

September 4, 2026

The Honorable Howard Lutnick
Secretary of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Secretary Lutnick:

We conservative leaders commend and thank you for your leadership and support of the U.S. Patent and Trademark Office's (USPTO) Notice of Proposed Rulemaking (NPRM) to improve the Patent Trial and Appeal Board's (PTAB) practices for instituting inter partes review (IPR) challenges (Docket No. PTO-P-2025-0025).

We recognize that this much-needed rule would not have been proposed or shepherded through the rulemaking process if you thought it was not reasonable and necessary. Nor would this proposal be as substantively meaningful in bringing fairness, efficiency, and predictability to patent validity adjudication at PTAB, had you not greenlighted this initiative. Thank you and USPTO Director Squires for pursuing this long overdue administrative reform. This gives you a golden opportunity to enact a significant new policy through administrative action instead of waiting on Congress.

As you know, Congress, in the America Invents Act (AIA), intended IPRs to be a faster, cheaper alternative to district court patent litigation. That promise has not been kept. Instead, PTAB provides mammoth [incumbent corporations](#), their allies, and foreign national champions a second front to attack valuable patents until they wear them down or invalidate them through years of serial and duplicative challenges, facing challenger-friendly rules in PTAB patent validity cases. [More than half](#) of IPR petitions are repeat challenges, while more than [80 percent](#) of IPRs duplicate ongoing litigation. Thus, multiple PTAB challenges perpetuate uncertainty, deny patent owners quiet title, and impose extra costs that reduce the inventor's investment in R&D for commercialization.

USPTO's proposal delivers the "one bite at the apple" Congress said it was making law. Under the rule, petitioners will have to stipulate they will not pursue overlapping §102 or §103 invalidity arguments and will refrain from seeking PTAB review when judicial or administrative adjudication has held that the claims in question are valid. The rule gives meaning to USPTO's existing authority to consider the effects of its regulations on "[the economy \[and\] the integrity of the patent system](#)."

Director Squires [testified](#) last fall to the Senate Judiciary Subcommittee on Intellectual Property about how reliable patent protection fuels America's economy and national security. The proposed rule's finality and predictability will help secure the unique intellectual property foundation of U.S. leadership in critical and emerging technologies.

USPTO has invested significant resources in producing and shepherding PTO-P-2025-0025 to this point. It has been nearly nine months since the NPRM's public comment period in which many of us [participated](#). The final rule is now at the Office of Management and Budget (OMB). We applaud the foresight of beginning this rulemaking early in the second Trump administration. Now, what is needed is doing all that can be done to ensure that OMB issues this final rule. **We respectfully ask you to urge OMB to issue this rule.**

Our requesting your direct involvement is grounded in the outcome of a [similar USPTO NPRM](#) in the final year of the first Trump administration. In short, USPTO proposed a rule to deny institution of PTAB reviews in similar circumstances to the present proposal —repeated bites at the apple when a challenge is duplicative, superfluous of present litigation, against already adjudicated patents, or has adverse effect on the economy or patent system integrity. OMB ended up not issuing that rule because opponents piled on and cowed OMB. Well, [the same interests are back](#), heavily outnumbering propatent groups meeting with OMB in the final, make-or-break stage of this process, and aiming for the same outcome.

We strongly support this reform-minded NPRM because it advances fairness, due process, and predictability. We deeply appreciate your and USPTO's leadership on this proinnovation, proeconomic growth rule. We ask you to weigh in at this juncture and help get this crucially important rule across the goal line, which would be your legacy.

Respectfully,

James Edwards, Ph.D.
Founder and Executive Director
Conservatives for Property Rights

Kevin L. Kearns
President
U.S. Business and Industry Council

C. Preston Noell III
President
Tradition, Family, Property, Inc.

Kent Kaiser, Ph.D.
Executive Director
Trade Alliance to Promote Prosperity

Karen Kerrigan
President & CEO
Small Business & Entrepreneurship Council

Seton Motley
President
Less Government

Ashley Baker
Executive Director
The Committee for Justice

Jeffrey Depp
Senior Counsel, Law & Policy
The Committee for Justice

Anthony J. Zagotta
President
Center for American Principles

Bob Carlstrom
Executive Director
Prosperity for US Action
Prosperity for US Foundation

James L. Martin
Founder/Chairman
60 Plus Association

Ryan Ellis
President
Center for a Free Economy

Gerrye Johnston
Founder and CEO
Men and Women for a Representative
Democracy in America, Inc.
Women for Democracy in America, Inc.

Tom Giovanetti
President
Institute for Policy Innovation

Ginevra Joyce-Myers
Executive Director
Center for Innovation and Free Enterprise

Charles Sauer
President
Market Institute

Dick Patten
President
American Business Defense Council

The Honorable Ken Blackwell
Chairman
Conservative Action Project (CAP)

Dee Stewart
President
Americans for a Balanced Budget

Tom DeWeese
President
American Policy Center

George Landrith
President
Frontiers of Freedom

Saulius "Saul" Anuzis
President
American Association of Senior Citizens

Jeffrey Mazzella
President
Center for Individual Freedom

Alden Abbott
Senior Research Fellow
Mercatus Center*
George Mason University

Gerard Scimeca
Chairman
Consumer Action for a Strong Economy

Molly McCann Sanders
President
Eagle Forum Education & Legal

Colin Hanna
President
Let Freedom Ring

Daniel Perrin
President
HSA Coalition

Ron Pearson
Conservative Activist

Phil Kerpin
President
American Commitment

Jenny Beth Martin
Honorary Chairman
Tea Party Patriots Action

cc: USPTO Director John Squires

*Some organization names appear only for identification purposes.