Business Software Alliance

August 19, 2026

BSA Comments on Notice of Proposed Rulemaking

Requirement To Identify All Real Parties in Interest to a Third Party Request for an Ex Parte Reexamination

91 Fed. Reg. 46,038 (July 22, 2026)
Docket No. PTO-P-2025-0545; RIN 0651-AD94

I. Introduction and Executive Summary

The Business Software Alliance (BSA)[1] respectfully submits these comments regarding the US Patent and Trademark Office's (USPTO or Office) Notice of Proposed Rulemaking (NPRM) entitled "Requirement To Identify All Real Parties in Interest to a Third Party Request for an Ex Parte Reexamination."[2]

Representing tens of thousands of American inventors and their employers – together holding hundreds of thousands of patents in a sector vital to US economic and national security – BSA members are long-standing supporters of the USPTO and critical stakeholders in the US intellectual property (IP) system.

Congress has legislated several complementary pillars by which the USPTO tests whether issued patents satisfy the core statutory criteria of patentability under 35 U.S.C. §§ 102 and 103. Ex parte reexamination – codified at 35 U.S.C. §§ 301-307 – is the oldest of these pillars, predating inter partes review (IPR) and post-grant review (PGR) by three decades. Congress designed it deliberately as a low-cost, low-barrier corrective mechanism open to "any person," so that the Office could revisit – and, where warranted, cancel – claims that should not have issued.

That design takes on particular significance today. The USPTO has already sharply curtailed the availability of IPR and PGR, the AIA's newer post-issuance quality-control pillars, with IPR institution rates falling to roughly 37% in FY2026 and registering monthly lows between 20% and 27%.[3]

USPTO's policy of systematically weakening statutory-mandated patent quality safeguards comes at a significant cost. For example, it is estimated that IPR alone saves the US economy an estimated $2.95 billion in gross product and supports nearly 13,500 job-years. USPTO's actions impose costs on productive US enterprises, including small businesses, primarily for the benefit of litigation speculators and foreign non-practicing entities. These actions systematically weaken US patent quality, impede the Administration's AI policies, and heighten national security concerns about foreign exploitation of judicial discovery to access sensitive US technology.

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[1] BSA's members include: Adobe, Alteryx, Asana, Atlassian, Autodesk, Avalara, Bentley Systems, Box, Cisco, Cohere, Cohesity, Dassault Systemes, Databricks, Docusign, Dropbox, Elastic, EY, Graphisoft, HubSpot, IBM, Informatica, Kyndryl, MathWorks, Microsoft, Notion, Okta, OpenAI, Oracle, PagerDuty, Palo Alto Networks, PTC, Rubrik, Salesforce, SAP, ServiceNow, Shopify Inc., Siemens Industry Software Inc., Trend Micro, TriNet, Veeam, Workday, Zendesk, and Zoom Communications Inc.

[2] 91 Fed. Reg. 46,038 (July 22, 2026), Docket No. PTO-P-2025-0545, RIN 0651-AD94.

[3] See PTAB Statistics Through Two Months of FY 2026, PTAB Litigation Blog (Jan. 2026) (institution rate of 37% for the first two months of FY2026, down from 68% in FY2024 and 50% in FY2025); USPTO Stats Show IPR Institution Rate Has Plummeted by 43%, IPWatchdog (Apr. 8, 2026) (reporting an overall institution rate of approximately 37% as of February 2026, with several months registering rates between 20% and 27%).

Against that backdrop, it is troubling that the Office is now proposing to add friction to a remaining, low-cost post-issuance tool available to third parties who identify patents having a substantial new question of patentability. Indeed, the NPRM confirms that the two rulemakings are linked: the Office explains that the proposed real-party-in-interest ("RPI") statement would reinforce a separate, pending proposal to curtail IPR institution based on prior ex parte reexamination outcomes.[4] The current proposal, in other words, is not a freestanding procedural measure – it is part of a broader pattern of narrowing every avenue by which the public can ask the Office to correct its own errors.

