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MEMORANDUM

To: Hon. Howard Lutnick, Secretary, US Department of Commerce
Hon. John Squires, Undersecretary of Commerce for Intellectual Property

From: Andrew Langer, Director, Center for Regulatory Freedom, CPAC Foundation

Date: December 2, 2025

Re: Comments on the US Patent and Trademark Office’s Notice of Proposed Rulemaking, “Rules of Practice before the Patent Trial and Appeal Board,” Docket #PTO-P-2025-0025, Published October 17, 2025

Below are comments of the American Conservative Union Foundation's (d/b/a. Conservative Political Action Coalition Foundation) (hereinafter “CPAC Foundation”) Center for Regulatory Freedom (hereinafter “CRF”), in response to the US Patent and Trademark Office’s Notice of Proposed Rulemaking, “Rules of Practice before the Patent Trial and Appeal Board,” Docket #PTO-P-2025-0025, published October 17, 2025.

CRF is a project of the CPAC Foundation, a non-profit, non-partisan 501(c)(3) research and education foundation. Our mission is to inject a common-sense perspective into the regulatory process, to ensure that the risks and costs of regulations are fully based on sound scientific and economic evidence, and to ensure that the voices, interests, and freedoms of Americans, and especially of small businesses, are fully represented in the regulatory process and debates. Finally, we work to ensure that regulatory proposals address real problems, that the proposals serve to ameliorate those problems, and, perhaps most importantly, that those proposals do not, in fact, make public policy problems worse.

Introduction

A vibrant and reliable system of intellectual property rights has long been the engine of America’s global leadership in innovation. For more than a century, the United States has distinguished itself from its competitors through a framework that rewards discovery, encourages risk-taking, and protects the investments required to turn groundbreaking ideas into commercial realities. This framework has nurtured the world’s strongest innovation economy, enabling researchers, entrepreneurs, universities, and businesses to develop technologies that shape global markets and

improve lives across the world. At the heart of this system is the patent right, a promise that inventors can rely on the exclusivity necessary to justify the immense financial and personal risks associated with technological advancement.

The strength of America's innovation ecosystem is not an accident. It is built on a foundation of predictable, enforceable property rights that give inventors the confidence to pursue bold solutions to complex challenges. From biotechnology to advanced manufacturing, from energy systems to cybersecurity, America's most dynamic industries rely on patent protections that are stable enough to support long-term investment. Venture capital firms, research institutions, and established businesses all depend on the certainty that once a patent has been secured, its validity will not be constantly undermined by duplicative or inconsistent administrative processes.

Yet in recent years, concerns have grown that this foundation is eroding. The post-grant review system, originally designed as a streamlined alternative to district court litigation, has increasingly become a forum for repetitive challenges that destabilize patent rights and weaken the incentives that drive innovation. When patents can be subjected to multiple rounds of litigation across multiple venues—sometimes even after being upheld elsewhere—the practical value of those rights diminishes. This growing unpredictability creates ripple effects throughout the innovation pipeline, chilling investment, discouraging early-stage research, and undermining America's competitive position.

The consequences are particularly acute for startups, small businesses, and university-based inventors, who rely disproportionately on the strength of their patents to attract financing and form strategic partnerships. For these innovators, patents are often their most valuable assets—sometimes their only assets—and repeated administrative challenges divert precious resources away from research, development, and commercialization. A system that permits well-funded challengers to pursue serial petitions or to hide behind proxy petitioners undermines the very purpose of the patent right and threatens the diversity and dynamism of the U.S. innovation landscape.

This instability also reverberates across the broader economy. Industries characterized by long development cycles—such as pharmaceuticals, clean energy, and advanced materials—require substantial upfront investment. Investors are less likely to finance projects in these fields if the intellectual property underlying them can be unpredictably weakened or invalidated years into development. A patent system that cannot deliver reliable, enforceable rights risks redirecting investment away from precisely the kinds of high-impact technologies that have historically propelled American leadership.

The proposed reforms to the Patent Trial and Appeal Board represent an important response to these concerns. By establishing clear limitations on duplicative challenges, requiring petitioners to commit to a single forum for validity disputes, and reinforcing the finality of earlier adjudications, the USPTO is taking necessary steps to restore integrity and predictability to the U.S. patent system. These reforms strengthen the confidence that innovators and investors place in patent rights and help ensure that intellectual property serves its intended function as a catalyst for economic growth and technological progress.

Moreover, restoring predictability to PTAB proceedings is essential not only for domestic competitiveness but also for America's standing on the world stage. As other nations accelerate their investments in research and development, the United States must continue to rely on the strength of its intellectual property framework to attract global talent, secure private investment, and maintain leadership in emerging technologies. A reliable patent system is a strategic national asset,

one that underpins the innovation capacity that drives economic strength, national security, and global influence.

For these reasons, this rulemaking represents a critical opportunity to reinforce the foundation of America's innovation economy. By realigning the PTAB with its original purpose, safeguarding the rights of inventors, and ensuring that the patent system functions as a reliable platform for investment and discovery, the USPTO's proposed reforms will help preserve the competitive advantages that have long defined American innovation. The following comments explain how these reforms advance those goals and identify additional steps that can enhance the stability, fairness, and effectiveness of the patent system.

Executive Summary

The USPTO's proposed reforms to the Patent Trial and Appeal Board represent one of the most important administrative steps in years toward restoring balance, predictability, and fairness to the U.S. patent system. Over time, the PTAB has drifted from the America Invents Act's intended role as an efficient alternative to district court litigation and has instead become a duplicative second venue for repeated validity challenges. This has undermined the reliability of patent rights, distorted market competition, weakened incentives for investment, and placed disproportionate burdens on startups, small businesses, and university-based innovators. The reforms proposed in this rulemaking are therefore essential to strengthening America's innovation ecosystem, stabilizing intellectual property rights, and ensuring that the patent system continues to support economic growth and technological leadership.

Key Points:

- The proposed reforms realign PTAB practice with congressional intent by ensuring that inter partes review functions as an alternative—not a supplement—to district court litigation, reducing opportunities for strategic duplication.
- By preventing serial and parallel challenges to patents already upheld in prior proceedings, the rule restores essential finality and stability to patent rights, thereby reducing uncertainty across innovation-driven industries.
- The requirement that petitioners choose a single forum for 102 and 103 challenges mitigates procedural gamesmanship and prevents challengers from weaponizing duplicative litigation to pressure patent owners.
- The reforms enhance patent reliability, strengthening the investment climate for early-stage and high-risk technologies by reducing the litigation-driven risk premium that has deterred capital formation.
- Startups and small businesses will benefit significantly from reduced exposure to repetitive challenges that drain resources, delay commercialization, and give larger competitors an unfair strategic advantage.
- The reforms alleviate administrative burdens on the USPTO by reducing duplicative petitions, freeing PTAB judges to focus on meritorious cases and enabling faster resolution of ex parte appeals.
- Clearer rules and narrower discretion promote greater consistency in institution decisions, reducing uncertainty for both petitioners and patent owners and enhancing the credibility of PTAB adjudication.

