1 Tesla Road, Austin TX 78725
https://tesla.com

December 2, 2025

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

PUBLIC COMMENTS

Submitted electronically via https://www.regulations.gov

Re: Comments from Tesla on the Revision to Rules of Practice Before the Patent Trial and Appeal Board (Docket No. PTO–P–2025–0025)

Dear Director Squires:

Tesla, Inc. ("Tesla") appreciates the opportunity to respond to the United States Patent and Trademark Office's ("USPTO" or "the Office") request for public comments on revisions to rules of practice before the Patent Trial and Appeal Board ("PTAB").[1] We support a robust and thorough process to gather information from stakeholders to ensure any final rule, and its implementation, considers all affected parties.

We welcome the USPTO's efforts to strengthen the integrity of the patent system, and Tesla shares and supports the Office's goal of improving the efficiency of PTAB proceedings and minimizing duplicative proceedings. At the same time, we are concerned that the proposed rule will restrict access to inter partes review ("IPR") proceedings and inadvertently benefit plaintiffs asserting weak or invalid patents at the expense of American businesses and consumers. Tesla's position as a domestic innovation leader uniquely positions us to provide valuable insight to the USPTO during this process. Tesla believes that the availability of, and access to, review by the PTAB is key to having a strong patent system and strong patent rights, because it increases patent quality.

Tesla believes that the proposed revisions are harmful to U.S. companies and the national economy and, if implemented, will drain U.S. companies of valuable time and money to defend against frivolous lawsuits. The proposed revisions to the rules of practice will bar access to the

[1] *Revision to Rules of Practice Before the Patent Trial and Appeal Board*, 90 Fed. Reg. 48335 (October 17, 2025).

PTAB and prevent review of weak patents, both of which are needed to protect American intellectual property and U.S. global leadership. As such, we recommend that the USPTO withdraw this proposed rule.

Importance of a Strong Patent System

The United States has long led the world in innovation because its patent system rewards genuine discovery while discouraging abuse. A fair and efficient system encourages investment in new ideas and ensures that intellectual property protections serve their intended purpose of rewarding progress.

As a global leader in the artificial intelligence, automotive, energy, and advanced manufacturing sectors, Tesla supports a patent framework that fosters innovation, while efficiently addressing patents that should not have issued. For such erroneous patents, it is essential that there is a fair mechanism for efficient and thorough review, as Congress intended with the passage and enactment of the Leahy-Smith America Invents Act of 2011 ("AIA"). The alternative is for companies to have such patents reviewed through expensive, lengthy, unpredictable, and resource-intensive litigation, without the benefit of the PTAB's technically trained judges.

An accessible PTAB protects inventors and innovators by ensuring that strong patents are upheld while weak or invalid patents can be reviewed and corrected. Tesla invests heavily in research, development, and manufacturing infrastructure, supporting tens of thousands of American jobs. The PTAB is an important arena for us to safeguard these investments. If access to efficient review at the PTAB is restricted, we are forced to divert resources away from innovation, investment, and jobs and toward costly litigation. This new environment would be antithetical to the Administration's stated goals of strengthening American manufacturing and creating U.S. jobs. Tesla respectfully urges the USPTO to reconsider implementing this proposal.

Role of the PTAB and Impact of the AIA

Prior to the AIA, operating companies routinely faced frivolous patent infringement lawsuits, which resulted in prolonged legal disputes and excessive litigation costs. A single patent case could cost several million dollars on average and take years to reach a final judgment.[2] These cases drained financial and engineering resources from mission-critical activities such as research, development, design, manufacturing, and production. These are precisely the activities

[2] *See,* Congressional Research Service, The Patent Trial and Appeal Board and Inter Partes Review (May 28, 2024) *available at* https://www.congress.gov/crs-product/R48016.

that Tesla excels in and allows us to remain competitive globally, amidst increased competition from both adversaries and allies.

The creation of the PTAB under the AIA established a fair, expert, and efficient venue for resolving patent disputes, resulting in a decline in abusive litigation and increased confidence in the patent system. By empowering specialized administrative patent judges with technical expertise, the PTAB provides a faster and more affordable alternative to district court litigation. The demonstrated efficiency and affordability of the PTAB benefits patent owners and challengers alike by weeding out vague or invalid claims and improving the overall quality of issued patents.