BSA members support reasonable, well-tailored measures to prevent fraud, misrepresentation, and evasion of the statutory estoppel provisions in 35 U.S.C. §§ 315(e)(1) and 325(e)(1). But the proposed § 1.510(b)(7) identification requirement is the wrong tool for that objective. It exceeds the Office's rulemaking authority, rests on an evidentiary record that does not support the asserted need, and would reintroduce a disclosure requirement that the Office itself proposed and then declined to adopt in 2012, for many of the same reasons set out below. For these reasons, and as explained more fully in Section IV, BSA urges the USPTO to withdraw the proposed rule or, at minimum, substantially revise it consistent with the recommendations in Section III.

II. About BSA

As an association of the world's leading patent and copyright holders in Artificial Intelligence (AI), quantum computing, enterprise software, and other emerging technologies, BSA promotes policies that foster innovation, growth, and a competitive marketplace for commercial software and related technologies.

BSA members invest heavily in IP, holding hundreds of thousands of patents and standing among the top US patent holders in key technologies critical to our nation's economic and national security, including AI, quantum computing, cloud computing, industrial automation, and electronic design automation. The software industry accounts for over $100 billion in annual US research and development (R&D) investments and one quarter of total US private sector R&D expenditures.

As innovators and responsible patent holders, BSA members have a direct and substantial stake in each of the post-issuance mechanisms Congress has established to test – and, where warranted, correct – patent claims that the USPTO may have improvidently granted, including ex parte reexamination, IPR, and PGR.

These proceedings strengthen, rather than weaken, the US patent system: they help ensure that issued patents are durable and enforceable, and they provide efficient, expert fora in which examination errors can be identified and corrected. BSA members regularly rely on ex parte reexamination, including as third-party requesters, to test patents having a substantial new question of patentability, and they have a direct interest in preserving the accessibility of that process.

III. Summary of Recommendations

BSA respectfully urges the USPTO to withdraw the proposed rule. If the Office does not withdraw the NPRM, BSA recommends the following:

1. Retain the existing § 1.510(b)(6) certification, together with the practitioner certification obligations of 37 C.F.R. § 11.18(b), as sufficient to enforce the estoppel provisions of 35 U.S.C. §§ 315(e)(1) and 325(e)(1) – consistent with the Office's own considered 2012 determination;
2. In the alternative, if the Office proceeds with some form of identification requirement, limit it to circumstances in which the Office has an articulable, evidence-based basis to believe that a specific

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[4] NPRM, 91 Fed. Reg. at 46,041 (explaining that the proposed § 1.510(b)(7) statement "would also be beneficial should the Office implement" proposed 37 C.F.R. § 42.108(e)(5), which would preclude IPR institution based on a prior ex parte reexamination finding of patentability, and citing Revision to Rules of Practice Before the Patent Trial and Appeal Board, 90 Fed. Reg. 48,335 (Oct. 17, 2025)).

request may implicate estoppel, rather than imposing a categorical requirement on every third-party request;

3. Conduct and publish a Regulatory Impact Analysis that reconciles the rule's designation as “significant” under Executive Order 12866 § 3(f) with its characterization, for Regulatory Flexibility Act purposes, as imposing only a “de minimis” burden on affected requesters.[5]

IV. Discussion

A. Statutory Basis for Ex Parte Reexamination

Ex parte reexamination is among the oldest of the statutory tools Congress has given the USPTO to test whether issued patents satisfy the requirements of patentability under 35 U.S.C. §§ 102 and 103. Congress created the reexamination chapter of the Patent Act nearly 45 years ago[6] – three decades before Congress created IPR and PGR in the Leahy-Smith America Invents Act (AIA). The reexamination provisions took effect on July 1, 1981.[7]

The operative request provision, 35 U.S.C. § 302, provides:

> “<u>Any person</u> at any time may file a request for reexamination by the Office of any claim of a patent on the basis of any prior art cited under the provisions of section 301. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Director pursuant to the provisions of section 41. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested. Unless the requesting person is the owner of the patent, the Director promptly will send a copy of the request to the owner of record of the patent.”[8]

Congress's choice of the phrase “any person” was deliberate and unqualified. As the House Judiciary Committee explained in reporting the enacting legislation, H.R. 6933, the reexamination provisions were intended to strengthen investor confidence in the certainty of patent rights by creating a system of administrative reexamination of doubtful patents, permitting any interested party to have the validity of a patent tested at the Office, with its body of technical experts, at a much reduced cost.[9] The Committee found that reexamination could be conducted with a fraction of the time and cost of formal legal proceedings and would help restore confidence in the effectiveness of the patent system, while helping to reduce the use of litigation costs to pressure patent holders into tolerating infringement or licensing patents for nominal fees.[10]