- The proposed rule strengthens real-party-in-interest disclosure obligations and limits proxy petitioning, preventing hidden funders or controlling entities from manipulating PTAB proceedings to evade estoppel or orchestrate coordinated attacks.
- The reforms reinforce the Bayh-Dole framework by stabilizing the patent rights that universities and nonprofit research institutions depend upon to license federally funded inventions and support technology transfer to private-sector partners.
- By reducing duplicative challenges and reinforcing IP predictability, the rule supports the commercialization pipeline from university research to market-ready innovation, encouraging stronger industry partnerships and research investment.
- The proposal enhances America’s global competitiveness by ensuring that domestic patent rights remain predictable and secure, strengthening the country’s position as a preferred destination for research, development, and innovation capital.
- Stronger predictability also improves the reliability of patent valuations, stabilizes licensing markets, and encourages collaborative innovation across sectors such as biotechnology, clean energy, semiconductors, and advanced manufacturing.
- The reforms reduce systemic risks associated with unstable patent rights, ensuring that firms have the confidence to invest in long-term research programs essential for national economic and technological leadership.
- Greater legal coherence between PTAB review and other judicial or administrative outcomes reduces the risk of conflicting decisions that undermine public trust in the patent system.
- The rule’s narrow and clearly defined “extraordinary circumstances” exception provides flexibility without enabling backdoor relitigation, preserving fairness while maintaining the integrity of the new framework.

The proposed PTAB reforms therefore represent a critical step toward rebalancing the patent system and restoring the certainty necessary for robust innovation and economic growth. By strengthening procedural safeguards, enhancing transparency, reinforcing the finality of adjudicated rights, and reducing opportunities for strategic abuse, the USPTO has advanced a thoughtful and well-structured proposal that will materially improve the function and fairness of inter partes review. CRF strongly supports these reforms and urges the PTO to adopt them in the final rule to help ensure that the United States continues to lead the world in technological advancement and competitive innovation.

I. The Need for Reform: PTAB’s Deviations From Congressional Intent

The creation of inter partes review was intended to provide a streamlined, cost-effective alternative to certain types of district-court litigation, not a forum for repeated attacks on patent rights that had already been scrutinized by other tribunals. Over time, however, the PTAB has grown into a parallel venue where issues of novelty and non-obviousness are relitigated even after they have been addressed through examination, federal court decisions, ITC proceedings, or prior administrative reviews. This transformation has significantly diverged from the legislative intent that guided the implementation of the America Invents Act and has fostered a system in which patent owners must continuously defend their claims against duplicative challenges.

The resulting uncertainty has undermined the core function of the patent system, which is to provide inventors with a predictable and reliable property right that can support commercialization and investment. When a patent faces the continual threat of challenge across multiple forums, even after being upheld elsewhere, its economic value is diminished. This is particularly damaging because the

incentive to innovate rests not merely on obtaining a patent, but on having confidence that the patent will retain its presumption of validity unless compelling new information is presented. A system that allows repeated, overlapping challenges erodes that confidence and damages the integrity of the innovation economy.

Startups and small businesses are disproportionately harmed when PTAB proceedings deviate from their intended purpose. These companies depend on patents to attract financing, negotiate partnerships, and compete with more established firms. When well-resourced competitors initiate serial challenges, the smaller firm is forced to divert scarce capital toward defending its intellectual property instead of focusing on research, development, hiring, and growth. The litigation imbalance created by these duplicative proceedings thus functions not merely as a legal burden, but as a strategic barrier to market entry and competition.

In many instances, the PTAB has allowed petitioners to relitigate issues already addressed during prosecution or resolved by courts, leading to a cycle of reevaluation that erodes finality. Patent owners can find themselves trapped in a prolonged dispute where each successful defense simply invites another avenue of review. This dynamic transforms the PTAB into a mechanism for attrition, particularly when used by larger entities that see repeated challenges as a cost-effective tactic for undermining the competitive threat posed by emerging innovators.

Such outcomes were never envisioned by Congress. The statutory framework grants the USPTO discretion to decline institution in circumstances where review would duplicate ongoing or prior litigation. That discretion exists precisely to prevent the type of repetitive challenges that have since become common. The need for clear regulatory guardrails has grown as petitioners have become more sophisticated in structuring serial filings, coordinating parallel PTAB and district-court proceedings, and exploiting ambiguities in discretionary-denial standards. The proposed rule seeks to restore the intended balance by formalizing and strengthening the limits on when IPRs should move forward.

Beyond undermining individual patent rights, unchecked duplicative challenges distort broader market behavior. When dominant firms can repeatedly attack competitors' patents, the economic advantage of size is amplified in ways that suppress innovation rather than promote it. These tactics can slow the commercial development of valuable technologies and deter entry into high-tech markets where intellectual property rights should function as an equalizing force. The PTAB's deviation from its statutory purpose has thus contributed to patterns of market concentration that disincentivize risk-taking and weaken the overall competitiveness of the innovation ecosystem.

The uncertainty generated by these repetitive proceedings also reverberates through investment markets. Investors evaluating the viability of an early-stage company closely scrutinize the security of its intellectual property. A patent repeatedly subjected to challenge is less attractive as collateral for investment, which in turn raises capital costs and reduces the likelihood that breakthrough technologies will advance past early development. The ongoing erosion of patent reliability has created a funding environment in which even strong inventions struggle to secure the support needed to reach commercialization.

Moreover, the administrative burden placed on the USPTO itself grows heavier as duplicative challenges proliferate. Time and resources spent on repeated disputes detract from the agency's ability to conduct timely ex parte appeals and other essential functions. This diversion not only impacts the pendency of appeals but also affects patent quality and the overall efficiency of the system. A recalibration is needed to ensure that PTAB review is reserved for cases where it

meaningfully contributes to the integrity of the patent landscape rather than duplicating previously addressed issues.

The proposed reforms recognize these structural problems and seek to restore the PTAB to its intended role. By limiting institution where claims have already been upheld, ensuring that IPRs do not run parallel to ongoing litigation, and requiring petitioners to commit to a single forum for their validity arguments, the rule aims to align PTAB practice with congressional intent. These changes reinforce the principle that patent rights should not be endlessly questioned and that administrative review should complement, not duplicate, judicial processes.

Restoring the PTAB to its proper statutory function is essential to safeguarding the balance between challenger and patent owner that underpins a fair and competitive innovation economy. The proposed rule is a necessary and timely corrective, aimed at resolving long-standing systemic issues that have weakened patent reliability, discouraged investment, and distorted competition. By reestablishing clear boundaries on when inter partes review is appropriate, the USPTO is taking a decisive step toward strengthening the patent system and supporting America's continued leadership in technological innovation.

