From: E David Brasher
To: PTABNPR2018
Subject: In support of Director Iancu rule change notification
Date: Thursday, June 28, 2018 9:06:59 AM

Sent from my iPadDirector Iancu and members of the U.S. Patent & Trademark Office,

I applaud you, Director Iancu, for having the courage to do the right thing. There are seemingly few in Washington with the willpower to choose fair over favor. America can do better. America is great because of the “American Dream,” not American politics.

I agree wholeheartedly - Using the same claim construction standard as the standard applied in federal district courts would “seek out the correct construction—the construction that most accurately delineates the scope of the claim invention—under the framework laid out in Phillips.” PPC Broadband, 815 F.3d at 740-42.

The investment, work, and persistence to gain a patent grant is huge. Today, it is demoralizing for young inventors to see what big corporate is achieving through high-dollar lobby and post-grant petitions. The statistics don’t lie and the challenges explained by realistic patent attorneys are alarming to inventors.

Many innovators – sometimes YEARS after being granted a patent(s) – are being dropped by legal snipers retained by big corporate to avoid licensing and/or compensating for innovation. Even worse, some that are time-barred find proxies. Inventors find themselves locked-out from real discovery opportunities with the process. All the evidence can suggest other real parties of interest. Yet the process shields a petitioner compared to district courts while

snuffing-out due process for an inventor.
One missing area in the announced rule change that I recommend the Director strongly consider is existing re-examination proceedings. There is no reasonable reconciliation why a post-grant patent be treated differently in one forum with claim construction over another. After all, an inventor invests heavily from a patent grant recognized by the Director's Agency. The inventor then tries to make a business from that certified, patented invention. It is logical that the district court standard, Phillips, should be the same in all post-grant proceedings as a matter of fairness, particularly where there is parallel litigation.
Thank you for an opportunity and the platform to voice my opinion and observations based on real, personal experience.

David BRASHER