PUBLIC SUBMISSION

As of: 11/19/20 1:59 PM
Received: November 15, 2020
Status: Posted
Posted: November 17, 2020
Tracking No. 1k4-9k3i-v5ea
Comments Due: December 03, 2020
Submission Type: API

Docket: PTO-C-2020-0055
Request for Comments on Discretion to Institute Trials Before the Patent Trial and Appeal Board

Comment On: PTO-C-2020-0055-0001
Discretion to Institute Trials Before the Patent Trial and Appeal Board

Document: PTO-C-2020-0055-0266
Comment from Elizabeth Crouch

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General Comment

As a patented inventor with a product that was knocked off by a huge and weak the corporation, I am very interested in sharing with you the importance of changing the patent laws to make them fair and just for the little inventor.

Thank you;

Commissioner, and Chief Judge.

III: PROCEEDINGS IN OTHER TRIBUNALS
a) The PTAB should not institute duplicative proceedings.
b) A petition should be denied when the challenged patent is concurrently asserted in a district court against the petitioner, real party in interest, or privy of the petitioner and the court has neither stayed the case nor issued any order that is contingent on institution of review.
c) A petition should be denied when the challenged patent is concurrently asserted in a district court against the petitioner, real party in interest, or privy of the petitioner with a trial is scheduled to occur within 18 months of the filing date of the petition.

d) A petition should be denied when the challenged patent has been held not invalid in a final determination of the ITC involving the petitioner, real party in interest, or privy of the petitioner.

IV: PRIVY
a) An entity who benefits from invalidation of a patent and pays money to a petitioner challenging that patent should be considered a privy subject to the estoppel provisions of the AIA.
b) Privy should be interpreted to include a party to an agreement with the petitioner or real party of interest related to the validity or infringement of the patent where at least one of the parties to the agreement would benefit from a finding of unpatentability.

V: ECONOMIC IMPACT
Regulations should account for the proportionally greater harm to independent inventors and small businesses posed by institution of an AIA trial, to the extent it harms the economy and integrity of the patent system, including their financial resources and access to effective legal representation.

Big corporations have succeeded in making changes that have destroyed the value of patents and harmed millions of inventors.