
Pre-Conference Session - Master Class

PTAB Bar Association Conference
Wednesday, March 21, 2018

Master Class - Panel 1

Release the Kraken: Petitioner Strategy



Redundant Grounds



Joinder

Poll Question #1: What would you do if your "best" prior art reference is already being presented in another IPR, but sub-optimally?

1. I would join the previous proceeding
2. I would file separately with the best art
3. I would file separately with different art

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Preliminary Replies



Experts

Poll Question #2: What is your preference regarding using the same expert in both district court and IPR proceedings?

1. I prefer using the same expert
2. I prefer using a different expert
3. I do not have a preference

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Master Class - Panel 2

Winter is Coming: Patent Owner Defense Strategy



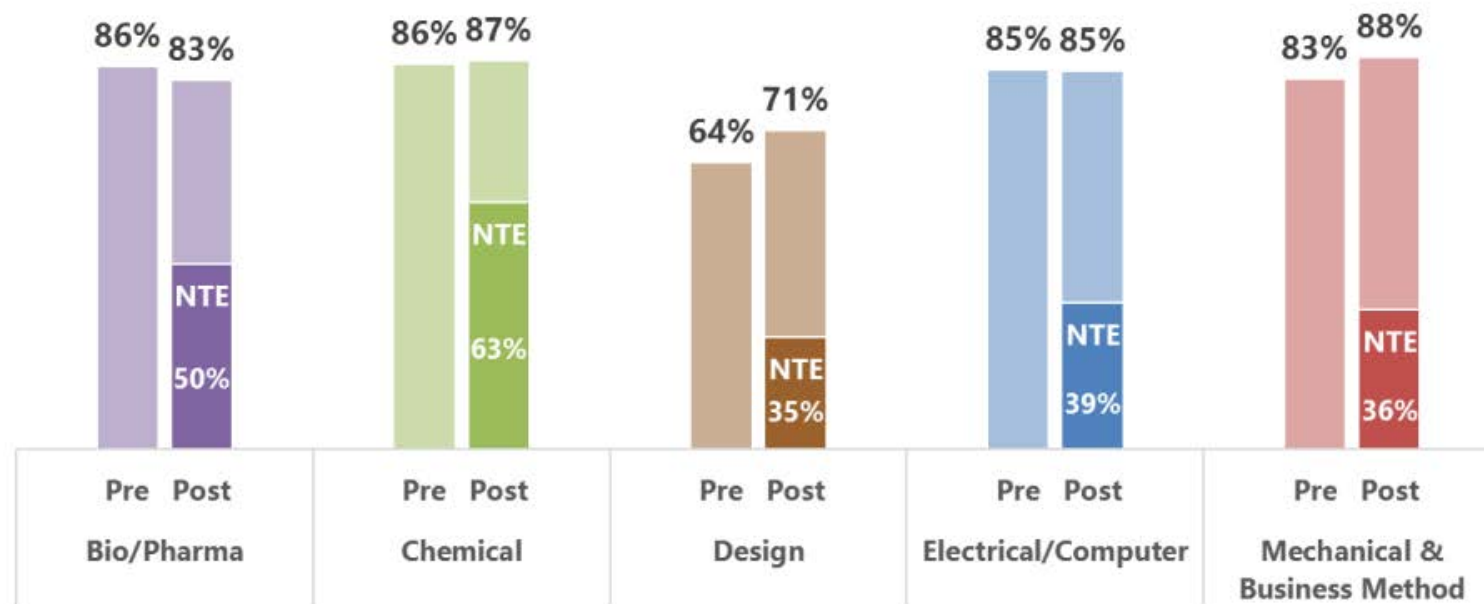
Experts



Preliminary Responses

Preliminary Response Filing Rates

Pre- and Post-Rule To Allow New Testimonial Evidence (NTE)
 (All Time: 9/16/12 to 12/31/17)



The rule to allow new testimonial evidence was effective May 2, 2016.



Poll Question #3: Have you ever elected, for strategic reasons, to NOT file a POPR?

1. Yes
2. No

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Claim Construction

Poll Question #4: If the PTAB were to adopt a *Phillips* claim construction standard, I believe the following would result:

1. More patent claims would be upheld
2. Marginal impact, at best

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Amendments

Poll Question #5: Are you more likely to file a motion to amend after *Aqua Products*?

1. Yes
2. No

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Master Class - Panel 3

Once More Unto the Breach: Trial Strategy



Evidence

Poll Question #6: As petitioner's counsel, what would you do if you obtained new evidence of public accessibility three weeks after institution?

1. Immediately seek authorization to file as supplemental information
2. Wait and file with Petitioner's Replt if PO attacks public accessibility in Response

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Depositions

Poll Question #7: When defending an expert deposition, do you talk with your expert about their testimony between cross-examination and re-direct?

1. Sometimes
2. Never

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Oral Hearing



Motion Practice



Patent Owner Estoppel



Rehearing

Poll Question #8: After an adverse Final Written Decision, how likely are you to seek rehearing?

1. Never
2. Only on a glaring mistake of law or fact
3. Always, I have nothing to lose

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