



US Manufacturers Assoc. for Development & Enterprise

President Joseph R. Biden
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

January 25, 2020

Dear President Biden:

Throughout the course of 2020, you spoke to Americans about the need to “Build Back Better.” Today, saying “American manufacturing must be part of the engine of American prosperity now,” you outlined the first concrete actions your Administration is taking to support good U.S. manufacturing jobs.

Like the hundreds of thousands of Americans who work for the manufacturing companies that make up our [membership](#), the millions of workers who ‘build America’ through jobs in the manufacturing sector are excited to hear your words and see the bold action you are undertaking.

We urge you consider another way your Administration can enhance job growth in the manufacturing sector, without cost to the Treasury or any legislative action.

You could undo the previous administration’s actions at the US Patent and Trademark Office (USPTO), which increasingly denied manufacturers access to the only legal tool available to efficiently and inexpensively resolve patent disputes. The USPTO should never have granted many of these disputed patents in the first place.

Created by the America Invents Act and signed into law in 2012, this legal tool, the inter partes review (IPR), has been used rarely, judiciously and prudently. Yet it helped remove a very harmful and costly handful of bad patents commonly used to sue thousands of productive employers each year.

The prior administration made challenging bad patents far harder through a series of unappealable, unilateral actions, implemented without the required rulemaking or public comment.

As a result of these changes, many otherwise meritorious IPR challenges to poor quality patents were never even considered and manufacturers are now unable to avail themselves of the IPR. These rule changes are counter to Congress' intent in passing the American Invents Act.

The use by PTO of these imprudent administrative denials increased 60% in 2020. Meanwhile, the number of patent lawsuits in 2020 increased 15% from 2019, the most significant jump in years. These two occurrences are completely interrelated, and both statistics need to drop considerably to allow manufacturer's contributions to restore the economy will be fully realized.

Your administration could end PTO's denial of access to the IPR system without legislation and at no cost to the taxpayer. We urge you to do away with the harmful administrative changes to IPR that have come at the expense of America's manufacturers.