

Article One Partners Q&A

November, 2008

What is Article One Partners?

Article One Partners is a new global community that legitimizes the validity of patents. Community members are asked to send in previously hard-to-find evidence of validity for high profile patents. By tapping the unique knowledge and referral networks of our members – who the Article One community calls Advisors – this publicly available evidence known as prior art can be discovered. The highly rewarded community provides a second review of U.S. patents to justify monopoly pricing for true innovation. Article One Partners' mission is to strengthen legitimate patents and reduce unjust patent monopolies resulting from a drastic rise in potentially overbroad patents.

Article One Partners is fueled by the idea that every patent that can be invalidated *should* be invalidated. By reducing the number of invalid patents, we support open sharing of the science and technology that drive innovation and new research opportunities. Our process also supports truly original patents; claims for worthy innovations are intrinsically strengthened when our comprehensive global search does not uncover prior art.

By tapping the unique knowledge and referral networks of our global community of “Advisors,” we can discover even the most elusive prior art – and offer rewards of up to \$50,000. Advisors can also earn money through our Profit Sharing Plan: AOP disburses about 5% of its annual net profits among its active Advisors, with distributions going to, for example, Advisors who are the most active in the forum, win a Patent Study or refer a friend who does. The result is **a highly rewarded citizen's review that helps to reform U.S. patent system.**

How did Article One Partners get its name?

Article One Partners is aptly named after Article 1, Section 8, Clause 8 of the U.S. Constitution: “The Congress shall have power ... to promote the progress of science and useful arts, by securing for limited times to ... inventors the exclusive rights to their ... discoveries.”

Why is the patent system in need of reform?

While the foundation of the patent system is sound and the U.S. Patent & Trademark Office (USPTO) has performed admirably, the USPTO's resources and security requirements are too limited to sufficiently research each of the rapidly growing number of patent applications. Result: an increase of overly broad patent grants. As long as the USPTO is flooded with patent applications, both industry-at-large and the public will suffer from the enormous economic impact. In effect, the private sector is held hostage by these overly broad patents, resulting not only in higher premiums for the public, but also in stifled research and development due to unmerited exclusionary rights. AOP supports

the urgently needed reformation of the patent system through private sector efforts to validate patents already wielding tremendous power over the markets and industry.

How can Article One Partners help to foster innovation?

Through prior art searches, Article One Partners provides evidence to the market that can invalidate overly broad patents and reduce unfair monopolies. Result: industry can focus its resources on growth and licensing revenues, rather than unnecessary patent litigation. We also support truly unique patents: claims for unique innovations are intrinsically strengthened when AOP's comprehensive global search does not uncover prior art. A stronger patent system can significantly reduce patent litigation, lower the number of patent reexaminations taxing the USPTO, and empower inventor community to commercialize their inventions with greater confidence.

How can the private sector help to strengthen patents?

Eligible people from all walks of life can participate in our highly rewarded citizen's review. The diversity of our members, and their unique and collective knowledge, is what makes Article One Partners work. New patent validity evidence brought forth by the private sector can be used by industry to *directly* impact the legitimacy of a patent issued by the USPTO. For example, many of our Patent Studies involve patent litigations. The evidence we uncover can be a basis for negotiations between litigants or even introduced into the litigation for judicial review. Using this global pool of researchers and knowledge experts to put high-profile patents to the test can reduce the need for costly litigations. This system also promotes new innovation by opening doors that were once barred by overly broad patents.

What are the top benefits to Article One Partners' approach?

Article One Partners helps to reform the U.S. patent system for the benefit of the economy, the inventor community, and our own members, who we call our Advisors.

- By focusing community efforts on select patents that hold the most **significant economic impact** on the public and industry, AOP seeks to provide the much-needed and elusive evidence that can help to reduce the number of invalid patents – thus preventing unwarranted patent monopolies and litigations.
- Providing **premium compensation**, including up to \$50,000 rewards and Profit Sharing to active Advisors, helps to align the interests of all AOP community members.
- Article One Partners' collective approach to discovering prior art adds a **crucial level of review** to the U.S. patent system.

