Software & Information Industry Association
1620 I Street NW, Suite 501
Washington, DC 20006

Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Re: Oversight Hearing of United States Patent and Trademark Office Director John Squires

Dear Chairman, Ranking Member, and Members of the Committee:

The Software & Information Industry Association (SIIA) submits this letter, along with our attached regulatory comments filed on December 2, 2025, in support of the Committee's critical oversight of the United States Patent and Trademark Office (USPTO) and its current leadership under Director John Squires.

SIIA is the principal trade association for the software and digital information industries, representing nearly 400 companies at the forefront of technological innovation. Our members encompass the full spectrum of the American economy, from nimble startups to global enterprises that form the backbone of the nation's digital infrastructure. While our members rely heavily on a robust patent system to protect genuine innovations, they suffer disproportionately when that system is weaponized by the assertion of invalid patents that the government should never have issued.

Through a combination of opaque memos, precedential decisions, and aggressive rulemakings, the USPTO under Director Squires' tenure has systematically dismantled the *Inter Partes* Review (IPR) system. We urge the Committee to use its oversight authority to address the severe and ongoing damage being done to the American patent system.

USPTO's Actions Have Undermined Congressional Intent

When Congress enacted the Leahy-Smith America Invents Act (AIA) in 2011, it was a legislative grand bargain designed to address a documented crisis: the issuance of invalid patents had become a crippling tax on U.S. innovation. The central pillar of the AIA was the creation of the IPR process, which was expressly intended to serve as an efficient, cost-effective substitute for district court litigation to clear away bad patents. For over a decade, the Patent Trial and Appeal Board (PTAB), which

administrates IPRs, functioned as Congress intended, acting as a critical quality control valve for the patent ecosystem.

However, Director Squires has implemented policies that fundamentally rewrite this statutory scheme.[1] Rather than adhering to the statutory mandate to institute an IPR when there is a "reasonable likelihood" that a patent is invalid, the USPTO now rejects meritorious challenges based entirely on non-statutory procedural factors. These factors include denying access to the PTAB based on the mere existence of parallel litigation, the age of the patent (an invented "settled expectations" doctrine), and overly broad "one-and-done" rules that bind unrelated parties. These results were never contemplated by Congress.

USPTO's Actions Have Closed the Doors of the PTAB

The effect of these policies has been a complete breakdown of the IPR system, with the PTAB process now largely unavailable to operating companies that make, use, and sell real products in favor of weak and invalid patents. For example:

- **Forfeiture of Defenses:** The USPTO's rules force companies into a "poison pill" stipulation, mandating that if they wish to access the PTAB, they must surrender their statutory and constitutional rights to raise not only the defenses that would be covered by the PTAB process, but also those which the PTAB has no authority to review.
- **Outsourcing Authority:** By denying IPRs based on highly speculative and optimistic district court trial calendars, the USPTO has outsourced its institution authority to jurisdictions known for aggressive "rocket dockets," encouraging rampant forum shopping and forcing companies into expensive litigation.
- **Protecting the Unpatentable:** The USPTO's policies shield older patents from review entirely, insulating the exact type of end-of-life patents frequently weaponized by non-practicing entities (i.e., patent trolls) to extract nuisance settlements from productive American businesses.

[1] See USPTO, *Interim Processes for PTAB Workload Management* (March 26, 2025) (https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf); USPTO, *Director Institution of AIA Trial Proceedings* (October 17, 2025) (https://www.uspto.gov/sites/default/files/documents/Director_Institution_of_AIA_Trial_Proceedings.pdf); USPTO, *Additional Discretionary Institution Considerations — U.S. Manufacturing and Small Business Use of AIA Proceedings* (March 11, 2026) (https://www.uspto.gov/sites/default/files/documents/Additional_Discretionary_Institution_Considerations_US_Manufacturing_and_Small_Business_Use_of_AIA_Proceedings.pdf).

USPTO's Actions Have Damaged Patent Quality

These policies have led to a dramatic reduction of patent quality in the United States. No agency is perfect, and USPTO will issue patents that fail to meet the statutory requirements. Recognizing this fact, Congress designed IPRs to efficiently correct those errors. By making it much more difficult to correct examination errors, the USPTO is preserving bad patents that never should have been granted. Instead of correcting USPTO's mistakes, its current policies effectively bury them. Such policy transfers wealth from productive U.S. businesses to entities that produce nothing but litigation.

Prior to the current USPTO policies, IPRs routinely eliminated non-inventive patents and performed an important patent quality clean-up function. With the current USPTO policies implemented, that patent-quality-improving function has been eliminated.

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We appreciate the Committee's continued efforts to support the American patent system as a driver of innovation and American leadership. We encourage members of the Committee to exercise their critical oversight authority to ensure that the USPTO upholds its obligations under the AIA and to address USPTO policies that have undermined the goals of the AIA and put American innovation at risk.

Respectfully submitted,

Software & Information Industry Association (SIIA)

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