

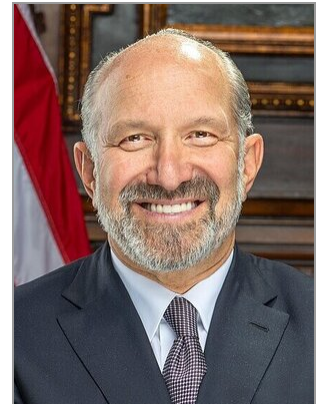
# Empty Advisory Boards Have Attys Worried About USPTO

By **Dani Kass**

Law360 (September 4, 2025, 6:33 PM EDT) -- U.S. Secretary of Commerce Howard W. Lutnick removed all members of the U.S. Patent and Trademark Office's public advisory committees in March and those seats have remained empty, raising concerns that the agency's leadership is operating in an echo chamber.

The purpose of the committees, established under the 1999 American Inventors Protection Act, is to provide agency feedback from a wide array of voices, with members from as many backgrounds as possible and some remaining even after administration changes.

While the Patent Public Advisory Committee and Trademark Public Advisory Committee don't have authority to make the USPTO take action or make changes, former members say PPAC and TPAC are still able to have an impact.



Howard W. Lutnick

"They wouldn't have any authority to say, 'Stop doing that,' but I do think [the USPTO] would benefit from being outside of a potential echo chamber," said Pillsbury Winthrop Shaw Pittman LLP partner Bill Atkins.

Representatives for the USPTO declined to comment, while representatives for the U.S. Department of Commerce didn't respond to a detailed request for comment.

## The Committees

PPAC and TPAC each must have nine voting members who serve three-year terms, as mandated by the Patent Act. The members can be removed by the administration without cause, but the law requires them to be replaced within 90 days.

Individual USPTO directors use the committees in different ways, but the overall goal is to provide the perspectives of a full range of stakeholders, such as private practice attorneys, in-house counsel, professors and independent inventors.

"The TPAC is a very carefully curated group of people," said Eligon IP partner Amy Hsiao, who served as vice chair of the TPAC before the committees were dismantled. "No two people have the same background. We are there to ask questions and offer insight in our unique perspectives."

The committees meet with USPTO leadership both in private and in meetings open to the public, and they are particularly involved in discussions about fee setting. They also present independent annual reports to the president, available to the public, reviewing agency finances and operations.

But given that it's already September, attorneys are worried there may not be any reports this year.

"That was a very big stick PPAC has used in the past to get the administration to knock off whatever crazy things they're doing," said Suzanne Harrison of advisory firm Percipience LLC, who served on the committee from 2021 through 2023, including a period as its chair.

## Lutnick's Removals

Lutnick cleared out both committees on **March 18**, meaning replacements should have been named by June 16. As of Thursday, 170 days had passed — nearly twice as many as the statute allows — without a single appointment on either board.

Some attorneys speculated that Lutnick may be **waiting** for Congress to confirm John Squires as director of the USPTO. The former Goldman Sachs patent attorney made it through the Senate Judiciary Committee in June, but has not had a full vote.

"That is my hope," said Davis Wright Tremaine LLP partner Maria Anderson, who joined PPAC in December. "My guess is that's when it would be reconstituted."

Anderson continued: "That's my hopeful self. My cynical self says they won't reconstitute."

A key reason behind that cynicism is that it's unlikely anyone who can take Lutnick to task will do so, multiple attorneys said.

"This is very unusual, but there is no enforcement mechanism in the statute," said University of Nebraska College of Law professor Christal Sheppard, who previously led a USPTO regional office and served on PPAC from 2012 through 2015. "It is clearly in violation of the statute. The question is: Who would be willing to enforce this?"

Percipience's Harrison said it's going to be up to the patent community to mobilize and hold the agency to account. She pointed to controversial initiatives like Lutnick reportedly wanting to **tax patents** based on their value and threatening to take control of Harvard University patents stemming from federally funded research.

"With an indifferent Congress and an administration that has no interest in playing by the normal rules of history, it's really up to the stakeholders to raise these issues," she said. "Whether they're right or wrong, that is a fundamentally large change."

## Setting Leadership

PPAC and TPAC members serve three-year terms, meaning it's common to serve during multiple administrations. Lutnick's decision to replace all members is not the norm, and attorneys worry about what the commerce secretary having full selection would mean.

"The firings and replacements destroy any sense of PPAC's independence in its oversight role," said former USPTO acting Director Joe Matal. "The new appointees are expected to be lapdogs to agency leadership. No one is going to take PPAC seriously after this."

Some observers also noted that this isn't taking place in a vacuum.

In addition to Lutnick removing all members of the committees, USPTO acting Director Coke Morgan Stewart has reassigned the Patent Trial and Appeal Board's top leaders. Stewart made an internal announcement last week that Chief PTAB Judge Scott R. Boalick will now lead the agency's Central Reexamination Unit, with help from Vice Chief PTAB Judge Mike Tierney.

The opening at the CRU came from the departure of its most recent acting director, Deputy Chief Administrative Patent Judge Jackie Wright Bonilla. The 13-year USPTO veteran had been assigned to the unit in June, and on Thursday announced she had joined Sterne Kessler Goldstein & Fox PLLC.

"As many know, Scott Boalick and Mike Tierney have been stellar leaders at the PTAB for many years," Judge Bonilla said in a statement Thursday. "It has been an absolute privilege to work with them both. Having Scott and Mike be part of a new chapter of leadership at the CRU is testimony to the importance of the CRU and its critical work."

Boalick and Tierney didn't immediately respond to requests for comment.

Stewart's new leaders at the PTAB were all hired before the current administration. She promoted Kal

Deshpande from acting deputy chief judge to acting chief, and offered vice chair spots to former Chief Policy Officer Sharon Israel and former Solicitor Farheena Rasheed, which are pending. Deshpande joined the agency in April 2022, Israel in January 2024 and Rasheed in November 2010.

Stanford Law School professor Mark Lemley said Stewart is either demoting the former PTAB leaders or is instead "dismantling the [inter partes review] process" and beefing up the reexaminations unit with the hope of pushing patent challenges away from the PTAB.

Stewart has been vocal about preferring ex parte reexaminations, and has implemented **procedures** at the PTAB that make it harder to get patent challenges instituted. Rather than a trial, reexaminations feature reviews by a panel of patent examiners, and the challenger does not participate.

Still, Matal likewise had concerns about the possible demotion of Boalick and Tierney.

"It seems like the board's historic leadership is being replaced with yes-men," the former acting director said. "You're guaranteed not to have anyone who pushes back against the director's ideas."

--Editing by Alanna Weissman.