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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-2020-0055-0598

Comment from Glen Chung

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General Comment

I am a member of the public. Would you please consider my input listed below?

For Serial Petitions:

I believe that it is only fair if the USPTO considers each petition regardless of how many petitions have previously been considered. I believe this because previous considerations are not necessarily germane to the issues addressed by a new petition. Also, human beings are involved in the consideration of petitions; therefore, previous considerations could be erroneous because human beings are not perfectly just decision-makers.

For Parallel Petitions:

I believe that it is only fair if the USPTO considers each petition regardless of how many petitions are concurrently being made against the same patent. I believe this because it is not necessarily the case that all of the simultaneous petitions have the same validity, or even that they address exactly the same problems. To ignore petitions just because there are already some petitions which have been lodged at the same time makes no sense. That would be just as

though my oldest kid were telling me that she is hungry, but I ignore her because my youngest kid has just told me that she is thirsty. The fact that my youngest kid needs water has no bearing on the fact that my oldest kid needs a snack. I must serve both petitions because they are both valid. How about if my youngest kid says that she needs a blanket, while her blanket is actually within her reach? If she tells me she needs a blanket, and at the same time my older kids says she needs a snack (which she cannot find on her own), then do I ignore the older kid, because the younger kid's petition is already pending? No. The younger kid's petition is not even valid, because the blanket is within her own reach. I have to tell the younger to get the blanket herself, and then I have to fix a snack for the older kid. Both petitions must be addressed, even if one of them is denied, and even if both are lodged simultaneously.

For Proceedings in Other Tribunals:

I believe that it is only fair if the USPTO considers each petition regardless of any pending proceedings in other tribunals. I believe this because new petitions might have nothing to do with the pending proceedings in other tribunals, and also because new petitions might be more valid or might make more sense than whatever is being considered in the other proceedings. Suppose I want to buy a house, and I am negotiating with some real estate agents. These negotiations are pending proceedings in a tribunal consisting of the real estate agents, the seller, and me. Now, what if my kids petition me against buying the house because it lacks a backyard completely, and we need a backyard because we have two large dogs. The correct course of action would be to find a different house that has a backyard for our dogs. Do I ignore my kids' petition just because I am in the middle of a pending proceeding with another tribunal? No, that would be ridiculous. The kids have a valid petition which I need to consider.

These are my opinions as a member of the public. I believe that my opinions make sense from a layman's common-sense perspective. Please consider my opinions. I have read the relevant Proposed Rule document and I have formed these opinions in response to Austin Meyer's public testimony about his recent patent fight in court.

Thank you very much for your time.