

From: J. Carl Cooper
To: [PTABNPR2018](#)
Subject: PTAB Proposed rulemaking support
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Via E Mail

July 7, 2018

The Honorable Andrei Iancu
Director of the U.S. Patent and Trademark Office
Attn: Vice Chief Administrative Patent Judges
Michael Tierney and Jacqueline Wright Bonilla

Dear Sirs and Madam,

I am a Registered Patent Agent and Inventor, having participated in the prosecution of numerous patent applications and a few IPRs since my first application was filed over 40 years ago. My participation in those IPRs was an eye opener because of the particularly disturbing application of the so-called broadest reasonable interpretation claim constructions. In my opinion these constructions were even broader than the BRI used in the examinations of the same patents. Such BRI claim constructions do nothing to strengthen the patent system but rather erodes confidence in patents, increases the workload on all involved, contributes to the extremely high rates of IPR invalidity outcomes and adds another layer of inconsistency and confusion. This affects not only to patent licensing and enforcement, but what should be a clear title of patent ownership. And, of course, there is the BRI's contribution to the dramatic US Patent system's fall to tie with Italy for 12th place in the U.S. Chamber of Commerce's Annual Global IP Index for 2018.

I strongly support and urge adoption of the proposed rulemaking to replace the broadest reasonable interpretation standard for construing unexpired patent claims and proposed claims in these trial proceedings with a standard that is the same as the established standard applied in federal district courts and International Trade Commission proceedings.

I also strongly support and urge adoption of the proposal to amend the rules to provide that the Office will consider any prior claim construction determination concerning a term of the involved claim in a civil action, or an ITC proceeding, that is timely made of record in an IPR, PGR, or CBM proceeding.

Sincerely,

J. Carl Cooper