

**From:** G K Glass  
**Sent:** Wednesday, April 30, 2014 4:52 AM  
**To:** CrowdsourcingRoundtable2014  
**Subject:** Comment on Third Party Prior Art Submissions

Dear Sirs,

My own experience with making observations at the USPTO is limited to observations made as an inventor in inventor declarations on the files on 11/587647 and 13/456929. My motivation for making observations resulted from repeated veiled threats and aborted patent ownership litigation by a new patent owner who purchased this invention from our previous employer about 5 years after we lost our jobs through no fault of our own. Our declarations are publically available. This is a summary of what I have learnt.

At least in the case of 13/456929, the owner dismissed our observations with the statement, "The Examiner will appreciate that there is currently a dispute between the parties on this matter so that the documents are entirely self-serving" (2013-08-26 Petition on the file of 13/456929). This was despite the fact that the owner initiated the dispute. We do not know if our previous observations were similarly dismissed in a phone call to the examiner.

The apparent absence of a response to my observations may also in part be due to my own underestimation of the complex nature of the technical field. However, a detailed inventor declaration submitted onto the file of 13/456929 on about August 12, 2013 was prepared at some expense with the assistance of patent attorneys Davis and Bujold (Concord, New Hampshire). It came as close as possible to clearly providing the examiner with the complex information necessary to provide objections.

There was once again very little indication that the examiner had taken these observations into account. He did raise objections but his response contained errors which prompted the owner to justifiably state on 2014-03-05 on the file of 13/456929, "It is believed that the Examiner is NOT looking at the correct set of claims since many of the objections clearly are directed to language which does NOT appear in the claims under examination". In such conditions, I think it is fair to believe that it is extremely unlikely that the damage to the public interest will be limited by third party submissions.

From my own experience I continue to find the response of examiners to such material to be discouraging. Such observations seem to be treated as unwanted interference and this is possibly a justifiable conclusion in some cases. I do not even know whether my observations were considered and it would be better if it were clear that they were not considered. I am therefore minded not to provide further substantial material as I do not see what benefit it could bring in a forum where it can so readily be dismissed in an uncontested way.

I have found no guidance on what presentation is helpful and what is unhelpful to patent examiners, and there is not even the briefest feedback on such submissions to the observer that would help the

observer to improve. There is an inherent risk that any third party submission in an examination process could be construed as inferred criticism of the job the examiner is doing.

It appears that presenting relevant material in such a forum will also restrict available options further down the line when an attempt is made to get the material re-considered. Consideration should therefore be given to accompanying the promotion of this process with a warning concerning potential loss of rights.

Consideration should be given to providing guidance on the form that such material should take for it to be acceptable to the examiner. Such material should possibly be filtered by the examiners supervisor to limit the risk of examiners becoming prejudiced against using such material.

Perhaps the first people who should comment on these proposals under consideration are the USPTO examiners themselves who need to be willing to accept the information, and who then have to be able to constructively use this information.

Respectfully submitted

G Glass