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To Whom It May Concern:

I am a small independent inventor with numerous US patents, and I am concerned about the state of the patent system in recent years. Specifically, I am fully supportive of Director Iancu's proposal to:

- 1) Jettison the Broadest Reasonable Interpretation (BRI) of claim construction and apply the Phillips claim construction for issued patents.
- 2) Take into account prior claim constructions from prior proceedings at the PTAB or district court in subsequent proceedings.

From the Proposal:

"The Office is using over five years of historical data and user experiences to further shape and improve PTAB trial proceedings... "

It is problematic to have multiple standards to which to write claims to comply. Further, opposition can pick from the multiple standards to selectively promote their case, some of which comprise conflicting ideology.

Others could take a fairly worded claim and stretch the R in Reasonable to come up with something totally unreasonably irrelevant with respect to aspects of the patent's specification.

If the standards are identical, then I know once I get thru a fair proceeding the metes and bounds of the claims, one way or another, will be known and established for all. No more bites at the apple. The cost of a second or more proceeding can cripple small inventors that have the fortitude to assert their first claim construction, if treated fairly. If there is the possibility of multiple claim constructions then the financial risk often overcomes the bounds of a small inventor's enterprise. I support:

Apply the Phillips standard of claim construction used in Article III courts. 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.

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Defer to prior constructions, absent clear error. 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.

Sincerely,



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