What will make Article One Partners successful where previous attempts were not able to sustain the research platform?

Article One Partners does not rely on outside parties to offer Patent Studies and rewards. Our core system is entirely self-sufficient: we select the patents; we pay out the rewards to our members. This means that we can choose patents that potentially have the most

significant economic impact on the public at large. This contrasts with a historical company called BountyQuest.com (no longer in existence) which created a platform for third parties to post requests for prior art on its website. This model relied heavily on the interest of third parties to enable research studies. Fees for results were also dependent upon third party selection. For Article One Partners, providing the opportunity to third parties to conduct research through our platform (pursuant to strict professional standards) can produce additional revenues for AOP and our Advisors through Profit Sharing. However, AOP is not dependent upon this model and therefore can provide a continuous and robust incentive platform based on our self-selected Patent Studies.

Article One Partners carefully researches and selects patents that hold the most significant economic impact either for the public, patent holder, companies or individuals who potentially can be alleged to infringe the subject patents. We look for overly broad patents that can hinder the economy, innovation, and the public at large through unwarranted monopolies. However, it is our intention to decline researching patents if the result based on our evaluation could harm the public's access to a product or process covered by the patents. Examples include patents tied to medications for "orphan diseases," those rare afflictions suffered by less than 200,000 people in the U.S. These medications are rare and costly – and if one of them is pulled from the shelves as the result of a patent that turns out to be invalid, patients could be left without treatment.

Article One Partners includes executives and consultants who together have over 75 years of patent law experience and diverse technical backgrounds. In addition, AOP engages outside patent counsel for some Patent Studies to provide a validity analysis and possibly an opinion. In those cases, the industry's leading legal and IP experts are being brought to bear on whether a Patent Study results in an opinion that invalidating prior art has or has not been uncovered. AOP is the final arbiter of all reward decisions.

Why is there a need to search for prior art when a patent has already been issued?

Patents can be challenged even after they are granted – and due to the high number of applications flooding the U.S. Patent Office, many of today's patents are potentially overly broad. In our time of fast-paced technological advancement, the USPTO's resources are limited and therefore they cannot research the entire body of relevant prior art before a patent is issued. Questionable patents leave innovators, industry, and the general public at a serious disadvantage. By leveraging a global community of knowledge experts, Article One Partners seeks to positively impact the validity of truly innovative patents by conducting a thorough search for prior art. This approach also transcends the results achievable through traditional channels that generally involve digital research and tapping experts through traditional means. Any one of our Advisors can execute this traditional approach. In addition, the power of social networking to solve problems or find hard-to-find information is well known with the advent of "pull research technology" – the power of LinkedIn and Facebook is being brought to bear on legitimizing patents.

Can Article One Partners hurt corporations by providing information to the industry about the validity of patents?

On the contrary – Article One Partners can *help* all participants in industry by bringing information to the market that more accurately values existing patent assets. Article One addresses the improvement of patent quality, or “gold-plating” patents (as presented by Professor Mark Lemley¹). During the 2008 Presidential campaign, both President-Elect Obama and Senator McCain discussed patent reform in terms of improved patent quality. This is the one area of patent reform that all participants, courts, Congress and even the executive branch, resoundingly agree on. Improved patent quality provides the critical heightened certainty for the validity of patents. How? Assets either are legitimized to increase their value or potentially invalidating prior art is made available for review by industry to correct their valuation. The corporate patent holder receives information to better value ongoing investment and litigation in the patented technology. The same corporation also can use potentially invalidating prior art identified by Article One Partners for a patent owned by its competitor to consider entered into a market from which it was previously excluded. Better quality patent information can reduce unfair monopolies and overly broad patents. This helps everyone, from CEOs of large corporations to individual innovators, who with this information available are less likely to get tied up in costly, expensive litigations. Innovation can drive the patent system, rather than the patent system driving innovation.

