



*As co-founder and CEO of Netlist, a small company that develops advanced memory technologies, I am writing to express our strong support for the Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act and the Patent Eligibility Restoration Act (PERA). I urge the Senate Judiciary Committee to approve both bills during the September 19, 2024, markup and advocate for their swift passage in the full Senate.*

At Netlist, we've experienced firsthand how flaws in the current patent system allow larger corporations to abuse legal processes to stifle innovation. In the early 2000s, Netlist was granted more than 100 patents on cutting-edge memory technologies, which soon became crucial components in the world's most advanced computing systems. We secured a partnership with Google—an achievement any small business would dream of. But shortly after, the patent theft and procedural legal tactics began. Tired of paying for our proprietary technology, Google started using technology from other firms that had infringed on our patents. When we tried to initiate licensing discussions, Google – along with other third parties, and, eventually, Samsung – responded by challenging the validity of our patents.

For the past 14 years, we have fought an uphill battle against repeated and duplicative patent challenges, which drain our resources and delay justice. Despite our patents being upheld in every challenge, our larger competitors have managed to prolong the cases by exploiting weaknesses in the patent system, all the while continuing to use our technology during the legal delays. This abuse of the system not only threatens smaller companies like ours but also weakens the innovation landscape that drives U.S. economic growth.

The Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act, introduced by Senators Coons, Tillis, Durbin, and Hirono, provides a critical opportunity to restore predictability and balance to the U.S. patent system. By curbing serial abuse and preventing duplicative challenges, this legislation will protect innovators like Netlist from being outspent and outmaneuvered by larger competitors seeking to avoid compensating smaller firms for their inventions. The PREVAIL Act's reforms are essential not only for fairness but for maintaining the integrity of our innovation ecosystem. We strongly support this legislation and urge Congress to pass the PREVAIL Act to protect America's inventors and ensure that innovation continues to thrive.

In addition to our support for the PREVAIL Act, Netlist also strongly endorses the Patent Eligibility Restoration Act (PERA). The current state of patent eligibility in the U.S. has become alarmingly uncertain, with vague standards making it difficult for inventors to determine whether their innovations qualify for patent protection. As a company that depends on the strength of its intellectual property, Netlist understands the frustration of navigating an unpredictable system

that undermines investment in groundbreaking technologies and places U.S. firms at a competitive disadvantage on the global stage.

PERA addresses these issues by clearly defining what is and is not eligible for patenting, eliminating the arbitrary judicial exceptions that have confused and weakened patent eligibility. By providing a straightforward and predictable framework, PERA will ensure that truly novel and non-obvious inventions, like those developed by Netlist, can be patented without the risk of being dismissed as "abstract." This clarity is vital for fostering confidence among innovators and investors, empowering them to bring new technologies to market without fear of endless legal uncertainty.

Netlist urges Congress to pass both the PREVAIL Act and the Patent Eligibility Restoration Act. Together, these reforms will strengthen the U.S. patent system, protect inventors, and help ensure that America remains a global leader in innovation.

Chuck Hong

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