

From: Mary Algedi-Cooper
To: [PTABNPR2018](#)
Subject: PTAB Suggestions
Date: Thursday, July 5, 2018 4:47:00 PM

July 5, 2018 RE: PTAB Suggestions TO: ptabnpr2018@uspto.gov

Director Inacu,

The following are excerpts from a comprehensive article written by Josh Malone on May 7, 2018 for IPWatchdog. He articulates several valid reasons for making changes to the current patent review procedures. As an investor and also the daughter of an inventor, I heartily recommend that his suggestions be implemented, as the current system is overwhelmingly discouraging to individual innovators and small companies.

"Current PTAB processes are laying waste to investment in patents and early-stage startups which is undermining confidence in the patent system overall. We submit the proposed reforms herein would help the agency to do its part to increase the reliability of the patent grant.

1. The decision to institute a PTAB proceeding must be performed by an objective independent panel.
2. Provide for attorney fees for small entities.
3. For institution, PTAB must require identification of a substantial new question (SNQ) of patentability.
4. Apply the Phillips standard of claim construction used in Article III courts.
5. Defer to prior constructions, absent clear error.
6. Seek to confirm the invention. "A patent shall be presumed valid." PTAB must draw all inferences in favor of preserving the patent.
7. Limit petitioners to a single petition per patent. Filing multiple petitions is a way of circumventing word limits imposed on petitioners when filing against the same patent. This practice significantly increases the cost of defending against a PTAB review and pushes that increased cost on the party least able to afford it. Petitioners must narrow their arguments to their best grounds in a single petition.
8. Limit Petitions to a Single Ground per Claim. Throwing hundreds of combinations of prior art at a patent to see what sticks is grossly unfair to patent owners who must allocate their word limits legal resources to guess which grounds are of concern to the PTAB.
9. Deny petitions duplicative of district court proceedings.
10. Allow live testimony and broad discovery similar to Federal Rules of Civil Procedure to aid in identification of the real parties of interest, and to allow patent owners to put on comprehensive evidence of objective indicia of non-obviousness, which assists the PTAB in correcting for hindsight bias."

Thank you.

Sincerely, Mary Reali

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