II. Overview of the NPRM's Proposed Reforms

The proposed rule takes a multifaceted approach to rebalancing the PTAB system, focusing primarily on limiting duplicative challenges and reasserting the principle that patents should not be subjected to repeated validity reviews once those issues have been adequately tested in other forums. At its core, the rule recognizes that multiple bites at the apple undermine the finality essential to a well-functioning patent system, and it establishes clear boundaries to ensure that inter partes review does not become a tool for strategic gamesmanship. By formalizing these boundaries, the USPTO offers stakeholders a more predictable and coherent procedural framework.

One of the central components of the proposal is the requirement that petitioners stipulate they will not pursue 102 or 103 invalidity arguments in any other forum if an IPR is instituted. This reform directly addresses the persistent problem of parallel challenges, where petitioners mount simultaneous or overlapping attacks on patent validity in district court, the ITC, and the PTAB. The stipulation requirement forces petitioners to choose a single venue for validity disputes, reducing uncertainty and preventing the strategic use of PTAB proceedings to delay or complicate litigation elsewhere.

Another significant aspect of the proposal is the limitation on instituting IPRs when a patent's claims have previously been upheld through examination, district court litigation, ITC proceedings, prior PTAB trials, or reexamination. This codified respect for earlier determinations reinforces the principle that patent owners should receive the benefit of finality once their claims have survived a substantive validity review. By formalizing these restrictions, the rule reduces the likelihood of repetitive challenges that drain resources without producing meaningful new information.

The proposal also aims to eliminate redundancy by declining institution in situations where a parallel proceeding is likely to reach a validity determination before the PTAB would issue its final written decision. In these cases, allowing both processes to continue simultaneously serves no purpose other than to duplicate effort and increase costs for all parties involved. The rule's emphasis on avoiding parallel determinations ensures that the PTAB remains a true alternative to district court litigation, rather than an overlapping forum.

The NPRM also addresses the treatment of dependent claims by recognizing that if an independent claim has been upheld as novel and nonobvious, its dependent forms necessarily satisfy those same requirements. This clarification prevents petitioners from attempting to fragment patent disputes by attacking dependent claims that derive directly from claims already deemed valid. The result is greater efficiency and reduced opportunity for petitioners to circumvent prior rulings through targeted, piecemeal challenges.

A carefully constructed “extraordinary circumstances” exception allows the Director to authorize institution when unique situations warrant review despite the general restrictions. This safeguard preserves flexibility in rare cases where justice requires revisiting a prior outcome while ensuring that exceptions remain narrow and not a pathway for routine relitigation. The rule clearly delineates what does not qualify as extraordinary circumstances, preventing misuse while maintaining the option for intervention when necessary to uphold fairness and system integrity.

By codifying these guidelines, the rule brings greater transparency and consistency to PTAB decision-making. Petitioners and patent owners will have clearer expectations regarding whether an IPR petition is likely to be instituted, allowing them to tailor their litigation strategies accordingly. This clarity reduces the unpredictability that has long characterized PTAB practice and ensures that decisions are based on transparent, uniform criteria rather than variable interpretations of discretionary standards.

The proposed reforms also reflect a renewed focus on the economic consequences of PTAB practice. The rule explicitly acknowledges that repeated challenges undermine incentives to innovate and harm the broader economy. By structuring inter partes review to complement rather than duplicate other venues, the USPTO is aiming to reduce unnecessary costs, strengthen market competition, and improve the commercial viability of patented technologies. This economic sensitivity aligns PTAB procedures more closely with the needs of the innovation ecosystem.

In addition to aligning PTAB practice with congressional intent, the proposal also enhances institutional efficiency within the USPTO. Reducing duplicative IPR proceedings allows administrative judges to devote more time to ex parte appeals and other mission-critical functions. This shift helps address longstanding backlogs and improves the timeliness of patent examination and appeal outcomes, which in turn supports innovators by ensuring that new technologies move more smoothly through the development pipeline.

Overall, the NPRM provides a balanced, pragmatic framework for reforming PTAB practice. It safeguards the rights of patent owners, respects prior adjudications, and limits opportunities for strategic abuse, while ensuring that the PTAB continues to function as an effective mechanism for evaluating validity challenges when appropriate. By clarifying the scope of PTAB authority and encouraging more efficient litigation pathways, the proposal strengthens the patent system and enhances the predictability necessary for sustained innovation and economic growth.

The proposed rule ultimately reflects a thoughtful approach to reestablishing coherence, fairness, and efficiency in the inter partes review system. It closes loopholes that have allowed excessive and duplicative challenges, provides guardrails for consistent institution decisions, and reaffirms the principle that once patent validity has been fairly adjudicated, those rights should not be perpetually open to attack. These reforms mark a significant step toward restoring the reliability of the patent system and supporting a healthier innovation environment across the United States.

III. How the Proposed Rule Advances Patent Reliability and Economic Growth

Patent reliability is foundational to a thriving innovation economy, and the proposed reforms materially strengthen the stability upon which inventors and investors rely. By limiting duplicative challenges and elevating the finality of prior judicial and administrative determinations, the rule reinforces the idea that patents confer dependable rights rather than provisional claims subject to constant re-litigation. This enhanced stability is essential because inventors must have confidence that, once their patents have been validated by substantive review, they can proceed with commercialization and investment planning without the threat of ongoing challenges.

One of the most significant ways the proposal advances economic growth is by restoring the predictability necessary for investment, particularly in early-stage and high-risk industries. Investors examine not only the strength of a patent's claims but also the durability of those claims in the face of legal and administrative scrutiny. When patents are vulnerable to repeated, parallel challenges, the perceived risk increases dramatically, leading investors to demand higher returns or bypass opportunities altogether. By constraining duplicative proceedings, the rule reduces this risk premium and encourages greater capital formation.

The proposal also supports innovation by reducing the strategic uncertainty that has plagued patent owners under the existing PTAB framework. When firms must allocate significant resources to defend the same patent in multiple venues, they have less capacity to innovate. This is especially true for sectors with long development cycles, such as pharmaceuticals, biotechnology, and advanced materials, where substantial upfront investment is required before revenue is generated. Reducing unnecessary litigation channels allows firms to redirect resources toward research, product development, and market entry.

Moreover, the reforms help preserve the competitive dynamics that drive economic growth. A patent system that permits repeated challenges disproportionately benefits larger companies with the resources to endure prolonged litigation. Smaller firms and startups often cannot afford to defend their intellectual property across multiple fronts, which distorts market competition and suppresses new entry. By setting clearer limits on when additional challenges may proceed, the proposed rule mitigates this imbalance and supports a more level playing field for innovators of all sizes.

