

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

Re: 83 FR 21221 - Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board

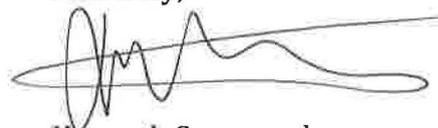
Your Honors:

I am writing this both in my personal capacity as an inventor on 143 issued US patents and in my capacity as Chief Technical Officer (CTO) of WiLAN Inc.

We support the proposed rulemaking expressed in 83 FR 21221 to alter the claim construction standard used by the United States Patent and Trademark Office (USPTO) for interpreting claims in inter partes review (IPR), post-grant review (PGR), and covered business method patents (CBM) proceedings before the Patent Trial and Appeals Board (PTAB). We support the proposal for the PTAB to use the Phillips standard for claim construction rather than the broadest reasonable interpretation standard (BRI) in these proceedings. Use of the Phillips standard, which is the standard used by the federal courts and the International Trade Commission (ITC), will promote consistency among all venues, which will increase predictability and efficiency in the US patent system. We believe that the Phillips standard is much closer to what the inventor intended the claims to cover, rather than the overly broad BRI standard.

A large percentage of patents that have been subject to trial proceedings before the PTAB have also been subject to litigation in the federal court system. The application of different standards between these two venues unfairly disadvantages the patent holder and encourages patent challengers to bring the same patent holder to court in both venues, causing inefficiency and excessive costs. This counteracts one of the goals of the America Invents Act (AIA). Uniformity of standards will reduce duplicative challenges saving time and money. This is particularly important for individual inventors, entrepreneurs, and startups.

Sincerely,



Kenneth Stanwood