How does AOP determine which studies to post?

Article One Partners carefully researches and selects patents that hold the most significant economic impact either for the public, patent holder or companies or individuals who potentially can be alleged to infringe the subject patents. We look for overly broad patents that can hinder the economy, innovation, and the public at large through unwarranted monopolies. However, it is our intention to decline researching patents if the result based on our evaluation could harm the public’s access to a product or process covered by the patents. Examples include patents tied to medications for “orphan diseases,” those rare afflictions suffered by less than 200,000 people in the U.S. These medications are rare and costly – and if one of them is pulled from the shelves as the result of a patent that turns out to be invalid, patients could be left without treatment.

By legitimizing or providing information which can lead to invalidating some of the growing number of overly broad patents, Article One Partners will contribute to a process that strengthens the U.S. patent system – and our economy. This is a major undertaking: according to the U.S. Patent Office, U.S. intellectual property today is worth more than \$5 trillion dollars.

How can the collective intelligence throughout global marketplaces contribute to the search for prior art?

The success of the Article One Partners community derives from the diversity of its members and their networks of additional knowledge experts to whom they can refer to become Advisors. The more widespread our membership, the more likely we are to

discover even the most obscure yet still publicly available prior art. This collective intelligence is a powerful search mechanism that can legitimize the validity of patents and make an important contribution to the improvement of the U.S. patent system. In addition, the power of social networking to solve problems or find hard-to-find information is well known with the advent of “pull research technology” – the power of LinkedIn and Facebook is being brought to bear on legitimizing patents.

What does it take to become an AOP Advisor?

Joining the Article One Partners community is free, and our registration process is simple and fast. Advisors in the global Article One Partners community all share one trait: a unique interest in technology and innovation, acquired in their personal, educational, or professional lives. AOP Advisors include knowledge experts from all walks of life (who are eligible), using their unique expertise and perspectives to discover prior art wherever it may exist. While the AOP community welcomes professional prior art researchers, its success also draws from the diversity of its members and their networks of additional knowledge experts.

What are the benefits of becoming an AOP Advisor?

Article One Partners offers its Advisors **unparalleled monetary incentives** for active participation through rewards of up to \$50,000 for winning one of our Patent Studies and through our generous profit sharing system. Most importantly, AOP Advisors become part of a global community that is making an important contribution to the improvement of the U.S. patent system.

How are Article One Partners' Advisors compensated?

Article One Partners' members can earn up to \$50,000 for submitting the prior art that solves one of our Patent Studies. We also offer a powerful profit sharing model: at the end of each year, we disburse about 5% of our net profits among our most active Advisors (pursuant to the Compensation Agreement posted on our site). This system rewards members for participating in the AOP community and forums, submitting prior art in response to Patent Studies, with significant added bonuses for specific prior art found which is used as a basis for an invalidity opinion, or referring friends who join and win a Patent Study.

How are winning prior art submissions determined?

Article One Partners includes executives and consultants who together have over 75 years of patent law experience and diverse technical backgrounds. In addition, Article One Partners engages outside patent counsel for some Patent Studies to provide a validity analysis and possibly an opinion. In those cases, the industry's leading legal and IP experts are being brought to bear on whether a Patent Study results in an opinion that invalidating prior art has or has not been uncovered. AOP is the final arbiter of all reward decisions.

How does Article One Partners generate revenue?

The Article One Partners' business model is built upon the significant market value of prior art research. Our Patent Studies include high profile patents involving both public and private companies. These patents are often tied up in costly litigation. The research we facilitate can provide crucial information about the validity of overly broad patents, or strengthen patents when no invalidating prior art is found – making it extremely valuable to interested parties. Our prior art collections can be sold directly to interested parties, and part of the profits are passed on to our Advisors. The value of the research also allows Article One Partners to execute well-researched market trades. This powerful revenue model ensures that our community grows and that we can pay out premium incentives for our Advisors to participate. In this way, Article One rewards its members not at a minimum level for uncovering prior art – but for the true value of their research and contributions. Due to the tremendous value of AOP's research, our platform is self-supporting.