The rule also reinforces the link between patent reliability and technology transfer. Universities, federal laboratories, and research institutions depend on predictable patent rights to license inventions that otherwise might not reach the marketplace. When the validity of granted patents can be continuously questioned, licensing partners become hesitant, and technology transfer slows. Strengthening the stability of patent rights encourages more active collaboration between public research institutions and private companies, accelerating the commercialization of emerging technologies.

Economic growth further benefits from the clarity the rule brings to the patent ecosystem. Clear and predictable boundaries for inter partes review reduce the uncertainty patent owners face when navigating enforcement strategies or negotiating licensing agreements. With more stable expectations, companies can make long-term strategic decisions with greater confidence, supporting the growth of industries that require consistent investment over extended time horizons.

The proposal also improves the efficiency of capital allocation. When patents are vulnerable to repetitive challenges, innovators must set aside significant reserves to address potential litigation

costs. These reserves represent capital that could otherwise be deployed to hire employees, build infrastructure, or scale production. By reducing exposure to redundant challenges, the rule allows companies to invest more fully in their operations and contribute more robustly to the broader economy.

In addition to direct economic impacts, the reforms help strengthen the innovation pipeline by reinforcing the integrity of the patent system. A system perceived as fair, predictable, and balanced encourages participation by inventors across all sectors. When patent rights appear uncertain or excessively vulnerable to strategic litigation, innovators may turn to trade secrecy or avoid investment in high-risk technologies altogether. The proposed reforms address this erosion of confidence by ensuring that legitimate patents are not subjected to repeated, unpredictable challenges.

The rule's emphasis on honoring the outcomes of prior judicial and administrative reviews also supports economic efficiency. When claims have already undergone rigorous scrutiny, subjecting them to further challenges offers diminishing returns. Respecting the finality of these earlier determinations reduces duplication and frees up resources for disputes that genuinely warrant review. This approach reinforces the idea that administrative processes should be targeted and purposeful, rather than repetitive and burdensome.

Ultimately, the proposed reforms support a healthier, more dynamic innovation economy by reaffirming the value and stability of patent rights. They create conditions that foster investment, enhance competitiveness, and encourage continuous technological advancement. By strengthening the reliability of the patent system, the rule contributes to a more vibrant economic environment in which inventors, investors, and businesses can pursue bold ideas with confidence that their rights will be respected and upheld.

IV. Benefits for Startups, Small Businesses, and New Market Entrants

Startups and small businesses occupy a critical space in the American innovation landscape, driving technological breakthroughs and generating competitive pressure that keeps markets dynamic. Yet these firms are also the most vulnerable when patent rights lack stability. The proposed reforms directly respond to this vulnerability by reducing the legal and financial pressures that stem from repeated, duplicative challenges. By limiting the circumstances under which patents may be attacked through inter partes review, the rule significantly strengthens the ability of small innovators to rely on their intellectual property as a foundation for growth.

The proposed stipulation requirement is particularly impactful for smaller entities. Under current practice, large companies often mount simultaneous challenges in district court and at the PTAB, forcing smaller competitors to split their resources between parallel proceedings. By requiring petitioners to forgo bringing 102 and 103 arguments in multiple venues, the new rule prevents this duplication and obligates challengers to choose a single forum. This shift dramatically reduces the litigation burden on startups, allowing them to devote more capital to scaling their business rather than fighting repetitive battles over previously adjudicated issues.

These reforms also strengthen the role of patents as financial assets for small businesses. Investors scrutinize the stability of a company's intellectual property before committing capital, and the threat of repeated challenges has historically reduced the appeal of early-stage ventures. By providing clearer limits on when a patent may face review and honoring the outcomes of prior proceedings,

the proposed rule enhances the reliability of patent rights. This added certainty increases the confidence of investors, lenders, and potential partners, improving access to the funding necessary to advance new technologies.

By reducing duplicative challenges, the proposal also curbs a form of strategic behavior that has long disadvantaged smaller companies. Larger firms have used repeated PTAB challenges as a way to pressure startups, delay enforcement, and drive up legal costs. These tactics can drain a young company's financial resources and create prolonged uncertainty that hinders their ability to attract customers and business partners. The proposed reforms help counteract these inequalities by ensuring that patents cannot be repeatedly attacked simply because a challenger has deeper pockets.

The proposal further benefits small businesses by reinforcing the value of their intellectual property in negotiations. Whether engaging in licensing discussions, forming partnerships, or seeking acquisition opportunities, startups rely on the strength of their patents to secure favorable terms. When patents are consistently vulnerable to repeated challenges, the bargaining position of the patent owner is weakened. By restoring the confidence that once a patent has been upheld it will not be reopened before the PTAB, the rule strengthens the commercial leverage of smaller innovators.

Small and emerging companies often operate on tight timelines, especially in technology sectors defined by rapid development cycles. Lengthy, duplicative litigation drains time as well as financial resources and can delay the introduction of novel technologies into the market. The proposed rule minimizes these time drains by eliminating unnecessary proceedings, allowing innovators to maintain their momentum and compete more effectively with established market players who may be motivated to slow their progress.

In addition to reducing direct litigation burdens, the proposed rule improves competitive fairness. Many of the industries most affected by PTAB challenges—such as software, electronics, and advanced manufacturing—are dominated by firms with significant legal and financial resources. When repeated challenges are permitted, these firms can use the PTAB as a tool to suppress emerging competitors. By limiting opportunities for such strategic behavior, the rule helps restore the competitive balance that allows smaller firms to thrive and push technological progress forward.

The reforms also support the innovation pipeline by making it easier for early-stage companies to commercialize their ideas. When patents are subject to fewer duplicative challenges, emerging firms can direct more of their resources toward product development, regulatory approvals, hiring skilled personnel, and market expansion. This creates a healthier innovation ecosystem and ensures that promising technologies do not stall due to excessive procedural burdens.

Importantly, the proposal aligns with the reality that small businesses often file patents on groundbreaking ideas that incumbents may prefer not to see reach the market. Strong, stable patent protection ensures that new entrants can disrupt markets and challenge established firms, driving the competitive churn that fuels economic growth. By limiting serial and parallel challenges, the proposed rule reinforces this essential mechanism for innovation and competition.

Overall, the rule marks a significant step toward creating a patent environment where startups and small businesses can innovate with confidence, compete fairly, and secure the investment needed to bring transformative technologies to market. By reducing duplicative challenges, honoring the finality of prior decisions, and curbing procedural gamesmanship, the proposed reforms support a

more vibrant and competitive innovation economy that better reflects the foundational principles of the U.S. patent system.

V. Impact on USPTO Administration and PTAB Resource Allocation

The proposed reforms will significantly improve the USPTO's ability to manage its workload by reducing the volume of duplicative inter partes review proceedings that currently consume substantial administrative resources. PTAB judges are required to dedicate considerable time to assessing institution decisions, managing discovery, overseeing hearings, and preparing final written decisions. When these proceedings merely replicate disputes already addressed elsewhere, they represent a diversion of limited resources from more essential work. By restricting unnecessary institution, the rule helps ensure that the PTAB's time and expertise are applied where they can offer the greatest value.

