

February 10, 2026

The Honorable Scott Bessent

The Honorable Susie Wiles

The Honorable Kevin Hassett

The Honorable Russell Vought

The Honorable Peter Navarro

The undersigned organizations represent virtually the entire U.S. economy and its leadership in critical technologies. We write to urge the Administration to withdraw the U.S. Patent and Trademark Office's proposed Revision to Rules of Practice Before the Patent Trial and Appeal Board, 90 Fed. Reg. 48335-41 (October 17, 2025).

The proposed rules would place arbitrary and insurmountable restrictions on access to proceedings at the Patent Trial and Appeal Board—the *only* contested proceedings in which asserted patents can be efficiently reviewed for validity by technical experts. These rules, if adopted, would strip American industry of essential protections against the assertion of invalid patents by non-practicing entities and America's adversaries, undermining our leadership in critical areas such as artificial intelligence and semiconductors. The USPTO's rules also would insulate from review invalid patents that are held by the pharmaceutical industry, needlessly driving up the prices that Americans pay for the medicines that they need.

One of the proposed rules (Proposed § 42.108(f): *Parallel Litigation*)¹ would bar any PTAB review if a patent is being asserted in a court with an average time to trial of less than 18 months. In practice, this means that the patent is being asserted in the Eastern

¹ 90 Fed. Reg. 48338, 48341.

District of Texas. During 2025, without undergoing notice-and-comment rulemaking or seeking Administration approval, the USPTO adopted and applied a version of this rule to deny 264 PTAB petitions based on “faster” district court litigation. Of these cases, 217 were denied because of litigation in the Eastern District of Texas. In other words, this one judicial district (out of 94 in the United States) accounted for over 80% of all petition denials. And nearly 90% of the patent litigation filed in this district is brought by non-practicing entities—patent trolls. Indeed, combined with the Western District of Texas, these two districts account for nearly two-thirds of *all* non-practicing patent plaintiff litigation in the United States.²

The defendants who are targeted in this litigation include virtually every technology leader and advanced manufacturer in the United States. These firms are America’s leading edge of artificial intelligence, microprocessors, quantum computing, networking and telecommunications equipment, computer memory, financial services and crypto currency, autonomous vehicles, and public safety equipment and systems, as well as traditional manufacturers such as the automobile industry. Also in the cross hairs are Main Street businesses including retailers, restaurants, and hotels. Every one of these industries has submitted comments to the USPTO urging withdrawal of the proposed rules.³

Who supports the proposed rules? The very patent trolls that assert invalid patents against American industry. A comment in

² See Unified Patents, Patent Dispute Report: Q3 in Review, Oct. 9, 2025.

³ See, e.g., Comments of US*MADE, Alliance for Automotive Innovation, 12 Semiconductor Companies, Software & Information Industry Association, Tesla, High Tech Inventors Alliance, Intel, Cisco Systems, Ford Motor Co., Ciena Corp., Business Software Alliance, ACT|The App Association, Computer & Communications Industry Association, CTIA and Competitive Carriers Association, MEMA, the Vehicle Suppliers Association, Entertainment Software Association, Consumer Technology Association, Quality Patents Coalition, Crypto Council for Innovation, and National Retail Federation.

support of the rules was submitted by Fortress Investment Group,⁴ a multi-billion-dollar hedge fund that is owned by financial interests in Abu Dhabi. Fortress builds nothing in the United States—but invests heavily in patent litigation against U.S. companies. Several years ago, Fortress was almost allowed to extract \$2.3 billion in patent “damages” from Intel, America’s leading semiconductor manufacturer.⁵ It was stopped because the patents were allowed to be challenged at the PTAB and were determined to be invalid.⁶

Had the USPTO’s current proposed rules been in place at the time, a foreign hedge fund that contributes *nothing* to the United States manufacturing economy would have taken \$2.3 billion from U.S. chipmakers—money that could be invested in new chip design technology, plants, and manufacturing jobs—because of patents that the USPTO itself has concluded are not innovative.

Other rules proposed by the USPTO would enable foreign adversaries of the United States to manipulate U.S. companies’ access to patent validity review. The USPTO proposes to allow even tentative unsuccessful challenges to a patent by *any* party to preempt all future validity reviews (Proposed § 42.108(e): *Claims found valid in prior proceedings*).⁷ This would include a district-court preliminary decision that was made a decade before current defendants were sued, or an *ex parte* reexamination in which the requester is not required to identify itself and cannot even participate in the proceeding.

Chinese state-owned enterprises aggressively assert questionable patents against U.S. companies. For example, Yangtze

⁴ See Comments of Fortress Investment Group.

⁵ See Reuters, Intel loses U.S. patent trial, ordered to pay \$2.18 billion to VLSI Tech, Mar. 2, 2021; Britain Eakin, Intel Hit With \$949M Verdict In Latest VLSI Patent Fight, Law360, Nov. 5, 2022.

