

From: William Deaton
To: [PTABNPR2018](#)
Subject: Proposed Rule Making for Claim Construction
Date: Thursday, June 28, 2018 10:15:19 AM

Dear Sirs:

Please implement the proposed rule to discontinue the use of BRI for claim construction to instead use the Phillips standard for claim construction for certain post grant patent proceedings. I urge you to extend the use of the Phillips standard to all post grant patent proceedings.

Think about it, your agency has been using one set of standards for claim construction when prosecuting a patent grant. In addition to your agency's receiving fees for the patent application, the grantee is encouraged to incur significant expense to defend and obtain a patent grant. Then, subsequently, your agency then resorts to a different set of standards (BRI) to invalidate your agency's initial approval. If any non-governmental entity did such things they would be prosecuted for fraud.

Why does your agency invalidate so many patents on the basis of the claims are not patentable under BRI? Doesn't that mean your agency was initially incompetent in judging the claims and granting the patent? Again, it all smacks of having conflicting motivations between the granting and reviewing processes. It is only logical that when someone completes a task (granting a patent), there is a presumption that a good job was done in that task rather than using a questionable claim construction standard to undo that work.

Regards,

William R Deaton