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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-2020-0055-0336

Comment from Dave Barker Design.

Submitter Information

Name: David Barker

Address:

1 Pine Knoll Dr
clover, SC, 29710

Email: d54barker@gmail.com

Phone: 3303546638

Submitter's Representative: Ralph Norman

Organization: Dave Barker Design

General Comment

Dear Sirs,

Regarding patent reform details I urge adoption of regulations to govern the discretion to institute PTAB trials consistent with the following principles.

I: PREDICTABILITY

Regulations must provide predictability. Stakeholders must be able to know in advance whether a petition is to be permitted or denied for policy reasons. To this end regulations should favor objective analysis and eschew subjectivity, balancing, weighing, holistic viewing, and individual discretion. The decision-making should be procedural based on clear rules. Presence or absence of discrete factors should be determinative, at least in ordinary circumstances. If compounded or weighted factors are absolutely necessary, the number of possible combinations must be minimized and the rubric must be published in the Code of Federal Regulations.

Thank You for your consideration,
Dave Barker
Dave Barker Design LLC