From:	Zhang, Xu D
To:	PTABNPR2018
Cc:	Corbin, Johanna M
Subject:	Docket No. PTO-P-2018-0036 (AbbVie's Comments on the USPTO Proposed Claim Construction Standard for Proceedings before the PTAB)
Date:	Monday, July 9, 2018 1:05:52 PM

Mail Stop: Patent Board
Director of the United States Patent and Trademark Office
Alexandria, VA 22313-1450

Attn: **Vice Chief Administrative Patent Judges Michael Tierney or Jacqueline Wright Bonilla**, PTAB Notice of Proposed Rulemaking 2018

Re: USPTO Docket No. PTO-P-2018-0036
AbbVie's Comments on the USPTO Proposed Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

Dear Vice Chief Judges:

AbbVie Inc. ("AbbVie") supports the proposed regulation to revise the claim construction standard applied in IPR and PGR proceedings at the PTO. Using the same claim construction standard in both district courts and the PTAB will help improve consistency between the two forums where the same or related patents are often adjudicated. The proposal to use the *Phillips* standard also represents a more structured framework, as compared to the broadest reasonable interpretation standard ("BRI"), to construe claim language. BRI sometimes becomes the broadest "possible" interpretation when applied. Accordingly, AbbVie is supportive of the USPTO's adoption of the *Phillips* standard for IPR and PGR proceedings, including for the interpretation of claims amended during these proceedings.

AbbVie also supports the application of the *Phillips* standard to all pending IPR and PGR cases that are still within the PTAB's jurisdiction when the new regulation takes effect. A change to the claim interpretation standard during an IPR or PGR proceeding is unlikely to create significant or undue delay, but any delay may be offset by deference to already construed terms in district court proceedings and more importantly outweighed by the improvements in predictability and consistency overall.

AbbVie is a global, research-based biopharmaceutical company. AbbVie develops and markets advanced therapies that address some of the world's most complex and serious diseases. AbbVie's products are focused on treating conditions such as chronic autoimmune diseases in rheumatology, gastroenterology and dermatology; oncology, including blood cancers; virology, including hepatitis C virus (HCV) and human immunodeficiency virus (HIV); neurological disorders, such as Parkinson's disease and multiple sclerosis; metabolic diseases, including thyroid disease and complications associated with cystic fibrosis; as well as other serious health conditions. AbbVie also has a pipeline of promising new medicines in clinical development across such important medical specialties as immunology, oncology and neurology, with additional targeted investment in cystic fibrosis and women's health.

In conclusion, AbbVie appreciates the USPTO's proposal and supports prompt finalization and implementation of the proposed regulation.

Sincerely,

DANIEL ZHANG
Division Counsel
Patents and Trademarks

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