

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-2020-0055-0483

Comment from S Lee

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General Comment

The PTAB is widely known as an administrative panel rather than a true court who "hears" cases from large corporations seeking to invalidate patents, sometimes 10-15 years old, and with no actual due process. The PTAB invalidates claims, or all claims, in 84% of the cases heard. There are several problems with both the make-up of the Board and the lack of restrictions placed on what cases are actually brought forward. First, the "judges" are often corporate attorneys whose very job it is to defend the rights of large corporations - sometimes the same corporations they themselves work for. This immediately deems them biased and some even have gone as far as stating corrupt. For evidence please look into the series of cases by Apple and then take a look at who was on the Board! These so called judges also do not have the time to hear the case properly with minutes given each case, not hours or even days, that is needed to consider the critical details. The livelihoods that many of these patents support are excessively dismissed without proper understanding of the facts, no time to learn the details, and no motivation to do so. Second, are the types of cases brought forward. Large corporations seeking to use patented claims for their own benefit have both the means and the connections to be successful in front of the PTAB - regardless of the merits or lack thereof, of what they present.

SOLUTIONS: At the very least, patents that have been in place for greater than 5 years should be protected from invalidation via PTAB. In addition, dominating selling platforms such as Amazon.com and their affiliates, should be required to uphold US held patents and remove infringers from their platform until cases are determined by those who are qualified to do so. At this time Amazon makes no effort to uphold the rights of patent holders and allows sellers who are infringing USPTO issued patents and in doing so allows these infringers to make millions. As a small US business, woman owned and operated, this has been devastating.