

Director Andrei Iancu
U.S. Patent and Trademark Office
Mail Stop Petitions, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PTAB and USI reforms/Lectrosonics vs Zaxcom

I am Glenn Sanders, President of Zaxcom Inc. I am writing in support of PTAB reform as outlined by US Inventor in its August 202 Petition for Rulemaking under 5 U.S.C. 553 (e). Three of my patents have been the subject of IPR cases (Lectrosonics vs Zaxcom). Zaxcom was infringed by Lectrosonics for our patents related to wireless microphones with internal audio recording. Lectrosonics is a larger company with deep pockets. They decided to use the PTAB to steal our patented technology in an effort to avoid litigation that we filed against them in the state of New Mexico.

They reasoned that they could avoid paying us to license the patents but be able to use the patents for the cost of the IPRs. Fortunately for Zaxcom their case was very weak and our evidence and secondary considerations are very strong with the fact that we have an EMMY award and a Motion Picture academy award (technical OSCAR) and had the testimony of industry experts to verify the importance of our invention. This is like having the Nobel prize for what we have invented.

The problem is that Zaxcom has spent many hundreds of thousands of dollars and we have lost our ability to get damages from Lectrosonics for the damage they have done due to the PTAB ruling that is now under appeal.

We are a small company and Lectrosonics thought we could never mount a successful defense of the case at the PTAB as of course 84% of all patents are invalidated at the PTAB. While we did not lose at the PTAB we did not win either with the PTAB accepting our claim amendments so we cannot get past damages from Lectrosonics.

A small company like Zaxcom that owns its IP and commercially produces Emmy award winning products should not be the subject of PTAB proceedings by a competitor that puts together random unrelated prior art patents that they do not own and are in unrelated fields of endeavor to invalidate the patents. If patents are invalid for those reasons a jury should decide. We fully endorse the entire proposal of USI to reform the PTAB and its ability to wrongfully take legitimate patents from their inventors and to allow larger companies with deep pockets to steal the IP with the help of the USPTO.

Discretionary denial improvements through regulations will not help me but it will help other innovators like me in the future. I specifically indorse the entire USI proposal and the following changes. It would have prevented the PTAB from wrongfully amending our patent claims that allowed Lectrosonics to for now, get away with the unpaid use of our IP while depleting our company funds.

III Requirements for Denial of Post Grant Review

(4) any of the challenged claims are concurrently asserted against the petitioner, the petitioner's real party-interest, or a privy of the petitioner in a district court action and the court has not issued any order that is contingent on institution of review; or

(5) the patent owner—

(A) was the applicant to whom the patent was originally issued;

(B) claimed small entity or micro entity status at the time the patent was issued; and

(C) actually reduced one or more of the challenged claims to practice.

Xaxcom would have fit both (4) and (5), and if these were the regulations, the Board would have had to deny institution so that a federal court would decide our case.

The money it has cost me to date was a total waste of our resources and is most likely not the final loss to us because of three appeals we have now had to take to get our original claims back. On a personal level I feel the PTAB is a mess on many levels. I am sure the intent to form it made sense to the legislators who approved it. The result of how it can be and is being used by large companies for most part against smaller inventors that do not have the resources to fight their challenges was an unintended result, and must be rectified. In our case unrelated references, produced by prior art inventors who never made their grandiose but unworkable idea, did not and cannot function as our invention, are not combinable and do not even exist as actual working devices. But these were used to invalidate our IP and force a modification of our claims. **Unbelievable!** A jury would not let that happen.

Please reform the PTAB by strengthening regulations for discretionary denial like US Inventor asks.

Glenn Sanders

President Xaxcom Inc.

