

From: Clay Davis
To: [PTABNPR2018](#)
Subject: PTAB Reform Requests
Date: Wednesday, June 27, 2018 1:18:54 PM
Attachments: [image001.png](#)
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Sirs,

I implore you to consider reforms to the Patent Trial and Appeal Board. Small and large inventors urgently need reforms as the current rules are a license for the infringers to steal IP with few repercussions. At a minimum, I implore you to consider the following two rule adjustments. I personally have been impacted by the current rules as an investor in a small company that has seen its intellectual property stolen by Silicon Valley tech giants. I have lost tens of thousands of dollars due to the current rules while the company I have invested in has fought it out in the courts for the past 7 years.

Apply the Phillips standard of claim construction used in Article III courts. Applying BRI (“broadest reasonable interpretation”), as is now the case, to an issued patent is incorrect and harmful because that is same standard used during examination. Inspection prior to issuance necessarily must be stricter than inspection after issuance. This is a basic premise of quality control (6 sigma, TQM, lean, etc.). If the original examination is not done to a tighter standard than what is desired for the final product, then the final product is doomed to a high failure rate. More importantly, a patent claim can only be permitted to have a single scope, regardless of the adjudication venue. The patent owner, the public, and any accused infringer must all have notice and be able to rely on fixed metes and bounds in order for the patent to serve any useful purpose.

Defer to prior constructions, absent clear error. Often an accused infringer will seek a broad construction for purposes of invalidating a patent and a narrow construction for purposes of arguing non-infringement. This is not fair. If a court or the PTAB has previously adopted a construction of the same term in the context of the same or essentially the same specification, this construction must be adopted by the PTAB.

Thank you,

Clay Davis

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