

From: Mark Riely (MEDIA GROUP INVESTOR)
To: [PTABNPR2018](#)
Subject: Comment to Proposed Rule Change: Changes to the Claims Construction Standard
Date: Monday, July 2, 2018 12:28:40 PM

Sir/Madam:

I strongly support, and urge adoption of, the proposed rule change (Changes to the Claims Construction Standard for Interpreting Claims in Trial Proceedings Before the PTAB) that is the subject of your May, 3, 2018 notice.

As a personal investor and money manager for others in the IP sector, I urge that this proposed rule be implemented as soon as possible in order to restore the fairness and integrity of our patent system and therefore encourage innovation and the financial support thereof by investors such as myself.

I would further urge that the new rule be implemented such that it is applicable to every post grant proceeding that is any any stage while the patent is still in force. Specifically that would include those that are in the appellate process after having been made the subject of a final order. In such cases the USPTO should, sua sponte, vacate all post grant proceedings in which any standard other than Phillips was used to the detriment of the patent-holder and where the order has been appealed. Fairness and the purposes of judicial economy would appear to demand this action. If for some reason unknown to me the USPTO could not legally take this step, it should, at the very least, withdraw from any CAFC appeal proceeding.

As others have suggested, I would also urge that the rule change be expanded to be applicable to any post grant review, including reexaminations, such that only one standard (Phillips) is used whenever a claims construction is at issue in any USPTO post grant proceeding.

Finally, I also support the proposal that the USPTO should 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.

Thank you.

Mark A. Riely