

September 15th, 2020  
Committee for,  
Amendments to the Rules for Practice for Trials  
Before the Patent Trial and Appeal Board

Dear Committee, I appreciate the opportunity to address this committee concerning rule amendments for the Patent Trial & Appeal Board (PTAB).

My brother (Kamran Asghari Kamrani) and I (Nader Asghari Kamrani) are computer scientists and have been independent inventors for more than twenty (20) years with many issued patents and pending patent applications.

In the last couple of years, PTAB has created incredible confusion and caused enormous damages to us and many other inventors and startup companies by invalidating valuable patents.

In early September 2015, a large institution filed an IPR petition against our '432 patent (8,266,432). In February 2016, the PTAB denied institution of the IPR. The petitioner followed this rejection with filing of two CBM petitions in May 2016. By then, it was clear to us that the PTAB is a powerful tool in the hands of infringers to abuse the US patent system to bully small inventors and businesses. When CBM petitions were filed, PTAB replaced the set of judges previously assigned to the IPR with new set of judges. Despite the fact that none of our '432 patent claims were financial in nature or had any financial activity elements, and the claims were directed to network and internet security, the new set of judges in error or on purpose instituted both CBM petitions and invalidated our '432 patent.

Inventors and startups are currently experiencing the darkest moments of innovation in America. Inventors and startups are belittled by those who are supposed to protect innovations in America. From one side, you have the courts

that are more focused on invalidating patents based on being abstract, without giving a clear definition of what an abstract idea is. From the other side, you have PTAB that based on the latest data, currently invalidates many issued valuable patents that go under examination. It is important to highlight that based on our knowledge and experience, the USPTO is the only institution in the world that has created a trial board against its own mission. The USPTO's mission is to fulfill objectives outlined in the United States Constitution by promoting industrial and technological progress in the United States and strengthening the national economy. The PTAB's mission seems to contradict the USPTO's mission by re-examining valuable patents and invalidating most of them, which results in slowing down the progress in the United States, weakening the economy and endangering our national security. Imagine another institution like a college or university doing exactly what the USPTO has done. What would happen if a college or university creates a trial board internally to re-examine degrees issued to students who have successfully graduated from that university? What would happen if they allow a third-party (e.g. an employer) to file a petition requesting this board to re-examine someone's college degrees? What would happen if the university would allow multiple petitions to be filed against the degree? What would happen if it becomes evident that this board is invalidating 80% of re-examined degrees? How painful would this experience be to students who have already graduated? To students who have spent thousands of dollars in tuition and many years studying? Who would trust such a university again? Do you think this would encourage or discourage anyone from going to college? Would our Government even allow for such a university to stay in business? If we believe that having trial boards like these across the nation at universities are unimaginable and a bad idea, why is having such a trial board at the USPTO deemed acceptable? Why is it that after invalidating many examined patents, the Government still allows the USPTO to continue with the PTAB?

After all, we wish we had the power to invalidate the university degrees of PTAB judges, just to show them what innovators feel after they invalidate their valuable patents.

**Aligning PTAB's mission with USPTO's:**

Small business owners are innovators who are born to invent like writers who are born to write. Imagine this: what would happen if the US government decides to make writers' already published books available for free? As a writer, would you attempt to continue writing and publishing books in America? This example is fiction, but it proves our point that when you make the patent system weak, you take away inventors' ambitions to innovate and start new businesses. Under the previous administration, PTAB destroyed inventorship in America, and under this administration, we must take the correct course of action to reverse many of the harms that have been caused and restore America's Patent System. PTAB must align its mission with the USPTO's mission by making sure that any rule amendment would promote investments, encourage innovations, and empower our national security.

We suggest the following:

- 1) During the life of a patent, PTAB should only allow one petition to be filed;
- 2) Post-grant review should not be instituted for small businesses and independent inventors;
- 3) The USPTO shall return patent fees paid by the patent owner if PTAB finds a patent to be invalid.

Respectfully submitted,

Nader Kamrani

[nkamrani@hotmail.com](mailto:nkamrani@hotmail.com)

Kamran Kamrani

[kkamrani@yahoo.com](mailto:kkamrani@yahoo.com)