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March 24, 2026

The Honorable John A. Squires
Under Secretary of Commerce for Intellectual Property
Director, United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22313-1450

Dear Director Squires:

We write on behalf of America's advanced manufacturing and industrial technology sector – spanning semiconductors, automobiles, precision machining, and industrial software, artificial intelligence, and quantum technologies, among other related industries. The member companies of the undersigned organizations collectively employ more than 90 million American workers.

We understand that the March 11, 2026 Director's Memorandum on "*Additional Discretionary Institution Considerations*" ("Memorandum" or "USPTO Memorandum") reflects a recognition that the USPTO's broad curtailment of access to Inter Partes Review (IPR) proceedings has harmed US manufacturers and related industries in many sectors. We welcome that recognition.

However, we are concerned that the Memorandum does not address the underlying problem. It may instead exacerbate it. We offer these views in the hope of returning USPTO to the framework Congress established.

I. Core Problem

The fundamental challenge facing US manufacturers is not that too many IPRs are being filed. It is that too many low-quality patents are being granted – patents that "should not have issued" under any reasonable reading of the prior art.

IPR petitions are a diagnostic signal, not the disease. Each petition identifies a patent claim that – in most cases – the Patent Trial and Appeal Board (PTAB) would consider "reasonably likely" to contain an examination error bearing on the claim's validity.

Rather than adding new administrative barriers to IPR access, USPTO should focus its energy on correcting its own errors via the IPR process and improving examination quality. These steps will reduce opportunities non-practicing entities (NPE) to weaponize invalid patents against US companies. Reducing IPR access does not reduce the incidence of bad patents; it simply leaves them in place to be misused in litigation. That outcome is contrary to US economic and national security interests.

II. Statutory Mandate

Congress established the IPR framework through the America Invents Act (AIA) with a clear statutory standard: to institute IPR if a petitioner demonstrates "a reasonable likelihood" of prevailing on at least one challenged patent claim. This is a merits-based, validity-focused standard – and it is the law.

USPTO is required to execute Title 35, including instituting IPRs under §314(a). Likewise, the Constitution provides patent protection to "inventors" for their "discoveries"—not to non-inventors for non-inventions.

These legal authorities do not permit a different role for the agency. Notably, they do not permit the Director to refuse to correct the agency's own errors or to sustain invalid patents based on *ad hoc* judgments designed to restrict IPR access to a small subset of otherwise qualified petitioners.

III. The Memorandum's First Factor Discourages US Advanced Manufacturing

The Memorandum's first factor – which could be used to deny meritorious IPR petitions due to any foreign sourcing or processing – will disadvantage the US manufacturing companies it purports to protect.

Modern US manufacturing does not occur in a vacuum. Even highly domestic manufacturers rely on some foreign inputs or processing: A semiconductor fabricated in Texas may incorporate specialized chemicals from Japan. An automobile assembled in Michigan may use ball bearings processed in Canada. A medical device manufactured in Minnesota may incorporate precision optics from Germany.

Under the Memorandum's framework, these manufacturers could be denied IPR access. In fact, the more complex and advanced the manufacturing operation, the more likely it fails the test.

This creates the wrong incentives: It is a policy that penalizes US-based advanced and high value-added manufacturing operations.

IV. The Memorandum's Second Factor Promotes NPE Assertions of Invalid Patents

The Memorandum's second factor – which allows NPEs to rely exclusively on their own patent assertion, litigation, and licensing activities (even involving invalid patent claims) – creates a striking asymmetry.

Under this factor, an NPE asserting an invalid patent need not manufacture anything in the United States to continue to be able to assert an invalid patent against US companies in US courts. Even in the case of NPE patent claims that the USPTO agrees are “reasonably likely” to be invalid, US producers' statutory right to IPR review is conditioned on an obligation to show US manufacturing of an accused product, while non-producing NPEs face no such obligation whatsoever.

For example, in the automotive sector – which supports over 11 million well-paid jobs in high valued-added US manufacturing – this framework would favor foreign-backed NPEs that manufacture nothing in the United States over US-based companies that manufacture end products with some imported inputs.

This is not the right balance. It tilts the system towards foreign-funded litigation and away from a strong, durable, high-quality US patent system that protects US economic and national security.

V. The Memorandum Conflicts with White House AI and Commerce Manufacturing Goals

Surprisingly, the USPTO Memorandum does not address, or even reference, AI – let alone the [President's AI Action Plan](#). The AI Action Plan is a major White House priority that places US AI leadership at the center of national economic and security strategy. For example, the AI Action Plan states:

America must bring semiconductor manufacturing back to U.S. soil. A revitalized US chip industry will generate thousands of high-paying jobs, reinforce our technological leadership, and protect our supply chains from disruption by foreign rivals. The Trump Administration will lead that revitalization without making bad deals for the American taxpayer.

The Memorandum undercuts this objective. USPTO has repeatedly denied IPR petitions filed by semiconductor manufacturers against invalid NPE patents. USPTO has gone so far as to support injunctions against US chip manufacturing activities in favor of NPEs that manufacture nothing in the United States.

A similar conflict exists between the USPTO Memorandum and a bipartisan US government call to strengthen American AI leadership. Thousands of American companies across the AI stack have responded to this call by collectively investing over [\\$1 trillion](#) to build out America's AI infrastructure and by taking steps to develop new American AI products and services. This includes products and services intended for export under the [American AI Export Program](#).

Unfortunately, the USPTO Memorandum’s restrictive approach would appear to disqualify these same American companies from being able to access IPR if these entities do not meet its highly restrictive definition of US “manufacturing.”

Regrettably, the USPTO Memorandum is much more generous to foreign NPEs that neither manufacture in the United States, nor invest in AI infrastructure in the United States, nor produce any AI-related services or goods in the United States, nor export such goods or services. In fact, USPTO would consider the mere assertion by a foreign NPE of a patent claim – even an erroneously issued claim that USPTO has refused to correct – as a “US manufacturing” activity, provided that that NPE’s litigation activity results in a licensing payoff from a US manufacturer. In other words, a foreign sovereign wealth fund or hedge fund that manages – through aggressive litigation tactics – to extract a payment from a US manufacturer will be deemed to be engaging in “US manufacturing,” while most US companies building the AI stack will not. This is not – we submit – the right balance.

The IPR institution framework directly affects the environment in which the US companies across the AI stack innovate and defend against spurious litigation involving invalid patents. The Memorandum’s failure to consider implications for US AI leadership and the government’s AI priorities is a serious analytical gap.

VI. Path Forward

We raise these concerns constructively. USPTO should be a champion of US advanced manufacturing and technology leadership. The current trajectory, regardless of its underlying motivations, risks producing outcomes that none of us want.

We urge a return to AIA first principles. USPTO should:

- Institute IPR when the statutory standard under §314(a) is met;
- Focus on patent validity, not extraneous procedural barriers; and
- Use IPR to correct invalid patents efficiently.

USPTO’s role is to execute the law that Congress enacted – ensuring that patents are valid and that USPTO errors are corrected. Doing those things well is the most powerful contribution USPTO can make to US competitiveness, US innovation, and US jobs.

We remain committed to working constructively with the Office on these critically important issues and would welcome the opportunity for further dialogue. Thank you for your consideration.

Respectfully submitted,

Alliance for Automotive Innovation
Business Software Alliance
High Tech Inventors Alliance
Software & Information Industry Association
United for Patent Reform
US Manufacturers Association for Development & Enterprise (US*MADE)

CC: US Senate and House Judiciary Committee members, White House components, relevant USG departments and agencies