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The Honorable John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Re: Comments on "Revision to Rules of Practice Before the Patent Trial and Appeal Board (PTAB)" (90 Fed. Reg. 48,335)

Dear Under Secretary Squires:
The Consumer Technology Association (CTA) appreciates the opportunity to comment on the United States Patent and Trademark Office's Notice of Proposed Rulemaking, "Revision to Rules of Practice Before the Patent Trial and Appeal Board (PTAB)" (90 Fed. Reg. 48,335). CTA is the largest technology trade association in North America. We represent more than 1,200 companies, from iconic global brands to early-stage startups, supporting over 18 million American jobs. Roughly 80 percent of our members are small and medium-sized businesses. CTA also owns and produces CES, the world's most powerful technology event and a global showcase of American innovation and leadership.

We respectfully but strongly oppose the proposed revisions to 37 C.F.R. § 42.108. These rules would sharply limit access to inter partes review (IPR), undermine the bipartisan framework Congress enacted in the America Invents Act (AIA), and move the United States backward at a moment when President Trump and his administration have focused on making America more innovative, more competitive, and more secure.

The proposed changes would tilt the playing field toward litigation funders, patent trolls, and foreign adversaries, and against the American manufacturers, AI firms, and startups that build and employ here at home. President Trump has rightly declared that U.S. leadership in artificial intelligence is inseparable from America's national security and economic power. Flooding U.S. innovators with opportunistic patent lawsuits would undercut those priorities at the very moment global competition is intensifying.

Before the AIA, patent trolls and litigation abusers exploited vague and overbroad patents to extract settlements from productive companies. Shell entities filed waves of lawsuits asserting weak patents often purchased for pennies on the dollar. Congress responded by creating IPR to improve patent quality and reduce unnecessary litigation costs. The AIA's sponsors noted that questionable patents were too easily obtained and too difficult to challenge, and enacted IPR to weed out bad patents (H. Rep. 112-98, pt. 1, at 39–40 (2011)). The system Congress put in place works, with approximately 90 percent of PTAB final written decisions affirmed by the Federal Circuit (CRS Report R48016 (May 28, 2024)). So far, over four thousand bad patents have been fully or partially invalidated – each one an innovation-killing weapon pulled away from patent trolls and litigation abusers.

The rules proposed in the NPRM would roll back these gains. It would impose barriers Congress considered and rejected, including conditioning access to IPR on waiving statutory defenses, prohibiting

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review whenever another party's challenge failed, and denying petitions based on district court trial dates that frequently shift. By adding conditions not found anywhere in the statute, the rules substitute agency-made restrictions for the framework Congress established. They also revive proposals the prior administration withdrew after bipartisan congressional criticism (House Judiciary Oversight Hearing on USPTO Rulemaking, 2023).

The NPRM runs counter to President Trump's core priorities of strengthening American innovation, restoring advanced manufacturing, and ensuring U.S. leadership in AI (Trump Administration AI and Innovation Policy Statements, 2024–2025). Instead, the rules would weaken American companies across critical sectors such as semiconductors, telecommunications, automotive systems, medical devices, and consumer technology. By making IPR less available, the NPRM would increase regulatory and litigation burdens at a time when the PTO's own workload statistics show a growing backlog and grant rates that have allowed questionable patents to issue (USPTO Performance and Accountability Report, 2024). IPR remains the safety valve that allows defendants to bring focused challenges before expert judges rather than incurring the extraordinary cost and years-long delays of federal litigation.

The NPRM would also create serious national security vulnerabilities. China now dominates global patent filing volumes and has rapidly expanded its presence in the U.S. patent system (WIPO IP Statistics 2024). Chinese companies, including those on the U.S. Entity List and recognized as national security risks, have increased their U.S. patent holdings (USPTO Grant Data 2024). Because Entity List companies cannot freely commercialize many of their patents in the United States, they often offload these assets to non-practicing entities that turn them into litigation weapons against American firms.

These state-linked funds use litigation-financing structures and shell entities to obscure their involvement while suing U.S. companies (GAO Litigation Financing Report, 2023). By making IPR harder to access and easier to block, the NPRM would empower foreign competitors and adversaries to assert weak patents more aggressively, forcing American companies to spend their resources defending lawsuits while foreign rivals invest in growth.

For startups and early-stage innovators, such as the more than a thousand that will be exhibiting at CES in January, this risk is existential. IPR is often the only affordable defense when facing a shakedown patent lawsuit. For example, American AI-focused startups are already stretched thin hiring engineers, navigating export controls, securing compute and energy, building products, and complying with evolving federal, state, and foreign AI regulations. They cannot divert millions of dollars and key personnel into defending weak patents in litigation that can drag on for years, even as their international competitors sprint forward.

CTA appreciates the USPTO's commitment to being America's innovation agency. Our members build the products, services, and platforms that drive growth, create high-wage jobs, and keep the United States at the forefront of global technology. Strong patents, high patent quality, and a fair mechanism for correcting mistakes are essential to their success. Rules that make it harder to challenge invalid patents and easier to weaponize them would slow innovation, raise litigation costs, and harm national security. They would be a win for patent trolls, and a loss for American innovators.

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For these reasons, CTA respectfully urges the USPTO to withdraw the proposed revisions to section 42.108 and to align any PTAB reforms with the Trump administration's agenda to strengthen American manufacturing, enhance AI leadership, and reduce regulatory burdens on U.S. companies.

Sincerely,
Consumer Technology Association (CTA)