

Mail Stop
Patent Board
Director of the United States Patent and Trademark Office
Attention: Vice Chief Administrative Patent Judges
Michael Tierney & Jacqueline Wright Bonilla
PTAB Notice of Proposed Rulemaking 2018
P.O. Box 1450
Alexandria, VA
22313– 1450

I support the proposal of the United States Patent and Trademark Office (Office) to alter its claim construction standard used for interpreting inter partes review (IPR), post-grant review (PGR), and the transitional program for covered business method patents (CBM) proceedings before the Patent Trial and Appeal Board (PTAB). This change will promote a “fair and balanced approach, providing greater predictability and certainty in the patent system” which will, in turn, increase judicial efficiency and reduce economic waste.

The proposed shift to the Phillips standard should extend to all pending PTAB trial proceedings in which PTAB has jurisdiction in order to discourage tactical filing before or after the rule change.

Harmonizing the PTAB and district court claim construction standards will facilitate a consistent patent review process. Ensuring that there is a consistent patent review process will elevate U.S. industry because clarity in patent interpretation provides stability and predictability for patent holders. A predictable patent process will diminish risk aversion and create a level of confidence with innovators and their investors, which will make them more likely to bring new inventions to market and start new companies.

Earl Bright

President & General Counsel

ExploraMed – medical device company incubator