One of the most important administrative benefits of the proposed rule is the shift toward prioritizing ex parte appeals. These appeals are critical because they determine whether new inventions receive patent protection and whether existing applications are correctly examined. Yet the increasing dominance of PTAB trial work has contributed to backlogs and delays in this area. By reducing the number of IPRs, the proposed rule enables administrative judges to focus on appeals that directly influence the quality and clarity of issued patents, strengthening the foundation of the innovation system from the outset.

The reduction in duplicative proceedings also helps improve the consistency and efficiency of patent examination. Examiners who see their decisions repeatedly second-guessed through parallel PTAB challenges may become more risk-averse, leading to unpredictability in prosecution outcomes. Ensuring that PTAB review is not used as a repetitive override mechanism supports greater coherence within the agency's examination framework. This, in turn, contributes to a more stable patent system, as applicants can anticipate how their claims will be evaluated across different stages of review.

The reforms also reduce the administrative burden on the PTO's support staff, who must manage filings, maintain case records, and coordinate communications between parties during PTAB proceedings. These tasks become increasingly complex when multiple challenges to the same patent proceed in parallel or when late-filed petitions attempt to re-litigate issues already reviewed. Eliminating redundant challenges simplifies case management and allows staff to focus on tasks that directly support the quality and efficiency of the agency's core functions.

Internal consistency within the PTAB also stands to benefit from the proposed reforms. When multiple panels consider overlapping issues related to the same patent, there is an increased risk of inconsistent outcomes or divergent interpretations of similar evidence. By placing clearer limits on institution, the rule reduces opportunities for such inconsistencies to arise. This leads to a more uniform body of PTAB jurisprudence and strengthens the predictability that inventors and practitioners rely on when navigating the patent system.

The proposal also enhances the USPTO's ability to meet statutory deadlines for IPR proceedings, which become increasingly difficult to manage as caseloads grow. When institution decisions are limited to disputes that genuinely require PTAB intervention, administrative judges can devote the necessary attention to each proceeding without overextending their capacity. This timely resolution

is essential for both patent owners and challengers and supports the efficient operation of the broader legal system.

By narrowing the pool of cases eligible for review, the reforms help ensure that the PTAB can focus on higher-quality petitions. This incentivizes petitioners to bring well-founded challenges supported by strong evidence rather than relying on repetitive or speculative filings. The PTAB's resources are thus directed toward cases that raise substantive questions about patentability, enhancing the overall value and credibility of the institution's work.

Administrative efficiency also benefits from the rule's emphasis on preventing parallel proceedings that often require coordination between district courts, the ITC, and the PTAB. Managing overlapping schedules, filings, and evidentiary submissions across multiple venues imposes substantial burdens on agency personnel. When the PTAB defers to ongoing or prior proceedings that are poised to resolve validity questions, this coordination burden is reduced, allowing the USPTO to operate more smoothly.

The proposed reforms align the USPTO's administrative mission with broader economic and innovation goals. By eliminating wasteful duplication, the rule ensures that public resources are used to support the effective functioning of the patent system rather than to subsidize repetitive litigation tactics. This more efficient allocation of administrative capacity ultimately benefits the entire innovation ecosystem, as it improves the quality, speed, and predictability of patent examination and appeal processes.

Overall, the proposed rule enhances the efficiency, consistency, and effectiveness of the USPTO by concentrating PTAB resources on the cases that truly warrant review. By reducing duplicative challenges, alleviating administrative strain, and refocusing attention on core functions such as ex parte appeals, the reforms strengthen the agency's ability to support a robust and reliable patent system. This administrative recalibration is essential to ensuring that the USPTO continues to fulfill its mission in a manner that promotes innovation, competitiveness, and economic growth.

VI. Restoring PTAB Consistency, Predictability, and Legal Coherence

A central objective of the proposed reforms is to restore consistency across PTAB institution decisions, an area where unpredictability has long undermined confidence in the inter partes review system. Under the current framework, outcomes can vary considerably depending on which panel hears the petition and how discretionary-denial guidance is interpreted. This lack of uniformity complicates litigation strategy for both petitioners and patent owners, introducing unnecessary uncertainty into the innovation ecosystem. The proposed rule addresses this by establishing clearer and more objective boundaries for when review is appropriate.

The reforms also enhance predictability by tying institution decisions more closely to the outcomes of other judicial and administrative proceedings. When validity has already been thoroughly evaluated in district court or before the ITC or affirmed in prior PTAB or reexamination proceedings, the proposed rule prevents reopening those determinations except in narrowly defined circumstances. This honors the principle that legal and administrative decisions should carry meaningful finality, and it prevents the PTAB from functioning as an unpredictable override mechanism that destabilizes previously adjudicated rights.

By narrowing the role of discretionary analysis in institution decisions, the rule reduces the variability that currently stems from differing interpretations of non-binding factors. Petitioners and patent owners alike have long struggled with uncertainty about how these factors would be applied in any given case. Codifying clear rules about when review will and will not proceed reduces ambiguity and ensures that parties can anticipate procedural outcomes with greater confidence. This fosters a more stable and transparent patent litigation environment.

Another benefit of the proposed reforms is the reduction in the risk of conflicting outcomes between the PTAB and other tribunals. When multiple venues evaluate the same validity questions, inconsistent rulings can arise, creating confusion and undermining the integrity of the patent system. By preventing the PTAB from re-litigating issues already addressed elsewhere, the rule minimizes opportunities for contradictory determinations and supports a more coherent body of patent jurisprudence.

The reforms also place appropriate limits on the scope of new arguments and evidence that may be introduced in later PTAB challenges. In the past, petitioners have sometimes attempted to circumvent prior losses by repackaging old arguments with marginally altered evidence or claim constructions. The proposed rule reduces opportunities for such procedural maneuvering by limiting the circumstances under which subsequent petitions may be considered. This supports consistent decision-making and discourages attempts to relitigate settled matters.

A clearer and more predictable institution landscape not only benefits litigants but also strengthens the credibility of the PTAB itself. When parties understand the conditions under which review will occur, they can more effectively assess the value of PTAB proceedings and the likelihood of success. This increased transparency enhances trust in the PTAB as an impartial arbiter rather than a strategic tool whose availability depends on opaque or inconsistent standards.

The narrow “extraordinary circumstances” exception also contributes to predictability by clearly defining the boundaries of permissible review. By explicitly identifying the types of situations that do not qualify—such as the introduction of new evidence or new legal theories—the rule ensures that exceptions are not used as a backdoor to revive issues that have already been settled. This clarity reinforces the consistency of PTAB practice and discourages speculative petitions designed to test panel boundaries.

