

From: Evans, Daniel Lee (MU-Student) [email redacted]

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The two accepted economic benefits of the patent system are the profits generated from patents providing incentive for innovation and the disclosure of information to the market that may otherwise be kept proprietary. Patents must be advantageous for inventors for these benefits to be realized. If patents cease to be worth their cost, there will be less incentive to invent and disclose information. Placing the emphasis on preventing bad patents during the examination process, as opposed to during post grant litigation or administrative proceedings, will decrease overall cost and risk of loss, while increasing predictability regarding a patent.

Patent application costs are not trivial, but pale in comparison to litigation costs or lost investments into technology when a patent is invalidated. Bad actors in the patent industry use these potentially huge costs as an extortion weapon. An emphasis on a more extensive examination process, instead of post grant validation challenges, it will likely reduce the overall costs of patent ownership by decreasing these potentially massive costs.

These high cost create risk for a patent owner or potential infringer. As mentioned above, the litigation costs in patent suits can be astronomic. Furthermore, entities in litigation have likely already invested resources into the technology at issue which raises the potential loss. Even in an administrative proceeding which has much lower cost, a patent being invalidated can be catastrophic for a small company.

If the examination process could provide better quality control, the market will be able to more accurately predict patent disputes. Additionally, better quality control could lead to reduced validity challenges, if the success rate of these challenges falls. Predictability is of utmost importance when making business decisions with huge ramifications, such as an inventor debating whether to sue for infringement or a potential infringer deciding whether to license or litigate.

Current examinations seem to suffer generally from a lack of attention per patent. Indicators of this range from empty blanks in standard form rejections to rejections that do not seem to reply to the applicant's response. Training programs will create more knowledgeable examiners, but they still must be able to properly examine each patent. There are several possible solutions that would allow examiners to give more attention to individual patents.

Third party prior art submissions could increase the examiner attention per patent by shortening the examiners arduous prior art search. However, such a system could also overwhelm the examiners with prior art as well as create potential for abuse. A third party system would also require a much earlier publication than is currently practiced in order to be effective.

Another possibility is devoting more resources to software development or licensing. The amount of prior art that an examiner is expected to sort through is hard to fathom. However, more powerful software tools provided to the examiners will reduce the time taken to find pertinent results. This options primary drawback is cost of development or license.

Whether it is a simple solution such as hiring more examiners, or one as complex as changing the application process to allow for greater third party prior art submissions, the need for better examinations that provide more predictability to the market is clear.

Daniel Evans

University of Missouri Law School

[email redacted]