

PUBLIC SUBMISSION

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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-2020-0055-0282

Comment from Fred Ruckel

Submitter Information

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General Comment

My name is Fred Ruckel. I am an inventor with three Utility Patents, 10,070,623 & 10,334,824 & 10,701,398, five registered trademarks 86613342, 86613368, 87933626, 87727388, 88392269 and US copyright TX 8-546-641.

We manufacture my patented invention in the United States providing employment for over 120 US workers at 10 companies across 6 states.

My comments, analogies and summaries below reflect true-life experiences battling to protect my invention from serial infringers.

Over the last 3 years we have spent in excess \$400,000 defending our invention from serial infringers who utilize the legal system as a weapon. Our most recent case set Precedent in the 8th circuit US Federal Appeals Court in March 2020, (docket 18-3500), protecting inventors from legal fees for an infringer who depletes an inventors finances to the point of surrender.

Criminality:

The easiest way to curtail Invention theft and fix the PTAB is to make intentional, willful, deliberate, or overt invention theft, a felony offense with criminal prosecution implications. It is important that we take the direction of criminality as it is the only way to stop willful infringement. Bad actors do not blink an eye at paying a 25 million dollar award in a lawsuit, however, if they knew they had a chance of going to jail for a single day, they would think twice and invention theft would stop nationwide.

Judge appointments:

Administrative PTAB judges are unconstitutionally appointed. The APJs are not vetted properly to ensure no conflicts or bias exists. An Administrative Patent Judge (APJ) applies for a job via classified ads, the same as if a person was looking to work at McDonalds. APJs should require senate approval like all other judges nationwide.

Patent Defense:

Director Iancu, Do you believe the Patent office has only the best examiners granting patents? Do you feel your examiners are highly qualified and perform rigorous investigations before granting a Patent? Do you feel an Administrative Judge is more qualified to assess a patent on its face without a proper investigation, such as the kind the USPTO Examiner performed?

Who do you stand by Director Iancu? Your trained patent examiners or a team of appointed administrative judges who undermine your examiners work? Pick one, you cannot have both.

USPTO to Pay to Defend Issued Patent:

As the Battle to save Patents is truly a battle between the USPTO and the PTAB division of the USPTO, I propose the USPTO must defend the work of its many, highly skilled examiners against IPRs from third parties in the PTAB. The USPTO examiners have done an excellent job scrutinizing prior art and obviousness of an invention during the patent process. The USPTO should stand up for its examiners by defending the issued patents at its own expense. All costs to defend an issued Patent by the USPTO should be borne by the USPTO. The onus should be on the USPTO to defend patents against invalidation as they issued them in the first place.

The Serial list:

The USPTO must keep a list of serial infringers and companies who use the IPR system as a legal tool to harm inventors. These serial infringers should be barred from filing IPRs or at the very least, they must prove beyond reasonable doubt that an IPR is warranted and not simply an attempt to undermine a successful invention.

We have discovery evidence which outlines the modus operandi of a group of serial infringers operating across the United States. We can provide this information to your office to help stop the rampant patent abuse.

The PTAB is a young division which was formed with the best of intentions, however has been taken over by infringers. The PTAB as it stands currently should be abolished as opposed to reformed, subtle changes cant fix a broken system, the only option is a full replacement of the PTAB system.

IPRs filed to stay litigation:

Another tactic of the serial infringer is to file a petition to stay a pending court case. It is common when an inventor pursues their intellectual property rights via the proper court system that infringers file a PTAB petition. The concurrent filing of a petition to PTAB puts the district courts in a position where they stay the case. This tactic drains and inventor dry to the point of bankruptcy. It is our recommendation that the PTAB not initiate duplicative proceedings and should not accept a petition for a patent currently in litigation in the court system

We would be happy to work with your team to help save the Patent system. The USPTO had asked me to speak at SXSW2020 on their panel called Investing in and Protecting Your IP. We know a great deal about protecting IP and are able to convey it to the masses in a way that helps them relate. We are here to help, not argue points, but find a common ground to protect Americas inventors while keeping innovation in America.

Respectfully submitted,
Fred Ruckel

Attachments

Entrepreneur July2018