Tesla relies on the PTAB as a forum available to both defend its own patents and to challenge overbroad patents asserted against us in litigation. As an innovator, we are a frequent target of suits asserting meritless claims or weak and invalid patents. In these suits, plaintiffs seek a nuisance settlement divorced from the value of any patented technology. These plaintiffs exist only to initiate nuisance litigation that enriches their financial backers while directly harming U.S. companies. AIA procedures have been critical in mitigating these abusive and predatory practices and encouraging companies to focus on innovation instead of unnecessary legal defense. Further, AIA procedures benefit patent owners that have strong, valid patents, as it also provides them with a more efficient method to address validity as compared to litigation.

Economic Benefits of PTAB Access

Access to the PTAB has a significant and demonstrable positive impact on the U.S. economy. From 2014 to 2019, the direct cost savings attributable to the PTAB amounted to $2.64 billion, or approximately $262,200 per case.[3] These savings were driven by reductions in the number of lawsuits filed in district courts and in legal expenses per case. In turn, these efficiencies generated a $2.95 billion increase in U.S. gross product, the largest beneficiary of which was the manufacturing sector.[4] Without access to PTAB review, we risk returning to pre-AIA levels of patent litigation. Without an efficient mechanism for review, these types of cases, driven by increased external funding, will last longer, cost more, and continue to put a strain on finite resources better spent on research and development.

Further, by implementing the proposed rule and expanding *Fintiv* discretionary denials, the USPTO would also cause significant and avoidable economic losses. A recent analysis found that

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[3] *See*, The Perryman Group, An Assessment of the Impact of the America Invents Act and the Patent Trial and Appeal Board on the US Economy (June 2020), *available at* https://www.perrymangroup.com/media/uploads/report/perryman-an-assessment-of-the-impact-of-the-americaninvents-act-and-patent-trial-and-appeal-board-on-the-us-economy-06-25-20.pdf.
[4] *Ibid*.

eliminating *Fintiv* restrictions and returning to the PTAB access that Congress intended would generate nearly $500 million in American business activity, $230 million in personal income, and 2,000 job-years of employment over the next decade.[5] Rather than eliminate *Fintiv*, the proposed rule expands *Fintiv* restrictions. This will cause the U.S. economy to miss out on these substantial gains. These projected losses would come at a time when foreign competitors are rapidly increasing investment in new technologies. Additionally, the domestic manufacturing industry is the sector that would be most impacted. During this critical period, it is especially important that federal policies support rather than impede innovation. Overall, the AIA and PTAB have reduced the need for patent litigation in circumstances where the asserted patents should never have issued, in turn reducing costs and generating substantial economic benefit for the United States.

Compliance with Congressional Review Act

Contrary to the USPTO's certification in the Notice of Proposed Rulemaking, Tesla believes that the proposal does satisfy the statutory definition of a "major rule" under 5 USC § 804(2)(A), (B), and (C) and is therefore subject to review by the Office of Information and Regulatory Affairs ("OIRA"). We expect the USPTO's proposed rule to cause significant ripple effects across the economy in excess of $100 million annually and drive major cost increases for inventors and innovators. The aforementioned studies demonstrate that the projected economic impact associated with the proposed rule clearly meets the "major rule" threshold. Relatedly, Tesla is concerned that the proposal will broadly and adversely impact the competition, productivity, and innovation ecosystems, and that it will hamper the ability of U.S. companies to compete with foreign-based enterprises. Significant policy shifts affecting core aspects of the U.S. innovation sector should be subject to a full analysis by OIRA.

Conclusion

Maintaining broad access to PTAB review directly supports the Administration's goal of strengthening domestic industry and technological competitiveness, particularly in the manufacturing and artificial intelligence sectors. The efficiency and predictability of PTAB procedures allow companies like Tesla to expand U.S. factories, onshore supply chains, and invest in cutting-edge technologies. Unfortunately, the proposed changes to the rules of practice before the PTAB will advantage foreign competitors and hamper American operating companies.

