

**From:** Kelly Sexton  
**To:** [PTABNPR2018](#)  
**Subject:** PTAB Notice of Proposed Rulemaking 2018  
**Date:** Monday, July 9, 2018 2:19:51 PM

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Dear Vice Chief Administrative Patent Judges Michael Tierney and Jacqueline Bonilla:

The University of Michigan's Office of Technology Transfer wishes to support the Notice of Proposed Rulemaking issued on May 9, 2018, regarding changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings before the Patent Trial and Appeal Board (PTAB) of the Patent and Trademark Office (PTO).

As specified in the notice, PTO is considering amending the rules for *inter partes* reviews, post-grant reviews, and covered business method patent proceedings for trials before the PTAB. In doing so, PTO proposes to replace the current claim construction standard for interpreting unexpired claims and claims proposed in motions to amend with the same standard used by federal district courts and the International Trade Commission proceedings in patent infringement cases (the so-called *Phillips* standard).

The *Phillips* standard is also a fair and balanced one. We agree with PTO's analysis that correcting the PTAB standard to mirror the one used in federal court would benefit our patent system by improving the uniformity and predictability of patent grants. We further agree that having the same standard in both court and at PTAB could increase judicial efficiency overall, particularly since many of the patents at issue in America Invents Act trial proceedings have also been the subject of federal litigation.

We support the comments submitted by the Association of University Technology Managers (AUTM) on July 2, 2018.

Because university research discoveries are typically very early stage, we depend on a robust and reliable patent system to protect these inventions so that we can license these rights to entrepreneurs and companies who can invest the resources required for technology commercialization. A strong patent system is therefore essential for universities to be able to advance research discoveries to the marketplace for societal benefit and in support of our nation's economic prosperity.

We urge the Patent Office to affirm this proposed rulemaking and put it into effect as soon as practicable.

Sincerely,

Kelly B. Sexton

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Kelly B. Sexton, Ph.D.  
Associate Vice President for Research  
Technology Transfer and Innovation Partnerships  
Office of Technology Transfer  
University of Michigan

[kbsexton@umich.edu](mailto:kbsexton@umich.edu)

