REEXAMINATION

An Alternative To Litigation

Presented by: Ria Farrell Schalnat

Frost Brown Todd LLC

Help STC find prior art
to invalidate patents held by trolls
that are choking the industry.

Phoenix Solutions versus *Anything That Moves!*

- **Pacific Gas & Electric**

- **DirecTV**

- **Wells Fargo**

- **Sony Electronics**

- **West Interactive**

US Patents

6,665,640
7,050,977
7,139,714
7,225,125
7,277,854
6,615,172

Allvoice Computing PLC
v.
Nuance Communications, Inc.

Filed 11/27/2002   **Settled 7/10/2008**

US Patent 5,799,273

But Nuance has deep pockets, so why should you care?

Because, if they position their settlement against Nuance as a win, they will leverage that against their next target.

Price of Litigation $1 Million

(starting price tag)

Price of Litigation $1 Million

(starting price tag)

Reexamination on your own

$25,000-
$50,000

Price of Litigation   **$1 Million**

(starting price tag)

Reexamination on your own

$25,000-$50,000

$3,000-$10,000

STC Reexamination

– no additional cost for reexams

(we vote to undertake)

Membership

Price of Litigation **$1 Million**
(starting price tag)

Reexamination on your own
$25,000-$50,000

$3,000-$10,000
STC Reexamination **Membership**
– no additional cost for reexams
(we vote to undertake)

Peace of Mind **Priceless**

Inter Partes Reexaminations Completed as of August 2008

Surprisingly, the proceedings displayed a high 73% "kill" rate (complete elimination of all claims targeted by the requesters) – a rate which is far above that in litigation (33%) and *ex parte* re-examination (12%).

http://www.patentlyo.com/patent/law/baluchmaebius.pdf

– The Surprising Efficacy of *Inter Partes* Reexaminations

Foley & Lardner LLP

   citing **Ex Parte Reexamination Statistics II from Patently-O –**

http://www.patentlyo.com/patent/2008/06/ex-parte-reexam.html
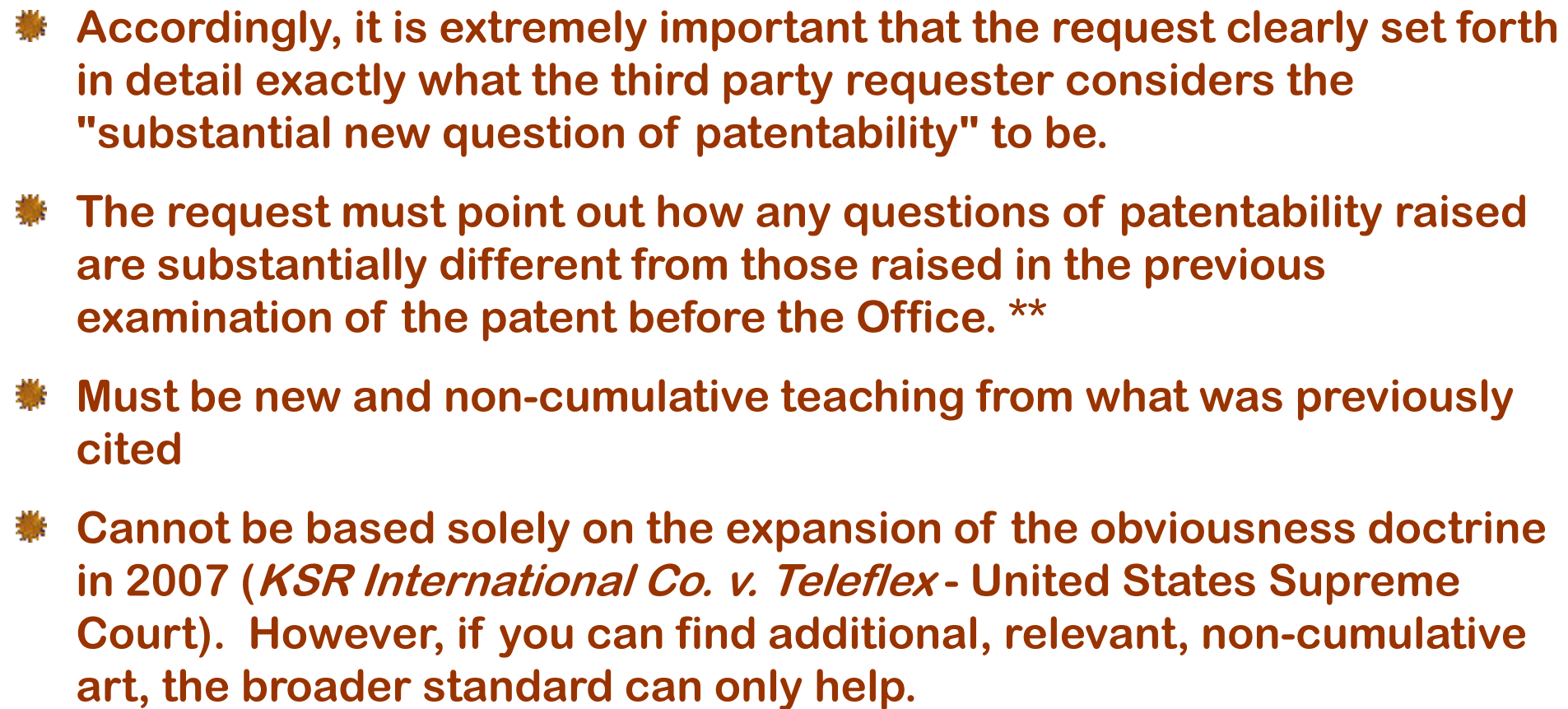
Standard for Reexam

