



June 23, 2022

The Honorable Henry C. Johnson
Chair
Subcommittee on Courts, Intellectual Property
and the Internet
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Darrell E. Issa
Ranking Member
Subcommittee on Courts, Intellectual Property,
and the Internet
House Committee on the Judiciary
2142 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Johnson and Ranking Member Issa,

As the singular, authoritative, and respected voice of the automotive industry, the Alliance for Automotive Innovation (“Auto Innovators”) welcomes the opportunity to provide the Subcommittee with its perspective on the importance of the Patent Trial and Appeal Board (“PTAB” or “Board”) to strengthening the U.S. patent system and improving overall patent quality.

Focused on creating a safe and transformative path for personal mobility, Auto Innovators represents the manufacturers that produce nearly 98 percent of cars and light trucks sold in the U.S., in addition to original equipment suppliers, technology companies, and others value-chain members within the automotive ecosystem. As the nation’s largest manufacturing sector, the automotive industry is responsible for nearly 10 million U.S. jobs and represents 5.5 percent of the country’s gross domestic product.

The automotive industry’s leadership in innovation and research and development to bring the next generation of breakthrough automotive and mobility technologies to consumers depends on its companies’ roles as inventors, patent holders, and – more importantly – manufacturers that rely on patent quality to make and sell their products. Patents are essential to protecting the robust investments automotive companies make in the new technologies that continue to transform personal mobility. At the same time, however, automotive companies face frequent lawsuits alleging patent infringement, many of which claim violations of poor-quality patents. As both patent holders and litigation defendants, the automotive industry continues to offer a balanced and reasoned perspective on the role of the Patent Trial and Appeal Board and other patent-related issues.

With the enactment of the America Invents Act, Congress created the Patent Trial and Appeal Board to, among other things, conduct *inter partes review* proceedings. *Inter partes review* proceedings provide a fair, efficient, and cost-effective procedure for both patentees and alleged infringers to assess the validity of issued patents. These proceedings remain a critical responsibility of the PTAB that should be protected and preserved. The motivation behind the establishment of the *inter partes review* process was two-fold: first, to safeguard a patent system that was being overwhelmed by litigation involving patents that should never have been issued, and second, to draw on the expertise

and knowledge of the Patent & Trademark Office to evaluate and reassess patentability. This process is vastly more efficient than having patentability issues considered solely by district courts.

Because of the important role that the *inter partes review* process continues to play in addressing patentability post-issuance, Auto Innovators and its members maintain that access to such proceedings should not be curtailed. Petitions for *inter partes review* that meet the statutory thresholds and are deemed meritorious should be instituted and permitted to move forward; they should not be subject to discretionary denials by the Patent & Trademark Office. Based on the problems that existed prior to the establishment of the PTAB, limited access to *inter partes review* would result in increased litigation costs, slower adjudication, more frivolous lawsuits, and more settlements of dubious infringement claims. Denying the institution of an *inter partes review* proceeding for procedural, or often, subjective reasons, despite meeting statutory requirements, introduces uncertainty for petitioners and undermines the efficiencies such proceedings are intended to advance. Such outcomes, in turn, stifle innovation in the automotive industry, harming manufacturers and consumers alike.

Auto Innovators appreciates the Subcommittee's attention to the importance of the Patent Trial and Appeal Board to matters of patent quality. We look forward to continued engagement with the Subcommittee to ensure that the Board's duties and responsibilities are maximized to incentivize true innovation and prevent abuse in the U.S. patent system.

Sincerely,

A handwritten signature in black ink that reads "Garrick C. Francis". The signature is written in a cursive, slightly slanted style.

Garrick Francis
Vice President, Federal Affairs
Alliance for Automotive Innovation