

Director Iancu and members of the U.S. Patent & Trademark Office,

Your proposal to replace the broadest reasonable interpretation ("BRI") standard for construing unexpired patent claims and proposed claims in these trial proceedings with a standard that is the same as the standard applied in federal district courts and International Trade Commission ("ITC") proceedings is important to American inventor ideas.

Your proposal to change the ("BRI") standard to one standard upheld in federal district courts is implicitly consistent with past determinations and continues to set the course for American ingenuity to remain at the highest levels of competence in today's environment.

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.

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.

It is not important to big corporations that are multinational and not acting in the best interests of the United States. It therefore is imperative in the bravest sense of jurisprudential responsibility to honor standards that are upheld in federal district courts. It is your proposal that will intervene for the rights of patent inventors who must be protected from usurpers who would change the course of historical invention and continue to alter protection of patent rights in the federal courts.

Technological advances have brought us to where we are today in the world and it is in this competitive spirit of invention that allows the United States to enjoy its present standard. If we allow the present course of action (i.e. broadest reasonable interpretation of intellectual property rights) then we are denying private property protection of patented processes). The inevitable consequence of using the ("BRI") standard will result in chaotic lawful posturing to accomplish little towards greater inventive ingenuity.

A Voice For Smaller Entrepreneurs,

Joseph J. Mazzola