

From: Michael John Lee
To: [PTABNPR2018](#)
Subject: Changes proposed to claims construction standard in trials before PTAB
Date: Thursday, June 7, 2018 10:19:16 AM

Comment to Proposed Rule Change: Changes to the Claims Construction Standard for Interpreting Claims in Trial Proceedings Before the PTAB

Sir/Madam:

I strongly support the adoption of the proposed rule change to the 'Claims Construction Standard for Interpreting Claims in Trial Proceedings Before the PTAB' as presented in your May 3, 2018 notice.

It is imperative that the proposed rule be adopted as soon as possible for a number of important reasons, including the resurrection of our patent system to global preeminence, to encourage and emphasize innovation that keeps our country strong, and to allow the spirit and original purpose underlying the AIA to become viable.

Furthermore I urge the USPTO to implement the new rule to be inclusive of any USPTO post grant proceedings in all stages of appeal including those that have been made subject to a final order. More specifically, USPTO should vacate all PTAB orders that have been issued for all post grant proceedings based upon claims construction standards in opposition to Phillips. Those PTAB orders not based on Phillips standards that have been adverse to the patent-holder, and which remain in any stage of appeal should be vacated.

The implementation of this rule change should better achieve the original goals of the AIA, should provide basic fairness in so far as mandating equivalency of evidentiary burden of proof in both the district courts and in the PTAB courts, and should conserve costs and time spent in litigation. Finally, I also urge that the rule change be expanded to be made applicable to all post grant reviews/reexaminations/IPRs (regardless of their statutory basis), so that any claims construction at issue in any USPTO post grant proceedings be reconciled by use of the Phillips standard.

Thank you.

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