

# PUBLIC SUBMISSION

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**Docket:** PTO-C-2020-0055

Request for Comments on Discretion to Institute Trials Before the Patent Trial and Appeal Board

**Comment On:** PTO-C-2020-0055-0001

Discretion to Institute Trials Before the Patent Trial and Appeal Board

**Document:** PTO-C-2020-0055-0753

Comment from MindSpring Chemical Technologies, LLC

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## General Comment

I am a small inventor in rural North Carolina. I have spent close to 50 years working within the chemical industry with 20 of those years spent slugging it out owing my business. I have always had a great sense of faith in our patent system and the belief that the secret to our country's success in a vast legion of like-minded small inventors.

However that faith has been severely shaken by my recent experiences in the PGR and IPR procedures. I find it hard to fathom, what I have experienced with these USPTO processes. This cannot be what the AIA was designed for. How is it possible in this country to have high paid lawyers representing multi-national companies take down inventions by merely twisting words based on little or no facts to create a narrative based on circular abstract logic. (Keep repeating the same narrative enough times and it becomes fact)

What is even more disturbing is that these processes have become an inquisition not a merge of science and patent law. I tried my best to read the rules but found that I was sorely lacking in my ability to read gov-speak. I felt like a common man in the middle ages, who did not speak Latin, fighting for my life in a PGR inquisition.

These are my suggestions:

- 1) There needs to be a higher bar for these proceedings to prevent the abuses that we small inventors have been subjected to my powerful multi-nationals. If an inventor has demonstrated a sincere effort in marketing his invention, then he should be excluded from PGR/IPRs as the original intention of the AIA was meant to stop Patent Trolls.
- 2) The PTAB judges need to be familiar with the subject matter with which they are charged

with making decisions on.

3) The Patent Examiner who examined the patent should be one of the judges. (who else in the USPTO would have a better handle on what the deciding factors were in allowing the patent

4) The owners of the challenged patents should be able to recoup cost associated with the defense of their patent, if they prevail either in the PGR/IPR or on appeal

5) THE RULES NEED TO BE EXPLICITLY EXPRESSED leaving little wiggle room for the PTAB judges to make decisions based on their rules. These rules also need to be translated into a version of PGR/IPR Rules for Dummies. PTAB judges who have had a relationship with Petitioner should be required to recuse themselves.

6) The PTAB decisions should be based on clear and convincing versus preponderance of evidence

7) The inventors should be allowed to testify