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[5] *See*, The Perryman Group, The Potential Economic Benefits of Recent Reductions in Discretionary Denial of *Inter Partes* Review Based on Criteria such as the *NHK-Fintiv Rules* (March 2023), *available at* https://www.perrymangroup.com/media/uploads/report/perryman-the-potential-economic-costs-to-the-us-government-of-discretionary-denial-of-inter-partes-review-based-on-criteria-such-as-the-nhkfintiv-rules-08-25-23.pdf

Tesla appreciates the careful consideration of these comments and welcomes any opportunities to further discuss this important matter.

About Tesla, Inc.

Tesla's mission is to accelerate the world's transition to sustainable energy.[6] Tesla is a U.S. company, headquartered in Austin, Texas, and publicly traded under the ticker symbol "TSLA".[7] To accomplish its mission, Tesla designs, develops, manufactures, and sells high-performance fully electric vehicles ("EVs") and energy generation and storage systems, installs, and maintains such systems, and sells solar electricity.[8] Consistent with this effort, Tesla was recently ranked as the world leader in the transition to vehicle electrification.[9] Tesla also develops and deploys autonomy and real-world artificial intelligence at scale, in vehicles and robots, through the development of hardware and software, including Full Self-Driving (Supervised), Robotaxi, and the Optimus humanoid robot.[10] Tesla currently produces and sells five fully electric, zero emissions light-duty vehicles ("ZEVs"): including the best-selling car in the world (EV or otherwise), the Model Y compact sport utility vehicle.[11] Along with the Model Y, Tesla manufactures the Model 3 mid-sized sedan, Model S sedan, the Model X SUV, and Cybertruck.

In the United States, Tesla conducts manufacturing operations across multiple facilities. Collectively, Tesla's U.S. facilities support over 70,000 employees and generate billions of dollars of U.S. investment and economic activity each year. Specifically, in its facilities in Fremont, California, Tesla conducts vehicle manufacturing and assembly operations, as well as manufacturing lithium-ion battery cells, battery packs, vehicle seats, stampings, and castings. At Megafactory 1 in Lathrop, California, Tesla produces Megapack, a utility-scale grid storage battery.[12] At Gigafactory Texas in Austin, Tesla produces the Model Y and Cybertruck as well as cathode active materials, lithium-ion battery cells, battery packs, drive units, vehicle seats, stampings, and castings. Gigafactory Texas will also be home to Tesla's next-generation vehicle assembly line and production of the fully autonomous Cybercab. In Sparks, Nevada, Tesla produces drive units, battery packs, and energy storage products (Powerwall) at Gigafactory

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[6] *See*, Tesla, About, *available at* https://www.tesla.com/about.
[7] *See*, U.S. Securities and Exchange Commission ("SEC"), https://www.sec.gov/edgar/browse/?CIK=0001318605. *See also* Tesla's most recent Form 10-Q filed with the SEC, *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/0001318605/000162828025045968/tsla-20250930.htm.
[8] *See*, Tesla, Impact Report 2024 (June 30, 2025) *available at* https://www.tesla.com/impact.
[9] *See*, ICCT, The Global Automaker Rating 2022: Who Is Leading the Transition to Electric Vehicles? (May 31, 2023) *available at* https://theicct.org/publication/the-global-automaker-rating-2022-may23/.
[10] *See*, Tesla, AI & Robotics, *available at* https://www.tesla.com/AI.
[11] *See*, Green Car Reports, The Bestselling Vehicle on the Planet is an EV (Jan. 25, 2024) *available at* https://www.greencarreports.com/news/1142104_tesla-the-bestselling-vehicle-on-the-planet-is-an-ev.
[12] *See*, Tesla, Megapack, *available at* https://www.tesla.com/megapack.

Nevada, and the fully electric Semi, a commercial heavy-duty vehicle, at a new nearby facility under construction, which will be completed in early 2026. At Gigafactory New York in Buffalo, New York, Tesla produces its DC-fast charging equipment for the Tesla Supercharger network, solar energy products, and power electronics. Additionally, Tesla manufactures, builds, and services highly automated, high-volume manufacturing machinery at its facility in Brooklyn Park, Minnesota, and operates a tool and die facility in Grand Rapids, Michigan. Each Tesla factory uses state-of-the-art industrial robotics and manufacturing equipment to build an abundant future—they are the machines that build the machines.