⁶ See Intel Corp. v. VLSI Tech. LLC, IPR2021-01064 (May 12, 2023); Patent Quality Assurance, LLC v. VLSI Tech. LLC, IPR2021-01229 (June 13, 2023).

⁷ 90 Fed. Reg. 48338, 48341.

Memory Technologies Company (YMTC), which has extensive ties to the Chinese military and has been designated by the War Department as a national security threat, has repeatedly used patent litigation to obtain access to the trade secrets of Micron Technology, the leading U.S. manufacturer of DRAM memory.⁸ Yet the USPTO has procedurally barred Micron from seeking review of YMTC’s patents⁹—again, based on ad hoc “rules” that never underwent notice and comment and were not approved by the Office of Management and Budget. Huawei, which was the fifth largest recipient of U.S. patents in 2024, also aggressively targets U.S. technology companies.¹⁰ Many of its patents are invalid and have been canceled by the PTAB when they have been reviewed.¹¹

Finally, the USPTO’s rules would substantially increase the prices that Americans pay for prescription pharmaceuticals. The USPTO proposes, for example, to bar a party that challenges a patent’s validity at the PTAB from raising any obviousness challenges in district court (including types of challenges that *cannot* be raised at the PTAB—see Proposed § 42.108(d): *Required stipulation for efficiency*).¹² When a generic drug company seeks to bring a cheaper alternative to market, however, the *only* forum in which it can overcome a 30-month stay of FDA approval is in *district court*.¹³ The USPTO’s proposal would effectively disable this

⁸ See China-US Chip War Escalated as YMTC Sues Micron for Patent Infringement, July 22, 2024.

⁹ See, e.g., Micron Tech., Inc. v. Yangtze Memory Techs. Co., Ltd., IPR2025-00119 (June 4, 2025).

¹⁰ See CNBC, Huawei asks Verizon to pay more than \$1 billion for over 230 patents, June 13, 2019.

¹¹ See, e.g., Huawei Techs. Co., Ltd. v. Iancu, No. 19-1493 (Fed. Cir. 2020); Huawei Techs. Co., Ltd. v. Iancu, No. 19-1497 (Fed. Cir. 2020).

¹² 90 Fed. Reg. 48338, 48341.

¹³ See Sections 505(c)(3)(C)(i) and (j)(5)(B)(iii)(I) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355).

statutory mechanism for allowing inexpensive generic drugs to enter the market.

As the trade association for the suppliers of generic pharmaceuticals has emphasized, access to generic medicines has saved American patients and health-care providers *hundreds of billions* of dollars¹⁴—and generic suppliers “routinely rely on [PTAB review] to challenge low-quality pharmaceutical patents that delay the entry to lower-cost medicines.”¹⁵ Yet the USPTO’s proposed rules “would effectively eliminate [PTAB review] as a viable option for generic and biosimilar manufacturers”—a result “at odds with this Administration’s priorities and [that] will harm countless Americans in need of lower-cost drugs.”¹⁶

The organizations that represent America’s patients and health-care providers and seek to lower the cost of prescription drugs have overwhelmingly condemned the USPTO’s proposed rules.¹⁷ Brand pharmaceutical companies, meanwhile, have endorsed the USPTO’s plan to shield their patents from review.¹⁸

To protect American leadership in critical technologies and prevent invalid patents from unfairly increasing drug prices, we urge the Administration to withdraw the USPTO’s proposed rules. We also ask that the Administration review the USPTO’s recent actions and cancel those restrictions on patent validity review that have not undergone rulemaking or been approved by the Office of Management and Budget.

¹⁴ Comments of Association for Accessible Medicines at 2,4.

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *See supra* n. 11; *see also* Comments of Fresenius Kabi Biopharmaceuticals, Initiative for Medicines, Access & Knowledge, Campaign for Sustainable Rx Pricing, Patients For Affordable Drugs, ERISA Industry Committee, and Generation Patient.

¹⁸ *See* Comments of Pharmaceutical Research and Manufacturers of America.

Sincerely,

Association for Accessible Medicines

ACT|The App Association

Alliance for Automotive Innovation (AFAI)

American Hotel and Lodging Association (AHLA)

American Apparel & Footwear Association (AAFA)

Business Software Alliance

Computer & Communications Industry Association (CCIA)

Consumer Technology Association

Crypto Council for Innovation

Electronic Transactions Association

Engine

High Tech Inventors Alliance (HTIA)

National Retail Federation

National Restaurant Association

National Association of Convenience Stores

Quality Patents Coalition

Retail Industry Leaders Association (RILA)

Save our Standards

Software & Information Industry Association (SIIA)

Unified Patents, LLC

United for Patent Reform

US*MADE