



March 23, 2026

The Honorable Darrell Issa  
Chairman  
Subcommittee on Courts, Intellectual Property,  
Artificial Intelligence, and the Internet  
Committee on the Judiciary  
United States House of Representatives  
2108 Rayburn House Office Building  
Washington, DC 20515

The Honorable Henry C. "Hank" Johnson  
Ranking Member  
Subcommittee on Courts, Intellectual Property,  
Artificial Intelligence, and the Internet  
Committee on the Judiciary  
United States House of Representatives  
2240 Rayburn House Office Building  
Washington, DC 20515

**Alliance for Automotive Innovation Statement for the Record  
United States House of Representatives Committee on the Judiciary  
Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet  
Hearing Entitled "Oversight of the U.S. Patent and Trademark Office"**

Dear Chairman Issa and Ranking Member Johnson:

Alliance for Automotive Innovation ("Auto Innovators") appreciates the opportunity to share its perspectives with the Subcommittee as it prepares for its oversight hearing of the United States Patent and Trademark Office. Auto Innovators has significant concerns with the Office's policy changes over the past 13 months, and we strongly oppose the Office's October 17, 2025, notice of proposed rulemaking ("NPRM") to revise the rules of practice for *inter partes* review and post-grant review proceedings before the Patent Trial and Appeal Board ("PTAB"). Together, the policy changes and proposed rule (1) contravene Congress' intent in passing the America Invents Act ("AIA") and (2) arbitrarily restrict access to PTAB review, preventing automotive companies from defending themselves and their innovations against the assertion of weak patents by non-operating entities. We respectfully submit this letter for the hearing record.

***The U.S. automotive industry drives the U.S. economy.*** Auto Innovators represents the full automotive industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive automotive industry that supports U.S. economic and national security. Representing over 5 percent of the country's GDP, responsible for supporting nearly 11 million jobs, and driving over \$1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector.

***Patent quality is a top priority for the U.S. automotive industry.*** The U.S. automotive industry is an engine of innovation, with automotive companies owning hundreds of thousands of patents that claim their inventions. High-quality patents protect automotive companies' significant research and development investments that produce new vehicle technologies. However, automotive companies also face frequent lawsuits alleging infringement of patents that warrant validity review, especially as patent

assertion entities (“PAEs”) base their claims of infringement on expanded claim scopes not contemplated by the inventor or the patent examiner. Therefore, the industry relies extensively on AIA trial proceedings, particularly *inter partes* review, to efficiently resolve questions regarding the validity of patents that the Office may have granted in error and without foreseeing the enlarged claim scope that litigants would advance.

***Automotive companies rely heavily on PTAB review for protection against invalid patent assertions.*** Since Congress passed the AIA in 2011, automotive companies have constituted eleven of the one hundred most frequent filers of PTAB petitions – they have filed over seven hundred petitions for review. In the automotive companies’ experience, the technically trained judges at the PTAB are well-versed in both engineering and patent law—they provide the most accurate and reliable form of patent validity review. This is important to automotive companies both as defendants and plaintiffs: they own hundreds of thousands of patents, and other parties challenge those patents when asserted. Automotive companies have strong equities on both sides of patent litigation—they want validity-review proceedings that are fair and that consistently reach the right results.

Unfortunately, this is not true of the parties that typically sue automotive companies. Patent owners that do not make any products or provide any services overwhelmingly file patent lawsuits against automotive companies. Patent assertion entities (“PAEs”) hold and assert over 90 percent of the patents that automotive companies challenge at the PTAB. This trend is consistent across industries. According to Docket Navigator data for 2020 to 2024, 14 of the top twenty patent litigants by case volume are “highly assertive” entities with a significant business in patent monetization. The Office’s current restrictions on PTAB review have been a boon to PAEs; the proposed rule would completely nullify PTAB proceedings. PAEs usually acquire patents on the secondary market that are often weak for the purposes of assertion. And because PAEs do not make any products, they never face infringement liability. Barring access to technically skilled patent-validity review has nothing but upside for PAEs.

***PTAB proceedings are reliable and balanced.*** Auto Innovators contends that PTAB proceedings deliver fair, accurate, and balanced results. These proceedings do not inherently favor one side or another. Again, according to data from Docket Navigator for the years 2020-2024, the outcomes of *inter partes* reviews have been:

- Patentee Win: 35.8%
- Patent Challenger Win: 26.6%
- Mixed Results: 8.3%
- Voluntary Settlement: 29.3%

Furthermore, the Office’s own data indicates that PTAB proceedings are not subject to abuse like serial petitions. In its July 2023 [Patent Trial and Appeal Board Multiple Petitions Study](#), the data showed a decline in the number of multiple challenges to a single patent, regardless of the challenger (*see* Slide 17). In addition, the Study demonstrates that multiple petitions filed by the same patent challenger within 90 days of each other have become virtually non-existent, falling to 1.7 percent of all petitions and 0.3 percent of all institutions (*see* Slides 6-7). Instead of suggesting that serial petitions constitute a problem that the Office should address, the data shows that the current process is working.