Furthermore, the proposed reforms strengthen the connection between PTAB decisions and broader principles of administrative law. By aligning institution decisions more closely with prior adjudications and limiting duplicative review, the reforms ensure that PTAB proceedings operate within a coherent legal framework rather than functioning as an independent, duplicative system of adjudication. This integration improves both the legal coherence and the public legitimacy of PTAB operations.

The enhanced consistency resulting from these reforms also improves efficiency for practitioners and businesses. When procedural expectations are clear, parties can tailor their strategies accordingly, reducing the need for contingency planning or costly parallel litigation approaches. This allows both challengers and patent owners to allocate resources more effectively, thereby improving the overall efficiency of the patent dispute system.

The proposed reforms restore coherence and predictability to a system that has been characterized by inconsistency and procedural ambiguity. By establishing clear guidelines, respecting prior

decisions, and limiting opportunities for repetitive or strategic challenges, the rule reinforces confidence in PTAB processes and strengthens the integrity of the U.S. patent system. This renewed consistency is essential for maintaining a healthy innovation environment in which inventors, investors, and companies can operate with clarity and trust.

VII. Recommended Clarifications and Enhancements to the NPRM

While the proposed reforms provide a strong framework for restoring balance and predictability to PTAB proceedings, certain clarifications would further strengthen the rule's effectiveness and ensure smooth implementation. The proposed boundaries on institution are clear in principle, but additional detail would help avoid ambiguity in operational practice. This added clarity would benefit not only patent owners and petitioners but also PTAB judges tasked with applying the new standards consistently.

One area where clarification would be helpful is in the treatment of "extraordinary circumstances." Although the NPRM offers examples of situations that do not qualify, additional guidance on situations that might qualify would provide stakeholders with a clearer understanding of the narrow conditions under which the Director may exercise discretion. These examples need not be exhaustive, but illustrative scenarios would help reduce speculation and prevent unnecessary petitions premised on stretching the boundaries of the exception.

Similarly, more explicit timelines for filing stipulations would enhance the transparency and effectiveness of the proposed requirements. The rule rightly compels petitioners to commit to a single forum for validity challenges, but the process for when and how those stipulations must be submitted could be further detailed to avoid procedural disputes. Clear deadlines and expectations would reduce the risk of gamesmanship and ensure that all parties understand their obligations from the outset of a proceeding.

Clarification is also warranted regarding the consequences of noncompliance with stipulation requirements. While the rule requires petitioners to forgo parallel challenges, it does not fully detail the remedy if a petitioner violates that commitment after institution. Providing guidance on the potential sanctions, procedural outcomes, or dismissal consequences would reinforce the seriousness of the requirement and deter strategic attempts to circumvent it.

The proposed rule's treatment of dependent claims could also benefit from additional explanation. The principle that dependent claims should not be relitigated when the corresponding independent claim has been upheld is sound, yet stakeholders may benefit from guidance on how this principle applies in cases involving multiple claim families or complex dependency structures. Clear examples or commentary could help PTAB panels apply the rule consistently in such cases.

Another suggestion is to clarify how the PTAB should handle petitions filed shortly before or after significant milestones in parallel litigation. Petitioners sometimes attempt to time IPR filings to create procedural leverage or disrupt ongoing district court schedules. Guidance on how to evaluate institution when parallel litigation is approaching trial, summary judgment, or claim construction would reduce uncertainty and limit attempts to exploit timing gaps.

Additionally, providing more detail on the handling of partially adjudicated claims would strengthen the rule's predictability. In some cases, courts or administrative bodies may address certain claims within a patent but not others. Further explanation of how the PTAB should treat

petitions involving mixed claim outcomes would promote clarity and consistency for both petitioners and patent owners.

Clarification would also be valuable regarding the effect of stays in parallel litigation. When district courts stay proceedings pending PTAB review, petitioners sometimes alter their positions or pursue additional challenges not originally contemplated. Clear procedural guidance on how such shifts affect institution decisions would help prevent confusion and reduce opportunities for gamesmanship.

The USPTO may also consider offering administrative guidance on how PTAB panels should evaluate the overlap between prior and current arguments. Petitioners sometimes reframe old arguments with new wording or slightly different evidence. A more explicit standard for determining when an argument is “substantially the same” would help the PTAB draw clear lines and avoid burdening patent owners with repetitive disputes.

Finally, periodic review of the rule’s implementation would be beneficial to assess its effectiveness in reducing duplicative challenges and improving PTAB consistency. The USPTO could signal its intention to monitor petition trends, institution rates, and administrative workload to ensure that the reforms are achieving their intended goals. Communicating this intention would reinforce the agency’s commitment to maintaining a balanced and effective patent system.

VIII. Strengthening Real Party in Interest Transparency and Preventing Proxy Petitioners

The effectiveness of the PTAB depends not only on the fairness of its procedures but also on the integrity and transparency of the petitioners who invoke its jurisdiction. Over the past decade, stakeholders have raised concerns that some entities file PTAB petitions as proxies for larger, undisclosed real parties in interest. These hidden relationships distort the litigation landscape, undermine the estoppel framework, and allow well-funded firms to evade accountability while orchestrating serial challenges. Ensuring that the PTAB has accurate and complete information about all real parties in interest is essential to preventing this type of regulatory arbitrage.

Proxy filings allow dominant firms to launder challenges through shell companies, industry groups, or nominally independent entities that obscure the true source of funding and strategic direction. Such arrangements allow the real beneficiary of the challenge to avoid estoppel and continue litigating issues in other forums while exploiting PTAB procedures through an intermediary. This practice creates an uneven playing field in which patent owners face multiple challenges from what appears to be a variety of unrelated petitioners when, in reality, they may be confronting a coordinated campaign by a single actor. The proposed reforms would be strengthened by explicitly addressing this form of procedural evasion.

Stronger RPI requirements would also enhance the reliability of IPR proceedings by giving PTAB panels a clearer view of the relationships among parties. When petitioners are not required to fully disclose upstream funders, controlling interests, or aligned corporate entities, the PTAB cannot accurately assess whether a petition is duplicative of prior challenges or part of a coordinated series of attacks. By requiring transparent disclosure of all entities with a financial or strategic interest in the outcome of the petition, the USPTO would prevent manipulation of the institution process and reinforce the integrity of its decisions.

Improved transparency also supports the proper application of estoppel principles. The statutory estoppel framework is designed to prevent repeated litigation of issues that have already been or could have been raised in a prior PTAB proceeding. Proxy petitioning undermines this framework by allowing the true party in interest to circumvent estoppel by filing through an uninvolved intermediary. Clarifying and strengthening RPI obligations would ensure that parties cannot sidestep estoppel and would restore the finality necessary for a functional and balanced patent system.

Enhanced RPI disclosure requirements would also deter serial challenges structured to appear independent but that are, in fact, orchestrated by a single firm. When the PTAB can clearly see that multiple petitions are being filed by entities under common control or influence, it can more effectively apply discretionary denial to prevent wasteful, duplicative proceedings. This would reduce the burden on patent owners and ensure that petitioners cannot overwhelm smaller competitors by fragmenting their challenges among nominally separate entities.

