July 31, 2026

The Honorable Russell T. Vought
Director
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue NW
Washington, DC 20503

USPTO's Notice of Proposed Rulemaking Should be Withdrawn

Dear Director Vought:

We write on behalf of the Coalition for Advanced Manufacturing and Industrial Technology — representing automakers, semiconductor manufacturers, precision machinery firms, and the software, artificial intelligence, and quantum computing industries, whose member companies collectively employ more than 90 million American workers — to urge the Office of Information and Regulatory Affairs to withhold approval of, and require a full economic and legal review of, USPTO's renewed push to finalize its October 17, 2025 Notice of Proposed Rulemaking (NPRM), "Revision to Rules of Practice Before the Patent Trial and Appeal Board." We raise several concerns.

First, we urge OMB not to allow final publication of USPTO's draft rules, which would lock in an outcome Congress never authorized under the "reasonable likelihood" standard of 35 U.S.C. § 314(a). Both the volume of IPR petitions filed and the rate at which they are granted have collapsed as a result of the USPTO's restrictive new policies. The IPR petition filing rate has plummeted from an average of 110 per month in 2024 to a low of 15 in April of this year. At current filing rates, the USPTO will receive fewer than 350 IPR petitions this year, a decrease of nearly 75% compared to the more than 1,300 petitions that were filed in 2024. The petition grant rate (commonly referred to as the "institution rate") has also dropped dramatically, decreasing from a historical range of 60%-70% to about 38% more recently. And the grant rate appears to have fallen even further in the wake of the new procedure adopted by Director Squires in October of last year. For petitions decided under this new process, the institution rate was only 14% for Q4 of 2025 and 30% for Q1 of 2026. At the current rates, between 50 and 100 IPRs will be instituted each year, a 90% reduction from the annual average of 790 during the prior decade (FY2015 to FY2024).

Second, the proposed rule is exceptionally controversial. According to an independent analysis by Unified Patents, the NPRM drew more than 11,100 public comments, of which 97% of all submissions and 90%v of unique comments opposed the rule. Opponents span the American economy: in addition to the undersigned organizations, opponents include automakers like Ford, Honda, Rivian, and Toyota; leading semiconductor companies such as AMD, Intel, and Micron; patient and generic-drug advocates; small business groups; and fourteen former Members of Congress who authored the America Invents Act, joined by a former USPTO Solicitor.

Third, the rule would impose severe, unquantified economic costs. USPTO's NPRM proposes a rule that is similar to the one rejected during the Biden Administration, which an independent economist projected would cause a net drop of $482 million in domestic business activity and a $202 million increase in government costs. A similar, but less restrictive proposal in 2015 was scored by CBO at $1.3 billion in additional costs over ten years.

Allowing the USPTO to continue dismantling the IPR process, including via its NPRM, will be even more costly to the US economy. It is estimated that IPR currently saves the US economy an estimated

$2.95 billion in gross product and supports nearly 13,500 job-years — gains concentrated in manufacturing — that this rule would substantially reverse.

Fourth, the rule would impose costs of productive US enterprises, including small businesses, primarily for the benefit of litigation speculators and foreign non-practicing entities. The rule will systematically weaken US patent quality, impede the Administration's AI policies, and heighten national security concerns about foreign exploitation of judicial discovery to access sensitive US technology.

Meanwhile, the rule's premise of perpetual uncertainty from IPR "abuse" is contradicted by USPTO's own data: serial petitions account for a mere 0.3% of all instituted IPRs, while fewer than 350 out of 3.9 million "live" patents (i.e., 0.009%) were even partially invalidated by PTAB.

For these reasons, the rule is plainly "economically significant" within the meaning of Executive Order 12866 § 3(f)(1), yet USPTO has submitted no Regulatory Impact Analysis, no quantification of costs or benefits, and no meaningful evaluation of alternatives — the analysis EO 12866 § 6(a)(3)(C) requires before any economically significant rule may proceed. Under *Motor Vehicle Manufacturers Association v. State Farm*, an agency must "examine the relevant data and articulate a satisfactory explanation for its action"; under *Loper Bright Enterprises v. Raimondo*, USPTO receives no deference in construing ambiguous statutory terms to expand its own discretion. A rule this deficient is vulnerable to vacatur under 5 U.S.C. § 706(2)(A) as arbitrary, capricious, and contrary to law.

We respectfully request that OIRA decline to clear USPTO's rule for publication absent a complete Regulatory Impact Analysis and full compliance with Executive Orders 12866, 13563, 14219, and 14192, and that OIRA return the rule to USPTO for reconsideration or withdrawal.

Respectfully submitted,

Alliance for Automotive Innovation (AAI)
Business Software Alliance (BSA)
High Technology Inventors Alliance (HTIA)
Software & Information Industry Association (SIIA)
United for Patent Reform (UFPR)
US Manufacturers Association for Development and Enterprise (US*MADE)