

# Restore IPR to Stop Abusive Patent Litigation

UNITED for  
PATENT REFORM

Low quality patents are a serious drag on innovation and job creation. They fuel abusive patent litigation by non-practicing entities (NPEs) or “patent trolls” who buy up patents to extract “hold up” settlements. Main Street and small businesses are easy targets because they cannot afford to fight back. From 2005 to 2011, NPE litigation skyrocketed.

Congress created the Inter Partes Review (IPR) program to fix that problem when it passed the America Invents Act (AIA) in 2011. IPR allowed businesses to ask the U.S. Patent and Trademark Office (USPTO) to review a patent’s validity in a process that is faster and cheaper than litigation and that corrects short-comings of programs like ex parte reexam.

It worked—until recently. USPTO leadership is destroying the program and litigation is rising. **Congress should act to restore IPR through every means possible, including legislation.**

## IPR Combats Invalid Patents

Congress’ design for IPR was simple. Any member of the public (like a defendant in patent litigation or a manufacturer on behalf of its customers) can ask the USPTO to evaluate whether a patent should have been granted in the first place. The requester submits a petition along with evidence, called “prior art,” to show that someone else invented it first.

A panel of expert administrative patent judges on the Patent Trial and Appeal Board (PTAB) decides whether the IPR should move forward, applying a high standard so that only strong requests are instituted.

If instituted, the patent holder and the challenger make their cases to the PTAB through written briefing and oral argument.

The realities of patent examination make a strong IPR program necessary. Examiners have on average only 19 hours to look for prior art, understand the claimed invention, make a comparison, and decide what should be patentable. This is not enough time, which causes mistakes. And with more than 350,000 patents issuing each year, these mistakes can result in a significant number of problematic patents.

## IPR Matters to Small and Main Street Businesses

**IPR has saved American businesses over \$2 billion in legal fees.** Before IPR, abusive patent litigation in which an NPE demanded a settlement based on a weak patent was rampant.

IPR disrupted the NPE business model by giving victims of hold up suits a cheaper, faster way than litigation to challenge an invalid patent. It worked. NPE litigation dropped by more than 50% from 2011 to 2024. Realtors, retailers and businesses of all sizes have benefited. Even when they did not file IPRs themselves, they gained protection from IPRs filed by their suppliers invalidating patents on basic technologies like gift cards and marketing emails.



# \$2B

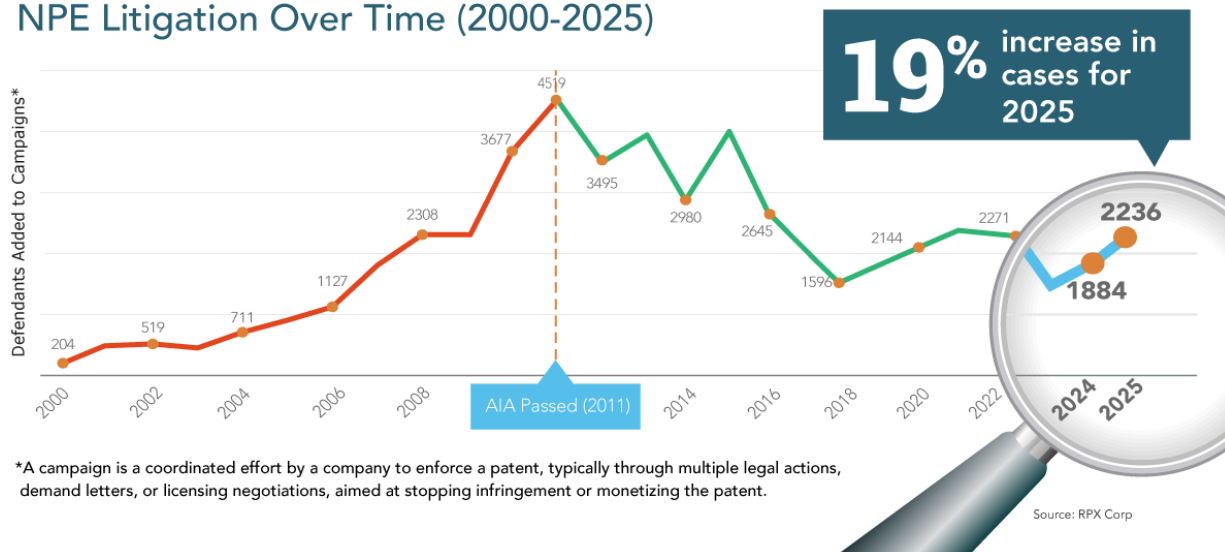
saved by American businesses  
because of IPR

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## The USPTO Has Destroyed IPR and Abusive Litigation Is Making a Comeback

Starting in early 2025, the USPTO began to find new and unfounded reasons to reject IPR petitions by looking at questions irrelevant to patent validity, like the age of the patent or timing of district court litigation, to issue a high percentage of discretionary denials.

### Abusive Patent Litigation Persists NPE Litigation Over Time (2000-2025)



\*A campaign is a coordinated effort by a company to enforce a patent, typically through multiple legal actions, demand letters, or licensing negotiations, aimed at stopping infringement or monetizing the patent.

The USPTO's destruction of IPR hit with full force when the current director, John Squires, took the helm in September 2025. He eliminated the role of PTAB judges and makes all institution decisions himself. He routinely issues bulk orders denying 10-20 petitions at a time with no explanation of the discretionary grounds, and without any concern for whether an invalid patent is draining resources from American companies. Director Squires has instituted less than 20% of petitions.

The goal of this policy is to discourage any use of IPR. It's working. No company, but especially not small and Main Street businesses, can invest in preparing a quality petition when the USPTO's review is only a low-chance roll of the dice not based on patent validity.

### Congress Should Restore IPR

Without action by Congress to fully bring back IPR, abusive NPE litigation will return to 2011 pre-AIA levels. This isn't good for Main Street businesses, nor is it good for the average American consumer.

Congress should...



Stop the USPTO's discretionary denials that ignore patent validity



Restore the PTAB's role in institution decisions



Pass legislation to fully revive the IPR program