

UNITED *for* PATENT REFORM

February 9, 2018

The Honorable Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Dear Director Iancu:

We write to congratulate you on becoming Director of the United States Patent and Trademark Office (USPTO). United for Patent Reform is a broad coalition of diverse American businesses—from national realty, construction, and technology businesses to main street retail shops, automobile manufacturers, hotels, grocers, convenience stores, and restaurants—pursuing comprehensive solutions to abusive patent litigation. Our members, who together own thousands of patents, are keenly aware of the important work performed by the USPTO in support of innovation and economic growth, and we look forward to working with you to advance our shared goals.

As you noted during your confirmation hearing, “we must continue to improve patent quality in order to foster further invention and growth.” As Director, we urge you to make enhancing patent quality a priority through strong and effective policies like the USPTO’s Inter partes review (IPR) program.

Low quality patents that fuel abusive patent litigation weaken our patent system and harm our economy. Forcing companies to respond to frivolous patent claims diverts resources from job creation, innovation, and overall economic growth.

In recent years, the USPTO has made important strides in improving patent quality, reducing the patent backlog, and ensuring robust post-grant review procedures. One of the most significant advancements towards strengthening patent quality and the overall patent system is IPR, a program established with the overwhelming passage of the America Invents Act of 2011. By creating IPR, Congress gave the USPTO the ability to take a focused look at questionable patents that should not have been granted in the first place.

Since its inception, IPR has proven to be a fair, successful, and cost-effective program that has improved the patent system and patent quality. Through the IPR program, the USPTO has been able to reconsider its own past mistakes on poor quality patents, saving American companies hundreds of millions of dollars per year in abusive litigation costs. Some of these poor quality patents include patents for basic, well-known processes like sending an email when a new real estate listing is posted, scanning a document and sending it to email, and posting a podcast.

Most of these invalid patents fueled abusive litigation brought by patent trolls against companies with business in the United States, many of which were small businesses and startups that could not afford to fight back through litigation. Because IPR is less expensive than going to court, the program has been an especially helpful tool for these businesses that are so essential to the American economy and innovation. At the same time, the IPR program offers substantial safeguards for patent owners to protect strong patents from harassment, including review by expert patent judges at the Patent Trial and Appeal Board who have discretion to dismiss harassing petitions, and a bar against petitioners raising issues in court that they could have raised in the IPR process.

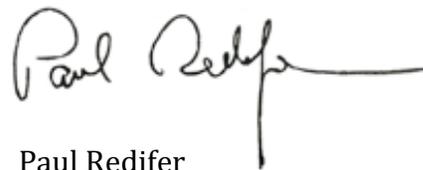
Because of IPR, the danger posed to businesses by poor quality patents has been reduced. The IPR program unquestionably has strengthened our intellectual property system by removing weak patents from the system, deterring abusive litigation, giving our companies greater confidence in the patents that we own, and contributing to a more prosperous economy.

This is why it is critical that the USPTO continues to champion strong and effective policies that support patent quality, innovation, and economic growth, particularly by affirming and maintaining a robust IPR program. As you begin your tenure as Director, we ask that you keep in mind the importance of these policies and the unique role played by the IPR program in protecting America's patent system and economy from low quality and invalid patents, patent trolls, and abusive tactics.

Sincerely,



Stephanie Martz
Co-Chair, United for Patent Reform
Senior Vice President & General Counsel
National Retail Federation



Paul Redifer
Co-Chair, United for Patent Reform
Senior Director Government Affairs
Cisco