Congress paired that open standing provision with a confidentiality protection. Under 35 U.S.C. § 301(e), a person citing prior art to the Office may request that their identity be excluded from the patent file and kept confidential – a protection Congress adopted because, without it, competitors of a patent owner might be reluctant to cite prior art to the Office.[11] The Office has carried that same confidentiality principle forward into its own regulations governing reexamination requests for more than four decades.[12]

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[5]NPRM, 91 Fed. Reg. at 46,042 (Rulemaking Considerations §§ B–C) (certifying under the Regulatory Flexibility Act that the rule "would result in only a de minimis additional burden," while separately stating that "[t]his rulemaking has been determined to be significant under section 3(f)" of Executive Order 12866).

[6] *See* 35 U.S.C. §§ 301-307, through the Act of December 12, 1980, Pub. L. No. 96-517, 94 Stat. 3015 —

[7]Act of Dec. 12, 1980, Pub. L. No. 96-517, § 1, 94 Stat. 3015 (codified as amended at 35 U.S.C. §§ 301-307); USPTO, MPEP § 2209 ("Procedures for reexamination of issued patents began on July 1, 1981, the date when the reexamination provisions of Public Law 96-517 came into effect.").

[8]35 U.S.C. § 302 (emphasis added).

[9]H.R. Rep. No. 96-1307, pt. 1 (1980) (Summary of the Bill) (accompanying H.R. 6933).

[10]Id.

[11]35 U.S.C. § 301(e); H.R. Rep. No. 96-1307, at 6, 1980 U.S.C.C.A.N. 6460, 6465, as quoted in NPRM, 91 Fed. Reg. at 46,038-39.

[12]37 C.F.R. § 1.501(d); NPRM, 91 Fed. Reg. at 46,039 (describing the proposed amendment to § 1.501(d) to distinguish anonymous prior-art citations under § 1.501 from ex parte reexamination requests under § 1.510, which would now require RPI identification).

Congress has revisited and reaffirmed the "any person" reexamination framework repeatedly since 1980 – when it created inter partes reexamination in 1999, when it replaced that mechanism with IPR in the 2011 AIA, and when it enacted the AIA's post-grant estoppel provisions in 35 U.S.C. §§ 315(e) and 325(e). At each juncture, Congress had the opportunity to impose an RPI-identification requirement directly on ex parte reexamination requesters, as it did for IPR petitioners in 35 U.S.C. § 312(a)(2). It did not do so. USPTO must not attempt to substitute its views for Congress's considered judgment.[13]

B. The Proposed Rule Exceeds USPTO's Rulemaking Authority and Is Not Supported by Substantial Evidence

BSA has two threshold, independent legal objections to the proposed § 1.510(b)(7) requirement.

First, the proposal exceeds the rulemaking authority Congress granted the USPTO. Section 302 permits "any person" to request ex parte reexamination and, unlike the IPR petition requirements in 35 U.S.C. § 312(a)(2), imposes no obligation to disclose real parties in interest. Congress knew how to require RPI disclosure when it wanted to – it did so expressly for IPR and PGR petitions in the AIA. Its silence with respect to ex parte reexamination reflects a deliberate choice, not a gap for the Office to fill. By adding a new, substantive precondition to the exercise of the "any person" right Congress created in § 302, the NPRM does not merely adjust agency procedure; it imposes a new substantive condition on access to a statutory proceeding – the hallmark of substantive rulemaking under the Administrative Procedure Act (APA).[14] Under *Loper Bright Enterprises v. Raimondo*, the Office is not entitled to deference in construing its own authority to add such a requirement where Congress has not clearly granted it.[15]

Second, the NPRM does not satisfy the APA's substantial evidence requirement. The Office's stated justification rests on the concern that parties estopped under 35 U.S.C. §§ 315(e)(1) or 325(e)(1) may be filing anonymous *ex parte* reexamination requests, and that the existing § 1.510(b)(6) certification, coupled with the obligations of § 11.18(b), can no longer be relied upon to screen those requests out.[16] Yet the NPRM identifies no data showing that a meaningful share of the "significant number" of reexamination requests it references actually involve estopped parties;[17] it offers only the possibility that some might. That showing does not meet the APA's evidentiary threshold, particularly where – as discussed in Section IV.C.2 below – the Office's own 2012 rulemaking record reached the opposite conclusion.[18] An agency must

