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Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

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Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

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General Comment

I am an investor in Intellectual Property.

The abuse of America's Inventors by the PTAB is destroying the American Dream.

The destruction of Value in the IP marketplace is frightening.

The prominent poster children ie victims in this real life IP horror show are VirnetX and Tinnus Enterprises

The stories of VirnetX and Tinnus Enterprises are two stories we know.

If you are not familiar with these names I would ask you to spend 5 minutes on each of the following links

<http://www.ipwatchdog.com/?s=VirnetX>

<http://www.ipwatchdog.com/tag/tinnus-enterprises-v-telebrands/>

One MUST ask...

How many other legitimate inventors have been cowed into submission?

Recent research proves the PTAB is finding 85% of issued patents to be defective, in stark opposition to the Office of Patent Quality Assurance, which indicates a defect rate of 6-8%. A recent report shows that of 1,582 patents reaching a final written decision, 1,343 resulted in one or more claims being held invalid. An additional 3,055 patents have been subject to PTAB petitions but have not received a final written decision. These 3,055 patents are in limbo, along with the other 3 million patents in force and at risk of unlimited post grant reconsiderations.

<http://www.ipwatchdog.com/2017/06/14/90-percent-patents-challenged-ptab-defective/id=84343/>

Post Grant Review ("PGR") trends are indistinguishable. Since the only patents eligible for PGR were examined completely under the America Invents Act, that means patents examined under First-to-File, Enhanced Patent Quality Initiative, and current case law still do not pass PTAB muster. The problem is not the examination but rather it is PTAB procedures

Please correct the above travesties.

Replace the PTAB standard of using the BRI with the Phillips standard utilized by our Article III courts.

In addition...

When an Article III court has ruled on patent validity, any PTAB action should immediately cease.

This will level the playing field and restore Article III courts to their designed intention, that of reviewing their cases without the need to lower their evidence standards.

The 2nd proposed change, providing deference to an Article III court findings, interpretations and rulings would streamline the court process and restore order to the Rule of Law.

Thank you for the proposed changes!