Moreover, increased transparency would promote fairness in the adversarial process. Patent owners have the right to understand who is challenging their patent, what interests are at stake, and whether the petitioner is genuinely independent. Hidden relationships undermine this fairness by depriving patent owners of the information they need to defend their rights effectively. RPI disclosure is a fundamental component of procedural fairness and is essential for maintaining trust in the PTAB process.

Better RPI compliance also supports administrative efficiency. When PTAB panels must expend time and resources investigating whether a petitioner is acting independently or as a proxy, it slows the resolution of proceedings and diverts attention from substantive issues. Clear disclosure requirements would streamline this process, reduce ambiguity, and allow panels to focus on evaluating the merits of the petition rather than unraveling the petitioner's corporate or financial structure.

Strengthening RPI transparency would also benefit federal courts and other administrative bodies that rely on PTAB outcomes. Courts evaluating estoppel or assessing whether parallel proceedings should continue depend on accurate information about petitioners. When RPI disclosures are incomplete or misleading, courts may make decisions based on false premises, leading to inefficiencies, inconsistent outcomes, and additional litigation. Clear and enforceable RPI rules would eliminate these unnecessary complications.

Finally, robust RPI requirements promote accountability. The PTAB has become a powerful forum for challenging patent rights, and entities that invoke its authority should do so openly. Ensuring that petitioners cannot mask their identity behind intermediaries reinforces the legitimacy of the PTAB as a public institution and ensures that the system is not exploited by those seeking to manipulate procedural rules for strategic advantage. Proper transparency is a cornerstone of any credible administrative process.

USPTO should incorporate explicit RPI-strengthening provisions into the final rule. Doing so would enhance fairness, improve administrative efficiency, strengthen estoppel, and prevent abuses that have contributed to the instability of patent rights. By ensuring that petitioners disclose all real parties in interest, the USPTO can further reinforce the structural integrity of inter partes review and support a more reliable and equitable patent system.

IX. Supporting University Innovation, Technology Transfer, and the Bayh-Dole Framework

Universities and nonprofit research institutions play a central role in the American innovation ecosystem, serving as the origin point for many breakthrough technologies. The commercialization of federally funded research depends heavily on strong and predictable patent rights, which enable universities to license intellectual property to companies capable of bringing new inventions to market. These collaborations form the backbone of the Bayh-Dole framework, which transformed the United States into a global leader in research-driven innovation. The proposed PTAB reforms support this framework by restoring predictability and reducing the uncertainty that undermines technology transfer.

When patents arising from federally funded research are vulnerable to repeated administrative challenge, universities face greater difficulty securing licensing agreements. Potential licensees are hesitant to invest in commercialization when the intellectual property they depend upon could be challenged multiple times in different forums. By limiting duplicative PTAB proceedings and reinforcing the finality of earlier adjudications, the proposed rule reduces the risk that university patents will be destabilized by serial challenges, thereby strengthening the incentives for industry collaboration.

The proposed reforms also help maintain the delicate balance that Bayh-Dole was designed to achieve. Universities typically do not commercialize technologies themselves; instead, they rely on robust licensing markets to transfer inventions to private-sector partners. Excessive PTAB challenges threaten this model by reducing the returns that private firms can expect from licensing agreements. When the value of university patents is eroded through duplicative proceedings, the entire commercialization pipeline—from lab bench to marketplace—faces disruption. The proposed rule helps mitigate this risk by restoring the confidence necessary for industry to invest in early-stage technologies.

Strengthening patent reliability also supports small businesses that license technology from universities under the Bayh-Dole system. Many of these firms are startups that rely on the exclusivity provided by licensed patents to attract investment and compete with larger incumbents. Repeated PTAB challenges undermine these protections and reduce the viability of university spinouts. By reducing duplicative proceedings and limiting procedural abuse, the proposed reforms promote a healthier environment for the early-stage companies that drive economic growth and job creation.

The proposed rule further enhances cooperation between universities and private industry by increasing predictability in licensing negotiations. When patent rights are stable, parties can negotiate agreements with greater confidence regarding the value of the underlying technology. This supports larger, longer-term partnerships and encourages companies to invest in expensive development activities such as clinical trials, prototyping, pilot programs, and regulatory approvals. The reforms help ensure that the patents underlying these investments will not be unexpectedly undermined by repetitive administrative challenges.

The PTAB reforms also benefit university inventors by providing clearer expectations regarding the treatment of their patents. Academic researchers who engage in entrepreneurial activities or participate in technology transfer efforts need confidence that their inventions will not be subject to unpredictable administrative outcomes. By improving procedural consistency and limiting redundant review, the proposed rule reinforces the credibility of the patent system for those tasked with generating the next wave of scientific breakthroughs.

Furthermore, a more stable patent environment strengthens the strategic research partnerships that universities form with private-sector organizations. These partnerships often involve multi-year commitments, cost-sharing arrangements, and joint development activities that depend on reliable intellectual property frameworks. When PTAB challenges create uncertainty around core patent rights, these partnerships become harder to form and maintain. The proposed reforms support the continuity of such collaborations by ensuring that patents are not perpetually vulnerable to duplicative challenges.

By enhancing the integrity of the patent system, the reforms also help universities attract and retain research talent. Researchers are more likely to engage in high-impact projects when they believe their discoveries can be protected and translated into real-world applications. When patent rights are unstable, the incentive to pursue ambitious research diminishes. Reforms that strengthen patent reliability enhance the attractiveness of the academic research environment and contribute to the nation's long-term competitiveness in science and technology.

The rule's impact on the broader public interest should not be overlooked. The Bayh-Dole system was designed to ensure that inventions developed with taxpayer support benefit society through commercialization and widespread availability. This process depends on reliable patent rights that encourage private-sector investment. By reducing unnecessary administrative challenges, the proposed reforms help ensure that the promise of federally funded research is fully realized in the form of new treatments, products, energy systems, and technologies that improve lives and advance national priorities.

Finally, reinforcing the stability of university patents strengthens the United States' position in global research competitiveness. Universities around the world compete for partnerships, funding, and talent, and the predictability of intellectual property rights is a major factor in these decisions. By enhancing the reliability of the U.S. patent system, the proposed rule ensures that the United States remains the leading destination for research, innovation, and commercialization.

For these reasons, the USPTO's proposed reforms offer significant benefits to universities, research institutions, and the broader technology-transfer ecosystem. By strengthening the reliability of patents central to the Bayh-Dole framework, the rule supports commercialization, encourages private-sector investment, and reinforces America's leadership in innovation. These improvements complement the broader goals of the NPRM and should be incorporated into the final regulatory package.

