



Comments of Nokia Corporation on the United States Patent and Trademark Office Notice of Proposed Rulemaking Regarding Requirement to Identify All Real Parties in Interest to a Third-Party Request for Ex Parte Reexamination

Docket No. PTO-P-2025-0545

Nokia Corporation appreciates the opportunity to comment on the United States Patent and Trademark Office's Notice of Proposed Rulemaking entitled "Requirement To Identify All Real Parties in Interest to a Third Party Request for an Ex Parte Reexamination." The proposal would require third-party requesters seeking ex parte reexamination to provide a confidential statement identifying all real parties in interest while maintaining protections against public disclosure of that information.

Nokia is a global technology leader with a significant presence in the United States and a long-standing commitment to innovation, standardization, and high-risk, long-term research and development. The company invests billions of dollars annually in R&D in communications technologies, contributes foundational technologies to global standards, and depends on a stable and predictable patent system to support those investments.

Nokia believes that robust and meaningful disclosure obligations are essential to ensuring that post-grant reviews at the USPTO and PTAB are used for their intended purpose, rather than as tools for strategic coordination or serial patent challenges by related actors. For patent owners and the USPTO, the ability to identify who is truly driving and funding a patent challenge is fundamental to procedural fairness, estoppel, and the integrity of the system as a whole. Clear enforcement of real-party-in-interest rules promotes transparency, deters gamesmanship, and helps ensure that discretionary denial, estoppel, and other statutory safeguards operate as Congress intended, promoting confidence in the PTO's decision-making.

Consistent with this position, Nokia supports the proposed rule. The proposal advances important objectives of transparency, administrative efficiency, procedural integrity, and faithful implementation of statutory estoppel provisions while preserving limited confidentiality interests Congress sought to protect in connection with ex parte



reexamination proceedings. The proposed approach appropriately balances these considerations and will strengthen confidence in the reexamination system.

The Proposed Rule Promotes Effective Administration of Statutory Estoppel Provisions

The USPTO correctly recognizes that application of the estoppel provisions found in 35 U.S.C. §§ 315(e) and 325(e) necessarily requires the Office to know the identity of the entities behind a request for ex parte reexamination. As the NPRM explains, the current ability to conceal from the Office the identity of the requester and other RPIs creates circumstances in which the Office may be unable to determine whether estoppel should apply.

Nokia agrees that the existing certification framework, while important, cannot always provide the Office with an adequate basis to independently assess whether a requester is subject to statutory estoppel. The proposed rule would allow the USPTO to evaluate estoppel questions more efficiently and accurately, reducing the risk that proceedings which should be barred by statute are inadvertently instituted and conducted. This outcome promotes fairness to patent owners while ensuring that administrative resources are focused on proceedings that Congress intended to permit.

The proposed requirement is also consistent with the broader structure of post-grant practice. The America Invents Act already requires identification of RPIs in inter partes review proceedings. A similar requirement for ex parte reexamination promotes consistency and coherence across USPTO challenge mechanisms and helps ensure that estoppel provisions operate as Congress intended.

Confidentiality Safeguards Properly Address Historic Concerns

Nokia also supports the Office's proposal to maintain confidentiality protections for the submitted RPI information. The NPRM acknowledges concerns previously raised regarding the potential chilling effect that disclosure requirements might have on the willingness of parties to seek reexamination. The proposed rule directly addresses those concerns by permitting the RPI statement to remain confidential and excluded from the public patent and reexamination files upon request.



This aspect of the proposal is important. Ex parte reexamination serves as a valuable mechanism for testing patent validity. Legitimate users of the system operating within its restrictions should be able to obtain the benefits of reexamination without exposing commercially-sensitive information or unnecessarily revealing business strategies.

By limiting disclosure to the Office rather than the public, the proposal preserves the confidentiality interests reflected in 35 U.S.C. §§ 301(e) and 302 while simultaneously enabling the USPTO to perform its statutory responsibilities. Nokia believes this is an appropriate balance.

The Proposed Rule Will Improve Integrity and Public Confidence

Nokia further agrees that identification of all RPIs can improve the integrity of reexamination proceedings and facilitate the Office's efforts to address misrepresentations, fraud, and other abuses. As the NPRM notes, knowing the identities of the parties behind a filing may assist the USPTO in evaluating questions regarding unauthorized practice, false certifications, or other conduct affecting the integrity of proceedings.

Transparency to the Office, even where confidentiality from the public is maintained, creates accountability. The proposed rule discourages attempts to obscure relationships among entities or to circumvent restrictions established by Congress. Greater confidence that challenges are being pursued by proper parties will benefit all stakeholders and enhance trust in USPTO decision-making.

Suggested Possible Clarifications

Although Nokia supports the proposal, the Office may wish to provide additional guidance concerning the determination of whether an entity qualifies as an RPI in the ex parte reexamination context.

The NPRM appropriately notes that RPI determinations are fact-dependent and points stakeholders to relevant Federal Circuit precedent and PTAB guidance. Additional examples or explanatory guidance, however, could further assist stakeholders in applying the rule consistently, particularly in situations involving:

- Corporate parent-subsidary relationships;



- Joint defense or joint interest arrangements;
- Indemnification obligations;
- Members of industry consortia; and/or
- Third-party funding arrangements.

Providing such guidance would help minimize uncertainty, encourage compliance, and reduce disputes regarding the scope of the disclosure obligation.

Conclusion

Nokia supports the USPTO's proposed amendments requiring identification of all real parties in interest for third-party requests for ex parte reexamination. The proposal strikes an appropriate balance between preserving legitimate confidentiality interests and enabling the Office to administer statutory estoppel provisions effectively, prevent abuse, and protect the integrity of the patent system. The rules will improve procedural consistency across USPTO proceedings while promoting fairness and efficient use of agency resources.

Accordingly, Nokia respectfully urges the USPTO to adopt the proposed rule, perhaps with additional explanatory guidance on who might qualify as a real party in interest.

Regards,

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