



USIJ Opening Statement
USPTO Listening Session on Proposed PTAB Reforms
April 2026

Thank – Deputy Director Stewart, Director Squires and PTO leadership ...

I'm here on behalf of the Alliance of U.S. Startups and Inventors for Jobs—USIJ—a coalition of U.S. inventors, entrepreneurs, startups and incubators as well as the venture capital investors who back them.

In October 2018, USIJ released a report titled: How “One Bite at the Apple” Became Serial Attacks on High Quality Patents at the PTAB.

It was nearly ten years ago that some of the most disruptive startups and entrepreneurs in the U.S. began calling out the issue we are focused on today.

That issue is that despite Congress being very clear that inventors should not have to endure repeated attacks on their patents when it established the PTAB, we have seen it weaponized by the world's largest technology companies to implement the well-known practice of "efficient infringement" to devastating effect.

While this weaponization of PTAB has been effective, it has also been brazen, aggressive and unapologetic. And thankfully it has also not gone unnoticed.

There have been numerous Congressional hearings, several very good pieces of legislation, including the current PREVAIL Act and multiple attempts at reform by the USPTO itself including precedents such as Fintiv, Sotera and General Plastics.

These have all brought us to today, under the leadership and vision of USPTO to finally and comprehensively rebalance the system with a clear, common sense Notice of Proposed Rulemaking that represents the most significant pro-innovation, pro-America PTAB reform in over a decade.

The Scale of the Problem

Let's be clear about what we're dealing with. Since PTAB's creation in 2012, the top 25 users have filed over 8,000 petitions. Who are these prolific petitioners? Samsung—1,336 petitions. Apple—1,123. Google—714. Microsoft, LG, Intel, Cisco, Meta, Amazon—each filing hundreds of challenges. And notably, China's ZTE and Huawei—with 152 and 135 petitions respectively— are using America's own patent system as an economic weapon against our innovators.



These aren't defensive filings by companies protecting themselves from patent trolls. These are offensive strikes by dominant players systematically attacking the best patents held by smaller, more disruptive competitors.

The Victims Are American Innovators

But what possibly worse is what those statistics don't show—the American companies destroyed before they could scale. The technologies that never reached market because the startup couldn't survive the PTAB onslaught. The venture capital that fled away from complex, patent-intensive pursuits such as semiconductors, medical devices, cyber security or core wireless technologies, or to countries where patent rights still empower competitors.

Also remember that simply defending a single patent at PTAB will cost well over \$500,000 ... and many American startups have faced dozens of serial, duplicative IPR petitions on their most valuable and innovative patented technologies. So the large incumbents don't even need to file successful IPRs, they just need to file a lot of them.

Why These Reforms Matter for Startups

The reforms USPTO has already implemented through a return to the statutory intent of Director discretion and has proposed in the game-changing NPRM would fundamentally change this dynamic—and empower American inventors, entrepreneurs and startups.

It's important to understand the power and simplicity of these reforms:

First, the NPRM would end duplicative litigation. Requiring petitioners to stipulate to one forum for validity challenges is basic fairness. If you want to challenge a patent at PTAB, fine—but you shouldn't be able to re-litigate the same issues in federal court or at the ITC.

Second, it is essential to respect prior validity findings – this reform is just staggeringly obvious. If a patent has been found valid by a district court, the ITC, or PTAB itself, that should be the end of it. Allowing a new petitioner to re-challenge the same patent on the same grounds is not providing an “efficient alternative” —it's systematic harassment designed to bleed patent owners dry.

It is also demonstrably NOT what was intended by Congress when it passed the America Invents Act

Third, avoid parallel proceedings. When district court trial or ITC determination is imminent, PTAB should defer. Let the Article III court or the expert trade enforcement agency do its job. PTAB was meant to be an efficient *alternative* to litigation, not a tactical tool to undermine or compete with it.

These reforms would restore PTAB to its intended, statutory purpose: providing a faster, cheaper alternative to district court litigation for genuinely disputed patents.



Conclusion

The reforms before us today represent a historic course correction. They would end the worst abuses of efficient infringement, restore respect for court judgments, and rebuild confidence in American patent rights—We strongly support these reforms and urge their immediate finalization and rigorous implementation.

Thank you for your leadership on this critical issue, and for the opportunity to be heard today.