[13] In Section II(A), the NPRM states that during AIA enactment, "a member of Congress stated'"[t]he Office recognizes that it will need to change its regulations and require that ex parte reexamination requesters identify themselves to the Office in order for the Office to be able to enforce this new [estoppel] restriction.'" 157 Cong. Rec. S1376 (Mar. 8, 2011) (Sen. Kyl)." For the following reasons, one Senator's statement should not be construed as a Congressional delegation of authority to the USPTO to engage in rulemaking requiring RPI disclosure. First, Sen. Kyl's statement contemplates the Office acting consistently with the statute, not in a manner that effectively modifies the "any person" right Congress created. A rule that predictably deters the exercise of a statutory right is not merely procedural — it effectively modifies the scope of the right. "The APA provides that "rules of agency organization, procedure, or practice" are exempt from the general notice and comment requirements of section 553. 5 U.S.C. § 553(b)(A) (1988). Although in applying this provision we have struggled with the distinction between "substantive" and "procedural" rules . . . [o]ur oft-cited formulation holds that **the "critical feature" of the procedural exception "is that it covers agency actions that do not themselves alter the rights or interests of parties".** Jem Broadcasting Co. v. FCC, 22 F.3d 320, 326 (1994). Second, as the Supreme Court has explained, "[t]he remarks of a single legislator, even the sponsor, are not controlling in analyzing legislative history." Chrysler Corp. v. Brown, 441 U.S. 281, 311 (1979). Furthermore, Sen. Kyl's statement was made during floor debate, not in the committee report. The committee report is the most authoritative form of legislative history. Comments during floor debate are less probative of congressional intent.

[14] 5 U.S.C. § 706(2)(C); see Utility Air Regulatory Group v. EPA, 573 U.S. 302, 328 (2014) (an agency may not rewrite clear statutory terms to suit its own sense of how a statute should operate).

[15] Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024).

[16] NPRM, 91 Fed. Reg. at 46,040.

[17] NPRM, 91 Fed. Reg. at 46,039-40 ("the Office is currently receiving a significant number of *ex parte* reexamination requests" directed to previously challenged patents).

[18] See infra Section IV.C.2.

examine the relevant data and articulate a satisfactory explanation for its action.[19] Reciting the possibility of abuse, without more, does not meet that standard.[20]

The NPRM's own regulatory analysis compounds this concern. The Office states that this rulemaking "has been determined to be significant" under Executive Order 12866 § 3(f)[21] – the standard reserved for actions with meaningful economic or policy consequences – while simultaneously certifying, for Regulatory Flexibility Act purposes, that the identical requirement will impose only a "de minimis" additional burden.[22] The Office cannot have it both ways. If the RPI identification requirement is significant enough to warrant Executive Order 12866 review, the Office should be able to identify the estoppel evasion problem it is solving with more than generalized concern – and should conduct the economic analysis that a "significant" designation calls for, rather than resting on a truncated Regulatory Flexibility Act certification.

The NPRM compounds this inconsistency a third time. In the same rulemaking, the Office characterizes the RPI identification requirement as a "rule[] of agency practice and procedure" or "interpretive rule" exempt from notice-and-comment rulemaking under 5 U.S.C. § 553(b)(A), on the theory that procedural rules are those that "do not themselves alter the rights or interests of parties."[23] That self-characterization is difficult to square with a rule the Office simultaneously designates "significant" under Executive Order 12866 § 3(f).

More fundamentally, the Office's proposal does not withstand scrutiny on its own terms. A mandatory precondition that requires an anonymous third-party requester to disclose its identity to the Office – a precondition that comments in response to the 2012 proposed rule recognized could have chilling effects on requestor interests – as a condition of exercising a right that Congress intended to afford to "any person" plainly alters the rights and interests of the parties who must now choose between disclosure and forgoing the proceeding altogether. That is a materially different act than the docket formatting or internal organization rules for which the procedural exception was designed, and it is not converted into a mere housekeeping measure by the Office's own label.[24]

C. Policy Considerations Confirm That the Proposed Rule Is Unwarranted

We raise four separate policy considerations below that support withdrawal of the NPRM.

