

10 Most-Read IP Law360 Guests Of 2018

By **Guest Contributors** December 21, 2018, 1:53 PM EST

What intellectual property law topics piqued reader interest in 2018? Take a look back at the year's 10 most-read IP articles from Law360 guest authors.

May 1, 2018

Loopholes In The USPTOs Berkheimer Memo



While the U.S. Patent and Trademark Office's new eligibility guidance represents important progress toward applying objective standards to patent eligibility determinations, examiners who are disinclined to grant patents have multiple options for evading or minimizing the evidentiary requirements in this guidance, says Robert Curylo of Kilpatrick Townsend & Stockton LLP.

April 20, 2018

3 Things To Know About USPTOs New Memo On Eligibility



In light of the Federal Circuit's decision in *Berkheimer v. HP*, the U.S. Patent and Trademark Office has issued a new memorandum regarding subject matter eligibility. Patent practitioners now have a new

tool to combat patent-ineligibility challenges, say Michelle Holoubek and Lestin Kenton of Sterne Kessler Goldstein & Fox PLLC.

Nov. 15, 2018

How Patent Attorneys Can Be Better Business Developers



Patent attorneys are uniquely positioned to be rainmakers. They should emphasize certain traits — it may sound counterintuitive, but introversion is one of them, says Karen Katz of Suffolk University Law School.

July 27, 2018

The Meaning Of "At Least 1 Of A And B" At PTAB



The Patent Trial and Appeal Board's 2017 Jung decision — recently designated as "informative" — establishes that the U.S. Patent and Trademark Office presumes a narrower interpretation of the phrase “at least one of A and B” than many courts and board panels have previously found, say Braden Katterheinrich and Nick Anderson of Faegre Baker Daniels LLP.

May 14, 2018

Overlooked Changes To Patent Cooperation Treaty Practice



As a result of changes to the patent code from the America Invents Act, the Patent Law Treaties Implementation Act and the AIA's technical corrections amendment, the bypass patent application presents many potential advantages. A bypass application could have resolved Actelion's recent patent-term problem, say Nicholas Landau and Jake Neu of Bradley Arant Boult Cummings LLP.

Aug. 6, 2018

Overcoming Subject Matter Rejections: The Berkheimer Shift



An analysis of Patent Trial and Appeal Board decisions from before and after the Federal Circuit's February 2018 Berkheimer decision suggests that the PTAB is using Berkheimer as a basis for overturning Section 101 subject matter eligibility rejections, says Karam Saab of Kilpatrick Townsend Stockton LLP.

Feb. 6, 2018

USPTO Signals Support For New Basis To Invalidate Patents



After a hiatus of nearly 23 years, a new “improper Markush grouping” rejection was quietly slipped into the latest revision of the Manual of Patent Examining Procedure, released by the U.S. Patent and Trademark Office just days prior to the Senate confirmation of Andrei Iancu as the new director, says Joseph Mallon of Knobbe Martens.

March 7, 2018

What May Happen To Your IPR The Day After Oil States



If the U.S. Supreme Court decides in *Oil States v. Greene's* that the inter partes review process is unconstitutional, how will it affect the thousands of concluded and pending IPRs, and the constitutionality of other post-grant challenge procedures? The briefing filed in the follow-on petitions provides a good preview of the legal issues that lay ahead, say Douglas Salyers and Lauren Ulrich Baker of Troutman Sanders LLP.

March 12, 2018

How PTAB Is Defining Printed Publication



Over the past 10 months, the Patent Trial and Appeal Board has issued dozens of decisions that address whether certain references are printed publications. The many decisions where a document was found not to be a printed publication should serve as guidance to petitioners and patent owners, say John Strand, Marie McKiernan and Austin Steelman of Wolf Greenfield & Sacks PC.

May 4, 2018

Don't Let Inter Partes Reviews Ruin Your Trial



Current statistics reveal that inter partes review petitions are now more likely to fail than succeed, and the failure rate is continuing to climb. Accused infringers must approach IPR proceedings with an eye toward a jury trial that is more and more likely to occur, say Jeremy Taylor and Wayne Stacy of Baker Botts LLP.

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