

From: Judy DePrang
To: [PTABNPR2018](#)
Subject: Support of Proposed Changes by USPTO
Date: Tuesday, July 3, 2018 2:56:30 PM

I am Judith DePrang-

I am writing in support of proposed changes by the USPTO to the claim construction standard for interpreting claims in trial proceedings before the patent trial and appeal board.

It is critical we 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 more rigid 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 will have a higher 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.

Also, we must 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 just. 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 for your consideration,



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