# PUBLIC SUBMISSION

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Request for Comments on Discretion to Institute Trials Before the Patent Trial and Appeal Board

**Comment On:** PTO-C-2020-0055-0001
Discretion to Institute Trials Before the Patent Trial and Appeal Board

**Document:** PTO-C-2020-0055-0243
Comment from Jim Slaughter.

## Submitter Information

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## General Comment

I have used the patent system to protect over a dozen of my inventions; P.P.A's and Non-provisional. For 9 years I have been volunteering with the largest Inventor support group in the western U.S., The Orange County Inventors Forum,
inventorsforum.org
I support INDEPENDENT Inventors because THE PEOPLE NEED HOPE. The American dream of self determination is on the line! Defend these rights (PLEASE), for all people, not just the rich, and the people can then be given reason to fight for their future, and not to fight in the streets against the gross economic disparity caused by continued pandering to large corporate entities.

It is about hope, it is about self determination. It is about the independent Inventors.
Jim Slaughter
Board of Directors
The Orange County Inventors Forum inventorsforum.org

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I support the recommendations of The US Inventor Group outlined below:

I urge adoption of regulations to govern the discretion to institute PTAB trials consistent with the following principles.

I: PREDICTABILITY

Regulations must provide predictability. Stakeholders must be able to know in advance whether a petition is to be permitted or denied for policy reasons. To this end regulations should favor objective analysis and eschew subjectivity, balancing, weighing, holistic viewing, and individual discretion. The decision-making should be procedural based on clear rules. Presence or absence of discrete factors should be determinative, at least in ordinary circumstances. If compounded or weighted factors are absolutely necessary, the number of possible combinations must be minimized and the rubric must be published in the Code of Federal Regulations.

II: MULTIPLE PETITIONS

a) A petitioner, real party in interest, and privy of the petitioner should be jointly limited to one petition per patent.

b) Each patent should be subject to no more than one instituted AIA trial.

c) A petitioner seeking to challenge a patent under the AIA should be required to file their petition within 90 days of an earlier petition against that patent (i.e., prior to a preliminary response). Petitions filed more than 90 days after an earlier petition should be denied.

d) Petitioners filing within 90 days of a first petition against the same patent should be permitted to join an instituted trial.

e) These provisions should govern all petitions absent a showing of extraordinary circumstances approved by the Director, Commissioner, and Chief Judge.

III: PROCEEDINGS IN OTHER TRIBUNALS

a) The PTAB should not institute duplicative proceedings.

b) A petition should be denied when the challenged patent is concurrently asserted in a district court against the petitioner, real party in interest, or privy of the petitioner and the court has neither stayed the case nor issued any order that is contingent on institution of review.

c) A petition should be denied when the challenged patent is concurrently asserted in a district court against the petitioner, real party in interest, or privy of the petitioner with a trial is scheduled to occur within 18 months of the filing date of the petition.

d) A petition should be denied when the challenged patent has been held not invalid in a final determination of the ITC involving the petitioner, real party in interest, or privy of the

petitioner.

IV: PRIVY

a) An entity who benefits from invalidation of a patent and pays money to a petitioner challenging that patent should be considered a privy subject to the estoppel provisions of the AIA.

b) Privy should be interpreted to include a party to an agreement with the petitioner or real party of interest related to the validity or infringement of the patent where at least one of the parties to the agreement would benefit from a finding of unpatentability.

V: ECONOMIC IMPACT

Regulations should account for the proportionally greater harm to independent inventors and small businesses posed by institution of an AIA trial, to the extent it harms the economy and integrity of the patent system, including their financial resources and access to effective legal representation.

Inventors make things better, cheaper, faster. Companies dont want that because it would reduce cost/price and therefore they dont make as much money! Such GREED!