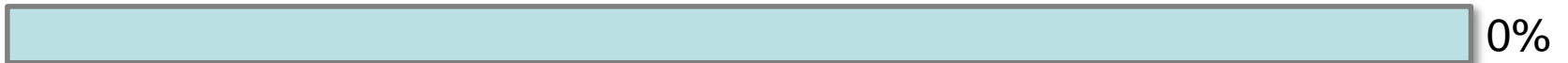
On Your Mark: Petitioner Strategy

**Getting Started:
Grappling with the Discretion
of 314(a) & 325(d)**



Poll Question #1: All things being equal, would you rather file a joint petition with a co-defendant, or file your own petition two months after the co-defendant files a petition?

1 a. File jointly



2 b. File separately

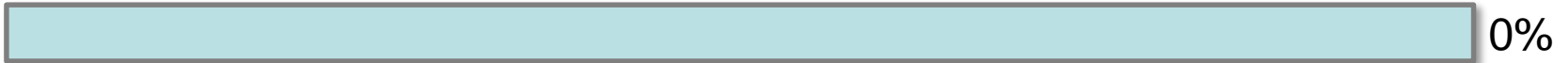


Proving Public Accessibility of Prior Art



Poll Question #2: Has the Board's handling of non-patent literature prior art kept you from filing a petition or from using non-patent literature in a petition?

1 a. Yes



2 b. No



Impact of *SAS Institute* on Petitioner Strategy

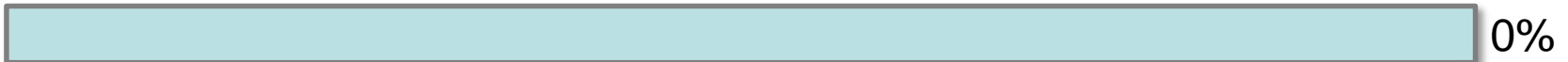
Impact of *Phillips* on Claim Construction Strategy in Petitions

Addressing Real Party-in-Interest Issues at the Petition Stage

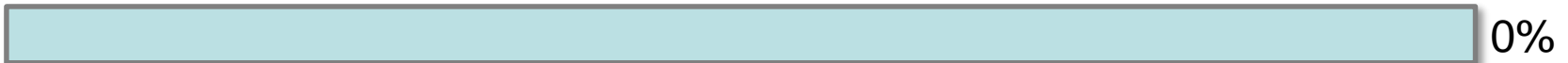


Poll Question #3: If, as Petitioner, you anticipate Patent Owner raising RPI issues in the POPR, do you proactively include evidence and/or argument in the Petition addressing the issue?

1 a. Yes, I would include declaration testimony.



2 b. Yes, but I would only include argument without evidence.



3 c. No, I would wait until after Patent Owner raises the issue.



Master Class - Panel 2

Set the Pace: Patent Owner Defense Strategy

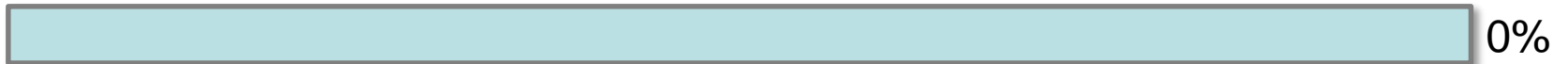
Using RPI as a Defense Strategy

Preliminary Responses



Poll Question #4: Does the SAS Institute all-or-nothing institution requirement most benefit the Petitioner or the Patent Owner?

1 a. Petitioner



2 b. Patent Owner



Impact of *Phillips* Claim Construction on Patent Owner Strategy



Poll Question #5: Do you think district courts will pay more attention to PTAB claim construction in light of the change to the Phillips standard?

1 a. Yes, I've seen it



2 b. Yes, but I have not seen it yet



3 c. No, I don't think there will be much difference



Master Class - Panel 3

The Bell Lap: Trial Strategy

Depositions

Claim Amendment Pilot Program

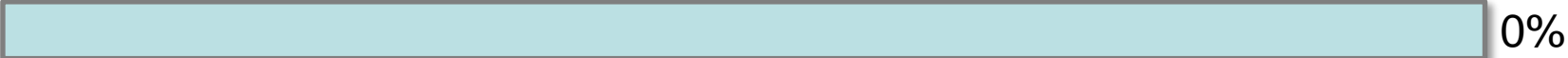


Poll Question #6: If you were given the opportunity to opt out of the pilot program in favor of filing a motion to amend under the original program, would you do so?

1 a. Yes



2 b. No



Patent Owner Sur-Reply

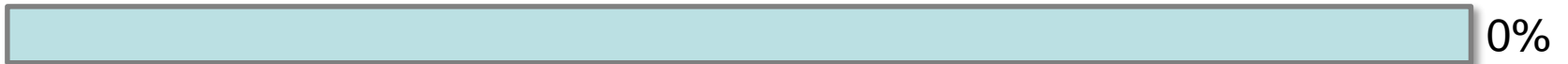


Poll Question #7: Do you expect the guarantee of a sur-reply to result in more final decisions favorable to Patent Owner?

1 a. Yes



2 b. No



Oral Hearing



Poll Question #8: Should the Board decide all motions to exclude at a pre-hearing conference?

- 1 a. Yes, it would simplify the oral hearing
 0%
- 2 b. No, I would like the opportunity to present arguments at the hearing
 0%

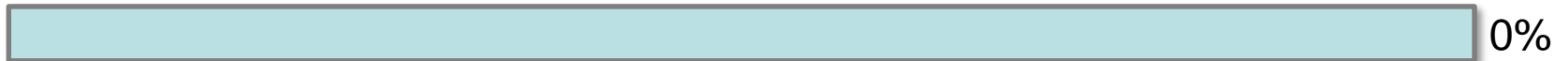
Motion Practice

Rehearing



Poll Question #9: After an adverse Final Written Decision, how likely are you to seek rehearing?

1 a. Never



2 b. Only on a glaring mistake of law or fact



3 c. Always, I have nothing to lose

