September 18, 2025

The Honorable John Squires
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314

Dear Director Squires,

The undersigned organizations and companies congratulate you on your confirmation as director of the U.S. Patent and Trademark Office (USPTO). We represent a diverse group of technology innovators, leading participants in technology standardization, and creators of products that utilize standardized technologies, all powering U.S. leadership in the global economy.

We write to provide recommendations on actions the USPTO should take to support job creation and growth for American businesses. Intellectual property allows companies to protect the investments they make, attract venture capital, establish a position in the marketplace, and compete on a level playing field with their competitors. The USPTO has a central role in ensuring that the U.S. IP system serves good faith inventors and not those that seek to monetize bad patents at the cost of American innovation.

Under your leadership, the USPTO should ensure that examiners are equipped with the right tools and support to identify prior art and examine applications. The patent examination process is struggling. Training for examiners that incorporates updated tools, including those that utilize artificial intelligence (AI), are necessary to close this gap and ensure that patents are stronger upon issuance. This training should seek to incentivize examiners to use advanced tools and give examiners ample time to acclimate to a new process. Further, senior examiners should be credited for sufficient time to support and train junior examiners.

Examination must be paired with a robust post-issuance process to address concerns brought by potentially overbroad and invalid patents. Therefore, the Patent Trial and Appeal Board (PTAB) remains an important mechanism to protect the national and economic interests against foreign competitors in quantity and not quality.

As technology advances at a faster pace, the rate of patent applications is overwhelming the USPTO's ability to examine them. For example, by the time a patent is under *inter partes review* (IPR), the proceedings often uncover prior art not detected by an examiner that issued the patent over a decade ago because the tools to do so did not exist or could not be safely deployed by the agency. A USPTO study concluded that 93% of the IPR decisions that found a patent invalid did so on the basis of prior art that was not found or considered by the examiner.[1] This statistic demonstrates the need for better examination, as well as the ongoing need for robust post-issuance review to correct unavoidable data.

[1] https://www.uspto.gov/sites/default/files/documents/ppac-aia-ipr-study-20241121.pdf.

IPR was established through the America Invents Act (AIA) by Congress to provide a more affordable and efficient recourse for businesses of all sizes that are charged with infringement of an invalid patent. IPRs were specifically intended to protect the interests of small businesses, the main drivers of the U.S. economy. For innovators who are unfairly accused of infringement, IPR is often the only viable option. Even the largest companies lack the capacity to identify which of the over 300,000 patents issued each year are problematic and then to challenge them within the nine-month time limit for post grant review. And it is completely impossible for smaller companies to do so. These same resource constraints limit a small company's ability to litigate the validity of patents asserted against it in court, and highlight the importance of the PTAB IPR process.

Unfortunately, recent changes have made IPR much less available to American innovators. We are particularly concerned about the USPTO's use of discretionary denials to shield questionable patents from review. These denials have injected enormous uncertainty into IPR because petitioners no longer have any assurance that meritorious petitions for review will even be considered—let alone granted—on their merits. Preparing an IPR petition typically costs around $100,000 - $700,000, which is costly for any company and is an enormous amount for small businesses. The increased uncertainty caused by the USPTO's use of discretionary denials has disrupted American product manufacturers and placed IPRs out of reach for virtually all small innovators. We urge you to protect innovative American product companies from harassment by reversing course on discretionary denials and restoring effective access to IPR proceedings.

The undersigned again congratulate you on your confirmation to lead the USPTO at this critical time, and we welcome the opportunity to work with you moving forward.

Sincerely,

ACT | The App Association

Alliance for Automotive Innovation

Consumer Technology Association (CTA)

Engine

FMS, Inc.

High Tech Inventors Alliance (HTIA)

National Retail Federation (NRF)

Public Interest Patent Law Institute (PIPLI)

R Street Institute

Unified Patents