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Discretion to Institute Trials Before the Patent Trial and Appeal Board

Document: PTO-C-2020-0055-0591
Comment from Tim G

Submitter Information

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General Comment

I speak as an inventor named on about a dozen US patents. Several times I have seen derivative patents filed that clearly mimic my work, by individuals or entities who have a direct knowledge of said works. In at least one case I learned of the copy-cat patent a considerable time after it was granted from a review in the press. In the article, the reviewer asked the question as to how could the patent office have ignored my prior art in the granting of the subsequent derivative work.

Well, I understand that it is unreasonable to expect every inventor to monitor the patent gazette to find all derivative works promptly.

The reality is that the patent examiners are human and cannot be expected to always discover all prior art, so there will always be some questionable patents granted. Usually these cases are arbitrated via licensing agreements, but in some cases there must be a legal challenge to the illegitimate patent grant.

To take away the right to challenge superfluous patents and so-called "patent trolls" would be a serious mistake. To place time limits on these challenges puts legitimate patent holders and innocent third parties at a serious disadvantage to the trolls. To limit the number of claims against a wrongful patent is discriminatory against the general public.

A better approach would be more careful and educated examination of patent applicatons before

they are granted to reduce the number of wrongful and troll patents that are granted.

Please do not provide additional protection to the patent trolls. Let common sense prevail.

Thank you.