

From: Art Monk
To: [PTABNPR2018](#)
Subject: Comment Regarding Proposed Rule 83 FR 21221
Date: Tuesday, June 26, 2018 12:48:51 AM
Attachments: [image001.png](#)
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Director of the United States Patent and Trademark Office

Attention: Vice Chief Administrative Patent Judges

Michael Tierney & Jacqueline Wright Bonilla

PTAB Notice of Proposed Rulemaking 2018'

P.O. Box 1450

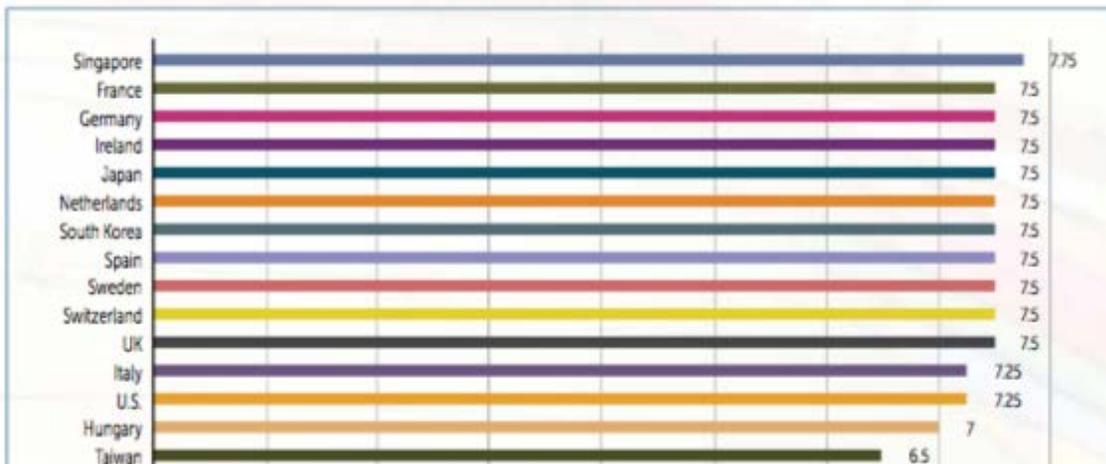
Alexandria, VA

22313– 1450

Dear Judge Tierney and Judge Bonilla,

I am writing in support of the program of reforms planned by Director Iancu and in particular the proposed rulemaking to align the claim construction standard within the PTAB with that of the Article III Courts. From the following chart taken from the International Chamber of Commerce “Create” report published 2-8-18 one can see that in the category of “Patents, Related Rights, and Limitations” the US patent system over the last 8 years has sunk to a rating of 13th in the World when we had been 1st for many years.

Figure XI: Scores, Category 1: Patents, Related Rights, and Limitations



In the words embedded in the report the explanation for this low ranking is:

discussed previously, the U.S. is no longer a global leader in this category of the Index. It is notably behind the top performers owing to uncertainty over patentability standards and a relatively low score for opposition proceedings.

The "... relatively low score for opposition proceedings" relates to the PTAB and all of its post grant mechanisms (IPRs) which reduce the certitude of a granted patent. I see the alignment of the claim construct standard between the PTAB and the Federal Circuit as a beginning step to redress this situation. I applaud Director Iancu for taking this step and hope he will have the opportunity to initiate other regulatory and rulemaking reforms that will set our patent system on a track toward becoming once again the leading patent system for the protection of patent rights.

Additionally I submit the following points that apply directly to redressing this issue:

- Ensuring that there is a consistent patent review process will elevate U.S. industry because clarity in patent interpretation provides stability and predictability for patent holders.
- A predictable patent process will create a level of confidence with innovators, which will make them more likely to bring their patentable inventions to market.
- Predictability will also diminish risk aversion, and thereby encourage entrepreneurs to invest in new technologies.

If you have any questions in regard to these comments, I would be pleased to discuss them with you at a convenient time.

Respectfully,

Art Monk

Vice President, Patent Transactions

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