

Global Online Effort To Ascertain Validity of Patents



By Eric Sinrod,

Whether a particular patent is valid has potentially far-reaching implications. Novelty or newness is the basic underpinning of every invention that leads to a patent.

After a patent has been granted, parties may seek to defeat its validity in litigation by arguing that the patented subject matter was not novel at the time of invention. There may be a showing that the invention at issue was anticipated by what is referred to as prior art.

Given the vast access to information now provided by the Internet, parties have a much greater ability to search for and potentially find prior art with respect to particular patented inventions. It is in this context that along comes Article One Partners, LLC (Article One). Article One has just launched a "new global community to legitimize the validity of patents."

Article One seeks to have its member "Advisors" submit previously difficult to find prior art evidence relating to the validity of "high profile patents." Article One in turn intends to analyze this information to determine whether it can show patents to be legitimate or invalid.

If Article One concludes that patents are invalid (the real focus), Advisors can earn up to \$50,000, with a total of \$1 million being offered potentially at launch. Furthermore, Advisors who actively build the Article One community can earn compensation in Article One's profit sharing plan.

A patent is a powerful government-granted right that enables a patent-holder to prevent competition with respect to an invention for a certain period of years. Article One claims that its efforts are intended to "restore the patent system to its original intent of granting exclusive rights for true innovation."

Accordingly, Article One apparently believes that prior art that establishes that a patent has been granted for an "invention" that in fact was not novel should be used to invalidate the patent.

Article One's name comes from that portion of the United States Constitution that provides that "the Congress shall have the power . . . to promote the progress of science and useful arts, by securing for limited times . . . inventors the exclusive rights to their discoveries."

Lest we not be mistaken, for some time already the Internet has been used by others to harvest information of prior art that may have anticipated particular patented inventions. But here, Article One seeks to provide financial incentives to potential global Advisors in one community to come forward with possible prior art information.

Article One states that its mission is to "evaluate and provide information to the patent industry." One would think that that means that Article One could become a support player in patent litigation against patent holders. Time will tell whether Article One's approach will gain traction.

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