X. Additional Considerations for Strengthening Innovation and Market Competitiveness

The proposed reforms do more than refine PTAB procedure—they help reshape the broader innovation environment in ways that promote stronger competition, greater technological diversity, and a more resilient economic ecosystem. By reducing duplicative challenges and enhancing predictability, the rule creates conditions in which both established companies and new entrants can operate with a clearer understanding of their rights and obligations. This more stable foundation supports long-term planning, encourages investment in high-risk technologies, and fosters a healthier balance between competition and collaboration across the economy.

A critical consideration in strengthening U.S. innovation competitiveness is the role of predictable intellectual property rights in global markets. American companies face increasing competition from foreign firms operating in jurisdictions where patent systems may be more stable or less prone

to repetitive administrative challenge. By solidifying the reliability of the U.S. patent system, the proposed rule helps ensure that domestic innovators are not disadvantaged relative to international competitors. This reinforcement of IP stability enhances America's position as a leader in high-tech industries and strengthens its capacity to attract global investment.

The reforms also contribute to the vibrancy of key innovation clusters such as biotechnology hubs, semiconductor manufacturing regions, and clean-energy development zones. These sectors depend heavily on robust intellectual property rights to support long-term research initiatives and substantial capital investment. By reducing procedural uncertainty and limiting patent erosion through serial challenges, the rule helps preserve the ecosystems that allow these industries to flourish. This, in turn, supports job creation and provides a strong foundation for economic resilience.

Market competitiveness is also enhanced when startups and small firms can meaningfully challenge incumbents with new technologies. A patent system vulnerable to repeated challenge disproportionately empowers dominant firms with the resources to litigate endlessly. The proposed rule mitigates this imbalance by reducing opportunities for procedural gamesmanship, ensuring that a smaller company's breakthrough innovation cannot be stalled indefinitely through duplicative PTAB filings. This restores the competitive pressure that drives innovation and prevents market stagnation.

Another important dimension is the impact on licensing and collaboration, both within industries and between academia and the private sector. When patents enjoy stable protection, companies are more inclined to enter into partnerships, share technical insights, and develop joint ventures. The proposed reforms, by bolstering the enforceability and predictability of patent rights, promote these collaborative efforts and help ensure that new discoveries can be rapidly translated into market-ready products. This dynamic is especially critical in fields such as pharmaceuticals and advanced materials, where partnerships are essential for scaling new technologies.

The proposal also enhances the functioning of innovation marketplaces by improving the credibility of patent valuations. The value of a patent is inherently tied to the likelihood that it will survive legal challenges. When patents can be repeatedly attacked through administrative proceedings, market confidence in their long-term value diminishes. By restoring finality to prior adjudications, the rule strengthens the reliability of patent-based transactions, supporting healthier acquisition, licensing, and technology transfer markets.

In addition, the rule helps mitigate systemic risks that arise when patent rights become overly unstable. Excessive vulnerability of patents can discourage investment in foundational technologies, leading firms to underinvest in core research and development. This underinvestment creates ripple effects across supply chains and slows the pace of technological advancement. The proposed reforms counteract these risks by reinforcing the stability required for innovators to take long-term strategic risks.

The reforms also support a more balanced and effective enforcement environment. When patent rights are predictable and secure, parties can make rational decisions about dispute resolution, licensing, or settlement. Uncertainty, by contrast, leads to prolonged conflict and unnecessary litigation. Clearer procedural guidelines reduce these inefficiencies and promote faster, more equitable outcomes, benefiting patent owners, challengers, and the broader innovation ecosystem.

Finally, the proposed rule strengthens the alignment between the patent system and the broader economic objectives of innovation policy. A reliable patent system is essential not only for protecting individual inventions but also for stimulating the cycles of investment, development, and commercialization that define a strong national innovation strategy. By curbing duplicative challenges and reaffirming the boundaries of PTAB authority, the USPTO is helping ensure that intellectual property continues to serve as a catalyst for technological progress and economic growth.

Conclusion

The USPTO's proposed reforms to the Patent Trial and Appeal Board mark a decisive and long-overdue step toward restoring balance, predictability, and coherence to the patent system. For too long, duplicative challenges, proxy petitioners, inconsistent discretionary standards, and parallel proceedings have weakened the stability of patent rights and eroded confidence among innovators. By establishing clear boundaries that prevent serial and parallel attacks, reinforce the finality of prior adjudications, and ensure that petitioners choose a single forum for their validity challenges, the proposed rule reasserts the fundamental principles necessary for a well-functioning innovation economy.

These reforms directly support the inventors, startups, small businesses, universities, and research institutions that form the backbone of the American innovation ecosystem. Their ability to compete—and to secure the investment necessary to bring new technologies to market—depends on the reliability of the intellectual property rights they hold. When patents can be challenged repeatedly, even after surviving substantive review, the incentive to innovate weakens and the playing field tilts sharply in favor of those with the resources to litigate indefinitely. The proposed rule helps correct this imbalance by reestablishing the finality and predictability that small and emerging businesses require to thrive.

The reforms also strengthen America's system of knowledge transfer and commercialization, particularly through the Bayh-Dole framework. Universities and nonprofit research institutions rely on stable patent rights to license discoveries, attract private-sector partners, and convert federally funded research into real-world products. By limiting the vulnerability of these patents to repetitive challenges, the proposed rule bolsters technology transfer pipelines and reinforces the national innovation infrastructure that has made the United States the global leader in research-intensive industries.

Beyond their impact on innovators, the proposed reforms will significantly improve the functioning and efficiency of the USPTO. Reducing duplicative petitions will allow PTAB judges to devote more attention to cases where review is truly warranted and help alleviate backlogs in ex parte appeals. These administrative efficiencies contribute to a more reliable and timely patent system, benefiting stakeholders across the economy and supporting a more coherent and predictable legal landscape for intellectual property rights.

The proposed rule also enhances accountability and transparency through stronger Real Party in Interest requirements. Preventing proxy petitioners and hidden funders from manipulating PTAB proceedings ensures that estoppel is meaningful and that no entity can evade responsibility through intermediaries. This promotes fairness, protects the integrity of administrative adjudications, and

reinforces public confidence in the patent system at a time when clarity and trust are urgently needed.

For these reasons, the Center for Regulatory Freedom strongly supports the USPTO’s proposed reforms and urges their adoption in the final rule. By curbing procedural abuses, honoring the outcomes of prior decisions, enhancing transparency, and focusing PTAB review on cases that genuinely warrant administrative intervention, the proposed rule meaningfully strengthens the U.S. patent system. These reforms will help ensure that America remains the world’s innovation leader—fostering investment, accelerating commercialization, and safeguarding the intellectual property rights that drive economic growth and technological progress.

Sincerely,

A handwritten signature in black ink that reads "Andrew M. Langer". The signature is written in a cursive, flowing style.

Andrew M. Langer
Director
CPAC Foundation Center for Regulatory Freedom