MPEP 2616 Substantial New Question of Patentability
 - MPEP 2600 Optional Inter Partes Reexamination
MPEP 2616 Substantial New Question of Patentability

Under **35 U.S.C. 312 and 313**, the Office must determine whether *"a substantial new question of patentability"* affecting any claim of the patent has been raised.

37 CFR 1.915(b)(3) "*based on the cited patents and printed publications...."*

- Accordingly, it is extremely important that the request clearly set forth in detail exactly what the third party requester considers the "substantial new question of patentability" to be.

- The request must point out how any questions of patentability raised are substantially different from those raised in the previous examination of the patent before the Office. **

- Must be new and non-cumulative teaching from what was previously cited

- Cannot be based solely on the expansion of the obviousness doctrine in 2007 (*KSR International Co. v. Teleflex* - United States Supreme Court). However, if you can find additional, relevant, non-cumulative art, the broader standard can only help.

Don't use for the wrong reasons (e.g., as a delay tactic in litigation (the court has the discretion to continue with litigation despite the re-exam request)).

Don't use unless your case is VERY strong. (Why? because if the patent holder survives the reexam then you just helped them make their patent EVEN stronger!)

Which Ones is STC Looking At?

US007624007B2

(10) **Patent No.:** US 7,624,007 B2
(45) **Date of Patent:** Nov. 24, 2009

(12) **United States Patent**
Bennett

(54) **SYSTEM AND METHOD FOR NATURAL LANGUAGE PROCESSING OF SENTENCE BASED QUERIES**

(75) Inventor: **Ian M. Bennett**, Palo Alto, CA (US)

(73) Assignee: **Phoenix Solutions, Inc.**, Palo Alto, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 802 days.

(21) Appl. No.: **11/003,842**

(22) Filed: **Dec. 3, 2004**

(57) **ABSTRACT**

Sentence based queries from a user are analyzed using a natural language engine to determine appropriate answers from an electronic database. The system and methods are useful for Internet based search engines, as well as distributed speech recognition systems such as a client-server system. The latter are typically implemented on an intranet or over the Internet based on user queries at his/her computer, a PDA, or a workstation using a speech input interface.

US007392185B2

(10) **Patent No.:** US 7,392,185 B2
(45) **Date of Patent:** Jun. 24, 2008

(12) **United States Patent**
Bennett

(54) **SPEECH BASED LEARNING/TRAINING SYSTEM USING SEMANTIC DECODING**

(75) Inventor: **Ian M. Bennett**, Palo Alto, CA (US)

(73) Assignee: **Phoenix Solutions, Inc.**, Palo Alto, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 764 days.

(21) Appl. No.: **10/603,998**

(22) Filed: **Jun. 25, 2003**

(57) **ABSTRACT**

An intelligent query system for processing voiced-based queries is disclosed, which uses a combination of both statistical and semantic based processing to identify the question posed by the user by understanding the meaning of the user's utterance. Based on identifying the meaning of the utterance, the system selects a single answer that best matches the user's query. The answer that is paired to this single question is then retrieved and presented to the user. The system, as implemented, accepts environmental variables selected by the user and is scalable to provide answers to a variety and quantity of user-initiated queries.

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