

Topic Submission for Patent Quality Case Study

Subject: Proper and Uniform Citation of Prior Art References

When Examiner's cite or represent the content of prior art references in an Office Action, such as to make a claim rejection under Section 102 or 103, there is a wide discrepancy in how this is presented in official correspondence. I have observed that Examiners do not follow any basic norms of citation and representation. Sometimes references will be cited in quotation marks and other times the reference will be interpreted by the Examiner. The method of citation of the content of a prior art reference is not standardized and does not appear to be the subject of any kind of supervisory review at the USPTO. As a result, we often see egregious errors in citations and misrepresentation of what is actually disclosed in the cited reference.

Why is it not possible for the USPTO to define and assert minimal standards for citation of prior art references? When a citation of a prior art reference in an Office Action include quotation marks, why are Examiner's permitted to explicitly misquote references?

It would be very helpful if the USPTO did a case study on how differently prior art references are cited in Office Action, and to promulgate minimal standards in this regard.

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