1. Alternative Explanations Better Account for the Rise in Ex Parte Reexamination Filings

To the extent the NPRM's premise rests on the observed increase in *ex parte* reexamination filings, that increase has an alternative and better documented explanation than a sudden, unprecedented spike in fraud: As IPR institution rates have fallen due to USPTO's application of extra-statutory criteria to institution determinations, requestors have shifted toward *ex parte* reexamination and other alternatives generally, rather than toward evading estoppel specifically.[25] A rising caseload driven by displacement from an (extra-

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[19]Motor Vehicle Mfrs. Ass'n v. State Farm, 463 U.S. 29, 43 (1983).

[20] The Office hasn't provided enough indirect or circumstantial evidence that a problem exists. The NPRM instead points to USPTO's "currently receiving a significant number of ex parte reexamination requests . . . that are directed to patents previously challenged in inter partes or post-grant review proceedings." The Office did not specify what that "significant number is." For example, USPTO could have provided: (1) an analysis of the timing of ex parte reexamination filings relative to IPR/PGR final written decisions on the same patents - filings clustered shortly after final written decisions, raising grounds that closely parallel those raised in prior IPR/PGR proceedings, would suggest a higher likelihood of estopped party involvement; (2) an analysis as to whether the same practitioners who represented petitioners in prior IPR/PGR proceedings are filing subsequent ex parte reexamination requests on the same patents; and (3) an analysis of the specific cases in which the § 1.510(b)(6) certification mechanism has actually failed. It has not offered any such analysis, but has instead relied on speculative statements.

[21]NPRM, 91 Fed. Reg. at 46,042 (Rulemaking Considerations § C).

[22]NPRM, 91 Fed. Reg. at 46,042 (Rulemaking Considerations § B).

[23]NPRM, 91 Fed. Reg. at 46,041 (Rulemaking Considerations § A) (citing Perez v. Mortg. Bankers Ass'n, 575 U.S. 92, 97, 101 (2015); Cooper Techs. Co. v. Dudas, 536 F.3d 1330, 1336-37 (Fed. Cir. 2008); In re Chestek PLLC, 92 F.4th 1105, 1110 (Fed. Cir. 2024); JEM Broadcasting Co. v. FCC, 22 F.3d 320, 328 (D.C. Cir. 1994)).

[24]See JEM Broadcasting Co. v. FCC, 22 F.3d 320, 328 (D.C. Cir. 1994), as quoted in NPRM, 91 Fed. Reg. at 46,041 (the procedural exception covers agency actions that "do not themselves alter the rights or interests of parties").

[25]See PTAB Filings Down 81% in Q2 2026 as Patent Challengers Abandon IPR Playbook, IAM (2026), available at: https://www.iam-media.com/article/ptab-filings-down-81-in-q2-2026-patent-challengers-abandon-ipr-playbook.

statutorily) curtailed IPR process is not evidence that estopped parties are exploiting anonymity – it is evidence that the Office's own non-institution practices are pushing requestors toward a remaining forum that remains broadly available to seek quality and validity review of issued patents. The NPRM does not acknowledge the USPTO's own responsibility in driving an increased demand for access to ex parte reexaminations.

2. The Office Has Not Shown That the Problem It Invokes Actually Exists

The NPRM's own procedural history undercuts its premise. Only after the Office's extra-statutory non-institution policies sharply reduced IPR institution – and, in the process, pushed parties toward *ex parte* reexamination – has the Office concluded that the § 1.510(b)(6) certification and the obligations of § 11.18(b) "are no longer deemed sufficient to ensure compliance with the statutory estoppel provisions."[26]

In 2012, facing a similar proposal, the Office reached the opposite conclusion: it considered the § 1.510(b)(6) certification, coupled with § 11.18(b) obligations, sufficient to avoid abuse, declining to adopt an RPI-identification requirement in large part because commenters warned it would chill legitimate reexamination requests.[27] The current NPRM does not identify new evidence of actual estoppel evasion; it identifies only a rise in filing volume that, as explained above, has an independent and more plausible explanation in USPTO's own extra-statutory conduct.

An agency reversing a considered prior policy determination must display awareness that it is changing position and provide good reasons, grounded in the record, for doing so.[28] Reciting the same theoretical risk that the Office weighed and rejected in 2012 does not satisfy that standard.

