



May 3, 2024

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314

RE: Motion to Amend Practice and Procedures in Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board [Docket No. [PTO-P-2020-0060](#)]

Dear Under Secretary and Director Vidal:

The Alliance for Automotive Innovation (“Auto Innovators”) is pleased to submit comments to the United States Patent and Trademark Office (“USPTO”) on its notice of proposed rulemaking to update its rules governing amendment practice in trial proceedings under the America Invents Act. Auto Innovators appreciates the work that the USPTO has done on its Motion to Amend pilot program (“MTA pilot program”) and supports efforts to make certain provisions permanent.

Auto Innovators represents the manufacturers that produce most of the cars and light trucks sold in the U.S., original equipment suppliers, battery makers, technology companies, and other value-chain partners within the automotive ecosystem. Representing approximately 5 percent of the country’s GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation’s largest manufacturing sector.

Patent quality is paramount for automotive companies because high-quality patents protect significant research and development investments by the automotive industry and enable companies to produce new mobility technologies. Automotive companies face frequent lawsuits alleging infringement of patents that should not have been issued. The industry relies extensively on America Invents Act trial proceedings, particularly *inter partes* review, to settle the validity of patents efficiently and effectively, and robust access to AIA trial proceedings is a top priority. Having experienced *inter partes* review from both the defensive and offensive sides, the automotive industry has seen that when issued patents are of higher quality, automotive companies have lower unnecessary costs. Such savings can be passed on to consumers as the industry transitions to more efficient and higher-technology vehicles.

Auto Innovators asserts that the MTA pilot program fairly and equitably balances the interests between patent holders and technology implementers. The notice of proposed rulemaking would make permanent the process that allows the patent holder to request feedback on proposed

substitute claims before the final written decision phase in two ways. The patent holder can either request preliminary guidance from the USPTO in response to a motion to amend or after the petitioner's opposition to the original motion to amend. The patent holder can then file a revised motion to amend that is responsive to such feedback. The notice of proposed rulemaking also proposes to give the Patent Trial and Appeal Board the ability to more broadly use its discretion to raise grounds of unpatentability and to consider all the prior art of record in the proceeding without limitation. These changes would further the improvement of patent quality through trial proceedings under the America Invents Act before the Patent Trial and Appeal Board.

Thank you for the opportunity to provide input on this notice of proposed rulemaking regarding USPTO's Motion to Amend pilot program. Auto Innovators remains grateful for the USPTO's continued stakeholder engagement on patent-related matters of interest to the automotive industry.

Sincerely,



Tara Hairston

Tara Hairston
Senior Director, Technology Policy

