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Discretion to Institute Trials Before the Patent Trial and Appeal Board

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Comment from Pierre Bierre

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General Comment

The problem of patent trolls has still not been licked by the USPTO and Patent Court. As stands, trolling is the greatest threat to the innovative architecture envisioned by Ben Franklin and the Founders.

My particular concern is the small inventor who lacks financial resources. Oftentimes, s/he is a garage inventor with no business income, but merely a clever idea being pursued. This person can be sued by well-financed patent trolls who can make life miserable with discovery and legal costs. The goal of the trolls is complete capitulation of the small inventor, to sign away exclusive patent rights to the troll.

The Inter Partes Review is an essential process of the USPTO to take an early look at interferences, and sort out the limits of claims with respect to novel inventions. This process posits the main deterrent to opportunistic trolling. Therefore, it would be a huge mistake to weaken such deterrence.

The USPTO and Congress and Courts must make it their highest priority on the patent front to

crush the trolling industry. That scurrilous activity is NOT what the Patent System was set up to reward. It is a parasitic barnacle weighing down the inventiveness of the US, and must be countered with the full force of policy and law.