

BOARD OF PATENT APPEALS AND INTERFERENCES

STANDARD OPERATING PROCEDURE 7

DESIGNATION OF BOARD DECISIONS/ORDERS AS INFORMATIVE

This Standard Operating Procedure (SOP) describes the process by which decisions/orders of the Board of Patent Appeals and Interferences (Board) are designated as informative opinions in accordance with the Notice of the Chief Administrative Patent Judge of December 27, 2006, 1314 Off. Gaz. Pat. & Tm. Office 4 (Jan. 23, 2007).

The purpose of an informative opinion is to illustrate norms of Board decision-making for the public, the patent examining corps, and future Board panels. *Id.* Informative opinions are not binding on the Board. Informative opinions will be posted at:

http://www.uspto.gov/web/offices/dcom/bpai/informative_opinions.html

The process for designating a decision/order as an informative opinion is exclusively an internal process that takes place after a decision/order has been mailed by the Board. The Chief Administrative Patent Judge (CAPJ) makes the final determination as to whether a decision/order is to be designated as an informative opinion.

This SOP creates internal operating procedures for the Board and does not create any legally enforceable rights.

I. Review Committee

A. In seeking to make an informed determination, the CAPJ may form an advisory Review Committee to recommend whether a decision/order is appropriate for designation as an informative opinion.

B. The Review Committee is a committee of Board personnel designated by the CAPJ.

C. The CAPJ will designate a Point of Contact (POC) for the Review Committee to facilitate the evaluation process.

D. The POC serves as a liaison to the Review Committee and not as a member of the Review Committee.

II. Procedure For Identifying Candidate Decisions/Orders To Be Designated as Informative Opinions

A. Any APJ may nominate a decision/order to be designated as an informative opinion by submitting the decision/order and a written statement to his/her Lead Administrative Patent Judge (LAPJ) stating the reasons why a particular decision/order should be designated as an informative opinion.

B. After internal considerations within the discipline team, the Lead APJ will decide whether to recommend the decision/order to be designated as an informative opinion.

C. The CAPJ, Vice CAPJ, or a LAPJ can submit a decision/order to the Review Committee via the POC for consideration as an informative opinion.

III. Procedure For Designating Decisions/Orders As Informative Opinions

A. The Review Committee will review the appropriate submission, including the decision/order and any comments from the LAPJ or APJ who submitted the decision/order.

B. The Review Committee members will individually submit their recommendations to the POC on whether designation of the decision/order as an informative opinion is appropriate.

C. The POC will collect the recommendations of the Review Committee members and forward them to the CAPJ.

D. The CAPJ will make the final determination as to whether a decision/order is to be designated as an informative opinion.

E. If the CAPJ's determination is to designate a decision/order as an informative opinion, the decision/order will be posted at:

http://www.uspto.gov/web/offices/dcom/bpai/informative_opinions.html