

Topic Submission for Case Study

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BACKGROUND

It is often stated that patent quality begins with a high quality pre-examination search.

Using the AIA created IPR, the PTO is overturning a high volume of patents.

IPR 2012/000001 (Cuozzo Speed Technologies) is now before the Supreme Court. The Cuozzo review exposed a lack of prior art in the prosecution record for that particular patent. Petitioner in Cuozzo submitted new prior art. Upon review of the prior art record, it is obvious that the new art was easily findable low hanging fruit. Cumulative IPR results suggest a problem at the core point of patent quality, that is, the pre-examination search.

TOPIC FOR CONSIDERATION

A suitable topic for study would be an examination of IPR's to evaluate the prior art of record prior to Allowance.

It is expected that such a study will confirm a lack of efficient searching in many important patent cases.

CONCLUSION

By documenting a prior art problem that directly affects the presumption of validity, it is expected that a conversation can be generated directed to the dynamics of prior art as it relates to the health of the patent system. Solutions to the prior art problem will never be identified (despite an automated pre-examination search) without an appropriate public discussion.

Please note that this is attempt to generate a conversation and is absolutely not an attempt to embarrass the Patent Office.