***These current and proposed changes seek to advantage certain business models, not to serve the public.*** Neither the current policies nor the proposed rule acknowledges the harm that low-quality patents inflict on the public, nor the significant innovations by petitioners. Instead, the Office only discusses its need to address perceived harms to inventors and the patent professionals who represent them. Indeed, the Office has made announcements to describe hypothetical and unsubstantiated views held by patent practitioners as if they are authoritative or require agency action. In the NPRM, for example, the USPTO considers “a hypothetical patent claim where 70% of experienced patent practitioners would conclude that the claim was properly granted, and 30% would oppose that conclusion. Such a claim seems reliable,” according to the NPRM, “because a substantial majority of practitioners believe it is patentable and was properly issued.” But the Office should not decide either the validity of a patent claim nor major questions of patent policy based on a majority vote of patent practitioners. Recognizing this, Congress created *inter partes* review proceedings at the PTAB to evaluate issued patents for questions of validity and strengthen the public’s trust in the patent system.

***Current policies and proposed changes contravene Congressional intent.*** When Congress enacted the AIA, it sought to modernize the U.S. patent system to improve patent quality, efficiency, and public confidence. One of the major mechanisms to achieve this was the creation of PTAB review. Congress’ intent is well-documented in both the legislative history and the statutory structure of the AIA: it designed PTAB review to provide an efficient, cost-effective alternative to litigation. Congress recognized that patent validity challenges in federal courts were expensive and time-consuming. The AIA established PTAB review as a streamlined mechanism for third parties to challenge patents that should not have been issued, using expert administrative adjudication instead of full federal trials.

Congress also sought to enhance patent quality by removing invalid patents—it believed that patent owners were asserting too many patents of questionable validity, stifling innovation rather than promoting it. Legislators designed PTAB review to allow the Office – the agency with relevant technical expertise – to review and correct its own errors. By providing a faster and cheaper route to eliminate weak patents, Congress also sought to free innovators from the threat of frivolous patent litigation and encourage genuine technological progress. The Office’s policy changes and its proposed rule would undermine rather than serve Congress’ objectives in passing the AIA.

To counteract these harmful and illegal practices, Auto Innovators makes the following recommendations to the Office:

- Withdraw the NPRM and reverse its policy changes that apply ad hoc “discretionary denials” to petitions for PTAB review.
- Subject precedential decisions, interim processes, and guidance documents that govern the institution of petitions for PTAB review to Administrative Procedure Act rulemaking.
- Limit discretionary denials of petitions to institute AIA trial proceedings to situations where a petitioner fails to satisfy a statutory requirement, or a requirement of a regulation promulgated in accordance with the statute.
- Adopt policies that provide robust and predictable access to PTAB review.

- Clarify that the Office shall grant requests for *inter partes* review and post-grant review proceedings when they meet the statutory requirements under the U.S. Patent Act.
- Strengthen the patent examination process by adopting patent eligibility guidance that complies with binding judicial precedent to help limit the issuance of invalid patents in the first place and reduce litigation costs for petitions that contest their validity.
- Provide sufficient resources, including state-of-the-art search tools, and adequate time for patent examiners to review patent applications and ensure any issued patents cover novel and original inventions.
- Reform the Patent & Trademark Office's current examiner production system to focus on maximizing patent quality rather than maximizing the rate of patent decisions.
- Maintain that district courts apply the four-part *eBay v. MercExchange* test when deciding whether to grant injunctive relief in patent cases.
- Assess what measures the Office can take to increase transparency and efficiency in licensing rate setting for standard essential patents that patentees have committed to license on fair, reasonable, and non-discriminatory ("FRAND") terms.
- Determine that a failure to honor commitments to license SEPs on FRAND terms can be an unfair competition practice in violation of U.S. antitrust laws.
- Require patent litigants to disclose whether their attorney fees and/or expenses to litigate an action are funded by a third party and specify that such disclosures shall include information on whether a third party must grant approval for litigation and settlement decisions, the third party's shareholders, the funding terms, and a description of the nature of the third party's financial interest.
- Constrain royalty awards in patent litigation to actual damages.

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The health and competitiveness of the U.S. automotive industry depend on intellectual property rights policy that promotes innovation and incentivizes research, design, and development investment. It typically costs billions of dollars to build automotive manufacturing facilities in the U.S. and takes multi-year design and manufacturing cycles to bring any new product to market. Automotive companies need the Office to follow the law, correct its mistakes, and seek lawmaker action to institute policy changes that differ from Congressional intent. Auto Innovators urges the Subcommittee to consider the interests and perspectives of the U.S. automotive industry during the oversight hearing for this important agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennica Sims". The signature is fluid and cursive, with a prominent loop at the end.

Jennica Sims  
Senior Director, Federal Affairs

