

I am from a small SAAS email marketing company, based in CA.

I write to note that the PTAB provides a critical tool for protecting us from some of the thousands of overbroad patents that get over asserted or threatened based on the ability to demand less than the cost of litigation in licensing fees. We are deeply concerned about the increased and seemingly politically motivated use by the Patent Trial and Appeal Board ("PTAB") of discretionary denials that leave invalid patents in force to be asserted in litigation. Shielding invalid patents from cancellation on policy grounds is the opposite of what the PTAB was created to do.

From our experience in dealing with NPE, it is a very scary process. The cost of fighting silly or almost frivolous patents is quite high. It causes small companies to focus on the wrong things and not try and grow and hire more employees.

Denying challenges for an administration's particular policy goals divorced from the merits means that invalid patents remain in force and must be litigated at significant cost in district court infringement suits. This failure to consider and cancel invalid patents is one of the primary causes of the significant increase in litigation by non-practicing entities in recent months. It is also beyond the statutory authority of the PTAB to craft new rules based on the policy goals of this particular administration. [Data](#) shows the USPTO now favors these denials and is increasingly using this rule to deny institution of patent challenges, and the denials primarily benefit litigation-funded NPEs that file in the Eastern or Western Districts of Texas.

Congress and the rest of the federal government should be doing everything within their power to prevent unnecessary and abusive litigation against U.S. companies and employers, NOT inventing new ways to prevent those threatened with suit from preventing needless litigation. **These denials favor the interests of speculative litigation by shell company plaintiffs** that do not make anything or productively employ anyone to the detriment of the real-world manufacturers and service providers that are the backbone of the U.S. economy. They encourage parties to file first and forum shop for rocket dockets to maximize their financial leverage to settle spurious claims. These actions harm the economy and are contrary to the promise of the America Invents Act ("AIA").

Thank you very much for much for considering my comments.