

From: Trae Smith
To: [PTABNPR2018](#)
Subject: Comment Submission Proposed PTAB Claim Construction
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I am the inventor and owner of 8 utility patents of which 2 patents are currently subject to IPRs and I am commenting in support of the proposed change of claim construction to the Phillips standards within the PTAB. Need anything else be considered than the fact that the U.S. now ranks 12th in the world in terms of patent rights.

U.S. Patent System Falls to 12th in Rankings of Global Patent Systems

<http://www.ipwatchdog.com/2018/02/08/u-s-patent-system-falls-12th-place-chamber-global-ip-index-2018/id=93494/>

Having enforced numerous patents over the years in federal court, with great success, all 8 of my current utility patents were structured and claims drafted so to continue that same course of successful enforcement. However, given the difference in claim construction standards between the federal court system and ITC, what is proven to be successful in the federal courts is in fact a loser within the PTAB.

Recently a patent examiner was about to allow my 9th utility patent, and was asking for a very slight change to a claim, so minor the examiner actually made a phone call so to avoid a formal office action. Normally, I would have agreed to such a minor change, but given the fact that claims must now be written to survive a PTAB review first and foremost, I respectfully requested that an office action be written and it be explained to the examiner that we will be re-writing all claims from scratch, this in response to the PTAB and its claim construction standard.

The PTAB's current claim construction policy "broadest reasonable interpretation" renders an inventor's specifications meaningless. The single most important aspect of an inventor's invention, is the definition of a claim element. Instead, the PTAB substitutes the inventor's definition and intentions to a simpleton's definition, this, despite the inventor's clear and concise description and definition of the claim element no matter how many times an inventor may teach and define the claim element throughout the specs.

Patent examiners are very smart, highly educated and skilled at their job and for that they are the highest paid people we have in our federal government. With that said, when the PTAB invalidates 82% or more of all patents it reviews, it communicates to the world that our patent examiners are wrong 82% of the time and that is simply not true.

The patent office has lost credibility and people have lost faith. Inventors have lost enormous investment as well as private property and right now we are no better than Italy, which is number 12 in the world in patent rights.

Lets make the U.S. Patent Office great again, at least better than Italy, or the UK, Switzerland, Sweden, Spain, South Korea, Netherlands, Japan, Ireland, Germany, France or Singapore.

Thank you,

Roy R. Smith III (Trae)
President
Shoes by Firebug LLC
14100 Southwest Freeway
Suite 360
Sugar Land TX 77478
713-927-4412
<http://www.firebugshoes.com/>