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Alliance of U.S. Startups & Inventors for Jobs

Support the Trump Administration's Proposal to Support American Little Tech Innovators and Entrepreneurs

End Abuse of the USPTO Patent Trial and Appeal Board

The Trump Administration has proposed comprehensive and much-needed reforms to the USPTO Patent Trial and Appeal Board (PTAB) rules that will level the playing field for thousands of American startups, innovators, entrepreneurs and venture investors.

The USPTO's Notice of Proposed Rulemaking (NPRM) accomplishes **several critical goals** that will strengthen U.S. innovation and growth by making our patent system the strongest in the world.

1. End the Practice of Big Tech "Efficient Infringement"
2. Empower disruptive, breakthrough U.S. innovation
3. Make it harder for Chinese entities to attack U.S. patent owners
4. Eliminate redundancy and inefficiency – allowing USPTO to attack the backlog left by the Biden Administration
5. Reassert the U.S. patent system as the global gold standard

Ending Efficient Infringement

Over the past decade large technology companies (including many foreign competitors) have perfected a business model known widely as "efficient infringement." The strategy is a calculated process that exploits weakness in the U.S. patent system such as high litigation costs, **filing serial and duplicative challenges at PTAB** and the lack of injunctive relief in the U.S. In short, it is much more efficient for large corporations, particularly Big Tech, to exploit the IP of smaller, more disruptive competitors as a premeditated business strategy.

The current system allows, in fact encourages, multiple, duplicative PTAB challenges on the most valuable patents. There are numerous examples:

- U.S. semiconductor company Efficient Power Solutions saw PTAB institute a challenge on one of their core patents – brought by Chinese government-backed company Innoscience – AFTER that same patent was upheld in China AND found valid and infringed by the ITC in 2025.
- Silicon Valley-based innovator Adeia saw one Big Tech company file more than 120 IPRs against their patents. In one case 8 IPRs were filed against a single patent on the same day. Adeia has seen two ITC exclusion orders undercut by PTAB rulings after ITC has found the same patents valid and infringed.

- Medical device innovator Masimo has faced nearly 30 IPRs since 2020, many on the same patents that are part of ongoing litigation against Apple.
- **Sonos has faced over 100 IPR petitions against its patents (up to 5-10 against the same patent)**, targeting dozens of distinct patents across Sonos's portfolio of wireless speaker and audio synchronization technologies.
- U.S. cybersecurity company Centripetal has faced **30 PTAB challenges against 4 of its core patents**. Including 12 brought against the same patent by Cisco who was later found to have willfully infringed Centripetal's IP.
- U.S. semiconductor company Netlist has 9 core patents that have faced dozens of serial IPR challenges, often coordinated attacks by some of the largest tech companies in the world, including Samsung which has brought a staggering 525 IPRs in the past 6 years.

The proposed rules represent a long-awaited course correction that will restore integrity, predictability, and fairness to the post-grant review process. It will accomplish this through **three common sense reforms:**

- **Stipulating one forum for challenging validity** - Requiring petitioners (and real parties in interest/privies) to stipulate that, if an IPR is instituted, they will not pursue the same invalidity claims in federal court or the ITC.
- **No PTAB institution/maintenance on patents already found valid** - When a patent has been found not invalid/patentable in district court, the ITC, or a previous PTAB final written decision a new challenge against it will not be instituted.
- **Avoiding parallel/duplicative litigation** - PTAB will deny institution when a district court trial, ITC determination, or another PTAB review is likely to arrive at a decision before the PTAB's own process. This is a huge check on not just efficient infringement but also prevents waste, conflicting outcomes, and expensive delay.

Empower U.S. Little Tech Leadership

According to data from the USPTO, SBA and the National Science Foundation, startups and small businesses account for 15–25% of US innovation by volume (e.g., R&D, patents) but up to 40–50% of high-impact, disruptive types that reshape markets.

U.S. venture capital investment in critical patent-intensive industries such as semiconductors, life sciences, medical devices, AI, cybersecurity and core wireless technologies is more critical than ever. Unfortunately, startups in these sectors are often the most heavily targeted for serial and duplicative attacks at PTAB.

Ending the practice of efficient infringement will free U.S. "little tech" companies to invent, invest, grow and hire much more aggressively.

Make it harder for Chinese entities to attack U.S. patent owners

> *"The Chinese use our patent system against us."*
> Secretary Howard Lutnick, U.S. Senate confirmation hearing, January 29, 2025

Since 2012, several Chinese companies have brought hundreds of PTAB challenges against U.S. companies:

- Lenovo: 159
- ZTE: 152
- Huawei: 135
- DJI: 30
- ByteDance: 20
- Innoscience: 5

The USPTO NPRM, coupled with new procedures to require greater transparency regarding Real Parties in Interest, will dramatically reduce these attacks by PRC-backed competitors on U.S. companies. This will strengthen U.S. national security and not allow Chinese companies to use the U.S. patent system against the American inventors and startups it was designed to empower.

Eliminate redundancy and inefficiency – empowering USPTO to attack the backlog left by the Biden Administration

Secretary Lutnick and Director Squires have both pledged to attack the backlog of 837,928 patent applications that they inherited. This is an all-time high.

The USPTO has already reduced the backlog by over 50,000 in six months.

Restoring PTAB to its original statutory intent to be an efficient alternative to district court litigation will allow USPTO to redirect resources towards high quality patent examination. This is the only way to attack the backlog and better serve the **true Constitutional function** of the Patent Office:

> *"securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."*

It remains inexplicable to most U.S. inventors why thousands of patent examiners toil to review and grant U.S. patents and several hundred officials in the same building exist solely to take them away.

Reassert the U.S. patent system as the global gold standard

While the U.S. patent system has been gradually weakened over the past decade based on the efficient infringement model coupled with rare injunctive relief and uncertainty regarding patent eligibility, countries like China and Germany have prioritized rapid injunctive relief and enforcement.

Neither country has instituted innovation-killing processes like PTAB. While the USPTO has been encouraged to take away the same patent rights that it originally granted, the patent systems in China and German routinely grants injunctive relief, have faster specialized courts, and, in the case of Germany much more reliable patent damage proceedings.

USPTO's NPRM would eliminate the worst abuses at the PTAB that empower the efficient infringement model that seems unique to the U.S. and begin to return the patent system to the Constitutionally-grounded property right that inventors, innovators and investors can once again rely on.