3. Confidentiality Assurances Do Not Eliminate the Risk of Disclosure

While the Office states that it "intends" to keep RPI statements confidential and to provide "robust data security measures" to exclude them from the reexamination file,[29] intentions are not guarantees. Confidential filings remain subject to disclosure risk through litigation discovery, cybersecurity incidents affecting Office systems, and the volume of Freedom of Information Act requests the Office may receive. Recent USPTO notices acknowledging the potential erroneous release of patent application information underscore that these risks are not merely theoretical.[30] The NPRM does not describe the specific technical or procedural safeguards it intends to implement, nor does it explain how those safeguards would improve on the protections the Office already affords – and has, at times, failed to maintain – for other categories of confidential filings.

4. The Compliance Burden Is Underestimated

The NPRM characterizes the proposed RPI statement as producing only a "*de minimis*" additional burden over current certification practice,[31] yet the Office's own discussion of the rule acknowledges that determining who qualifies as a real party in interest is a highly fact-dependent question resolved on a case-by-case basis, and directs requesters to Federal Circuit precedent construing multi-factor common-law privity principles.[32] Those are not hallmarks of a *de minimis* obligation.

A requester attempting to identify "all real parties in interest" under that standard faces a genuine risk of incomplete or contested disclosures, collateral disputes over whether a particular funder, affiliate, or trade association member qualifies as an RPI, and corresponding delay in reexamination proceedings that

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[26]NPRM, 91 Fed. Reg. at 46,040.

[27]NPRM, 91 Fed. Reg. at 46,039 (Background § A, "2012 AIA Rulemaking") (citing Changes To Implement Miscellaneous Post Patent Provisions of the Leahy-Smith America Invents Act, 77 Fed. Reg. 46,615, 46,621-22 (Aug. 6, 2012)).

[28]FCC v. Fox Television Stations, Inc., 556 U.S. 502, 515 (2009) (an agency changing position must display awareness that it is doing so and show good reasons for the new policy).

[29]NPRM, 91 Fed. Reg. at 46,040-41.

[30]See USPTO, Notice of Potential Erroneous Release of Patent Application Titles (2024), at: https://www.uspto.gov/subscription-center/2024/notice-potential-erroneous-release-patent-application-titles; USPTO Notice, at: https://content.govdelivery.com/accounts/USPTO/bulletins/3aec31c.

[31]NPRM, 91 Fed. Reg. at 46,042 (Rulemaking Considerations § B).

[32]NPRM, 91 Fed. Reg. at 46,041 (citing Applications in Internet Time, LLC v. RPX Corp., 897 F.3d 1336 (Fed. Cir. 2018); Taylor v. Sturgell, 553 U.S. 880 (2008)).

Congress designed to proceed with "special dispatch."[33] The Office's characterization of the burden as *de minimis* is difficult to reconcile with its own description of the underlying legal standard.

Notably, the Office reports that it received only 452 *ex parte* reexamination requests in all of fiscal year 2025, of which 174 (38%) were filed by small entities.[34] Against that modest, readily surveyed population, a categorical, per-request identification mandate is a blunt instrument – particularly when, as discussed above, a more targeted mechanism triggered only where the Office has an articulable estoppel concern would serve the same objective with substantially less burden and chilling effect.

V. Conclusion

BSA appreciates the Office's interest in ensuring compliance with the statutory estoppel provisions of 35 U.S.C. §§ 315(e)(1) and 325(e)(1). However, the proposed § 1.510(b)(7) requirement is not a proportionate or well-justified response to that interest. It exceeds the Office's rulemaking authority, rests on an evidentiary record indistinguishable from the one the Office found insufficient to justify the same requirement in 2012, and would add meaningful cost and complexity to the most accessible of the statutory pillars Congress has built to keep US patents strong. BSA urges the Office to withdraw the proposed rule or, at minimum, to adopt the more narrowly tailored alternatives set out in Section III above.

Please do not hesitate to contact Joseph Whitlock (josephw@bsa.org) with any questions.

[33] 35 U.S.C. § 305 (reexamination proceedings, including any appeal, "will be conducted with special dispatch within the Office").

[34] NPRM, 91 Fed. Reg. at 46,042 (Rulemaking Considerations § B).