



June 26, 2020

United States Patent and Trademark Office  
600 Delaney Street  
P.O. Box 1450  
Alexandria, VA 22313

**RE: PTAB Rules of Practice for Instituting on All Challenged Patent Claims and All Grounds and Eliminating the Presumption of Institution Favoring Petitioner as to Testimonial Evidence, Docket No. PTO-P-2019-0024**

To Whom it May Concern:

The Small Business & Entrepreneurship Council (SBE Council) is submitting these comments in support of the USPTO's proposed changes regarding "PTAB's Rules of Practice for Instituting on All Patent Claims and All Ground and Eliminating the Presumption of Institution Favoring Petitions as to Testimonial Evidence," Docket No. PTO-P-2019-0024. As an advocacy and education organization dedicated to promoting entrepreneurship and protecting small businesses, SBE Council has long championed initiatives and policies that strengthen intellectual property protections and rights. We appreciate the leadership of USPTO Director Andrei Iancu and Deputy Director Laura Peter for their consistent efforts to promote and advance a regulatory climate that allows entrepreneurs to innovate and more efficiently bring their ideas to the marketplace, and to protect those ideas.

The proposed changes begin to bring more fairness and consistency to PTAB rules, which are skewed against patent holders. The proposal aligns rules of practice for post grant proceedings with the Supreme Court's decision in *SAS Institute Inc. V. Iancu*; and promotes neutrality by eliminating the presumption that a "genuine issue of material fact created by the patent owner's testimonial evidence filed with a preliminary response will be viewed in the light most favorable to the petitioner for purposes of deciding whether to institute a review," which is illogical and unfair to the respondent.

In order to encourage innovation, which creates a more inclusive and vibrant economy, the patent review process, and proceedings where patents are challenged, must be coherent, consistent and fair. Such a process benefits small innovators and inventors who are the drivers of

innovative ideas and competition, which all lead to more opportunity and growth in the economy.

SBE Council is pleased to support these proposed changes. Please feel free to contact SBE Council for questions or additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Kerrigan".

Karen Kerrigan  
President & CEO

**SBE Council**  
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**Protecting Small Business, Promoting Entrepreneurship**  
[www.sbecouncil.org](http://www.sbecouncil.org)