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Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

Comment On: PTO-P-2018-0036-0001

Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

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Comment on FR Doc # 2018-09821

Submitter Information

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General Comment

Dear Director Iancu:

On behalf of Genentech, Inc., we support the adoption of the proposed replacement of the broadest reasonable interpretation (BRI) standard for claim construction with the Phillips standard applied in federal district courts and International Trade Commission (ITC) proceedings. While we generally support increased alignment with district court and ITC proceedings, it may not be practical for the Board to engage in full-scale Markman hearings within the statutory deadlines for post-grant proceedings. Accordingly, the Board should continue its practice of engaging in claim construction without a separate Markman hearing and only to the extent necessary to resolve the issues presented.

Best regards,
Laurie L Hill
Vice President, Intellectual Property
Genentech | A Member of the Roche Group