Does Article One Partners have a partnership with the U.S. Patent & Trademark Office?

Article One Partners does not directly partner with the U.S. Patent & Trademark Office at this time. Although hampered by its research capabilities, the USPTO produces quality work. Article One Partners is honored to work in tandem with the USPTO and other private and public sector efforts to improve patent quality that drives true innovation. Article One Partners also formally endorses Peer-to-Patent through the award of Profit Sharing points on our site for the participation of our Advisors on the peertopatent.org site. The impact of a continuing expansion of peertopatent.org is dramatic, ensuring better quality patents at the time of their grant by the U.S. Patent Office. One of our missions is to directly support Peer-to-Patent's goal. Additionally, AOP adds a crucial level of review to the U.S. patent system by using its global network to discover new patent validity evidence.

How is AOP different from Peer-to-Patent?

Article One Partners and Peer-to-Patent both seek to strengthen the U.S. patent system through community review. When it comes to achieving this goal, however, there are two primary differences between AOP and Peer-to-Patent:

1. Article One Partners focuses its community efforts on searching for undiscovered prior art relevant to **patents already issued** by the U.S. Patent and Trademark Office. In addition, we focus on patents that have significant economic impact on the private sector. Peer-to-Patent works in conjunction with the U.S. Patent and Trademark Office to locate prior art for patent applications under review – not the 2 million patents already in existence.
2. We are fortunate to be able to provide monetary incentives for our Advisors. As an academic organization, Peer-to-Patent's focus is on the open source community and the dedication of that community to patent quality improvement. Peer-to-Patent has invited us to provide information on peertopatent.org for their users and has accepted our proposal to provide benefits to our Advisors (in the form of monetary

compensation) for contributions to peertopatent.org. So our incentive process indirectly is being applied to their endeavor. We look forward to making a contribution to expand the success of peertopatent.org.

What is the Article One Partners view of companies that hold patents and do not manufacture products based on those patents, so called “Patent Trollers?”

The use of this term is unfortunate and loads the topic. As patent attorneys, Article One Partners refers to these entities as aggregators or holding companies, which typically refers to a company that buys and holds patents with no intention of manufacturing products based on those patents – and sues other companies trying to make similar products. The value or harm of these companies is a subject of constant discussion. The level of focus on the controversy limits its resolution. On the one hand, everyone, including inventors who receive the benefit of the patent system, must respect the rights granted by all patents. On the other hand, patent litigations brought by holding companies have altered the historic balance of litigations where the incentive to settle rested on a mutual threat of an infringement assertion. Holding companies don’t manufacture and therefore are not subject to a counter suit.

The resolution of this conflict lies in the quality of the assets owned and asserted in litigation. When patents are deemed to be of a higher quality in general, industry and holding companies will be better able to resolve these issues based on the value of innovation represented in the patents. Higher quality patents will also help legitimize non-manufacturing companies’ efforts to enforce their higher quality assets. Yes, there are other components to consider about this valid issue. However, the first is patent quality, as has been stated by President-Elect Obama, Senator McCain, Congress and the Courts. Article One offers assistance in this critical area.

Article One Partners does not own the patents which are the subject of its Patent Studies. We do not plan to own such assets. Our mission is to evaluate and provide information to the patent industry. Since patents owned by holding companies have economic value, they are analyzed in the same manner as other public or private corporations or individual inventors to identify patents which have high economic value. As a result, Article One Patent Studies will include patents owned by holding companies.

ⁱ Regulation, Vol. 28, No. 4, pp. 10-13, Winter 2005-2006