

July 9, 2018

The Honorable Andrei Iancu
Under Secretary of Commerce for Intellectual Property
Director of the United States Patent and Trademark Office
U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Via email: PTABNPR2018@uspto.gov

Dear Under Secretary Iancu:

The Association of American Universities (AAU), Association of Public and Land-grant Universities (APLU), and Council on Governmental Relations (COGR) write to submit comments on the United States Patent and Trademark Office's Proposed Changes to the Claim Construction Standard Used in Patent Trial and Appeal Board (PTAB) Proceedings (Docket number: PTO-P-2018-0036). Together, AAU, APLU, and COGR represent all major research universities in the United States. We appreciate your efforts to increase judicial efficiency and ensure consistency in claim construction between proceedings in the district court, the PTAB, and the International Trade Commission (ITC).

We support harmonizing the *inter partes* review (IPR) claim construction standard with that of the federal courts and the ITC by applying the *Phillips* standard rather than the "broadest reasonable interpretation" standard. We believe that this change will promote consistency in claim construction between the PTAB and proceedings in district court or at the ITC, as well as increase efficiency of the U.S patent system.

As it currently stands, the IPR process has introduced asymmetries into the patent system that unfairly disadvantage patent holders and create uncertainty for university licensees that discourages investment in university innovations. The proposed change ensures consistency in the patent review process and provides clarity in patent interpretation, which translates to stability and predictability for patent holders, applicants, and licensees.

Thank you again for proposing a change to the claim construction standard. We hope to continue working with you to reinforce the effectiveness of the U.S. patent system to the benefit of local and regional economies as well as our national economic strength.

Sincerely,

Association of American Universities
Association of Public and Land-grant Universities
Council on Governmental Relations