



# The Coalition for 21st Century Patent Reform

## **21C Welcomes the Introduction of the Realizing Engineering, Science, and Technology Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act of 2023**

August 7, 2024, Washington, D.C. -

21C welcomes the introduction of the Realizing Engineering, Science, and Technology Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act of 2024 and would like to thank Senator Chis Coons (D-DE), Senator Tom Cotton (R-AR), Congressman Nathaniel Moran (R-TX), and Congresswoman Madeleine Dean (D-PA) for their leadership.

For patent owners who successfully assert their patents in court and obtain a final judgment of infringement, the RESTORE Act provides that there will be a rebuttable presumption that an injunction should issue to stop the infringer's ongoing infringement. This provision provides a clear statutory basis to fulfill our Constitution's promise that inventors shall enjoy exclusive rights to their patented inventions for limited periods of time. While the grant of an injunction will not be automatic, as for example in situations where the court finds that that the grant of an injunction would be contrary to the public interest, the RESTORE Act clarifies that where a successful patentee has obtained a final judgment of infringement, the burden of showing that an injunction would be inappropriate will rest on the adjudged infringer.

21C believes that passage of the RESTORE Act of 2024 would help restore balance and reliability to patent enforcement within the US patent system while at the same time guarding against injunctions that are overbroad, inappropriate or contrary to the public interest.

21C looks forward to working with both Houses of Congress to pass this important legislation.

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For more information, visit <http://www.patentsmatter.com>.



## **USIJ applauds introduction of the RESTORE Act**

WASHINGTON (July 29, 2024) -- Today, Senator Chris Coons (D-DE), Chair of the Senate Judiciary Subcommittee on Intellectual Property, and Senator Tom Cotton (R-AR) Member of the Senate Judiciary Subcommittee on Intellectual Property introduced the Realizing Engineering, Science, and Technology Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act of 2024.

Chris Israel, Executive Director of The Alliance of U.S. Startups & Inventors for Jobs (USIJ), issued the following statement on the bill:

“Restoring the presumption of injunctive relief in cases where a court has ruled that a patent has been infringed is, perhaps, the most impactful thing that can be done to empower American inventors, entrepreneurs and startups.

“The ability to pursue injunctive relief when a competitor infringes a patented invention was the standard in the United States for over 200 years. The Supreme Court moved the goalposts in 2006 and set up a convoluted test that makes it nearly impossible for a patent owner to stop the predatory infringement of their intellectual property by competitors. This practice has been perfected by Big Tech companies that now routinely ingest the innovations of startups and smaller competitors knowing that they cannot be stopped.

“Patent law and legislation is often complicated. The RESTORE Act is not. It is a clear and unambiguous bill that simply restores balance between large corporations that ingest others’ IP and the startups and entrepreneurs that invent it.

“The RESTORE Act will incentivize investment, innovation and startup activity by making patents more reliable and enforceable. True competitors will have the same marketplace options and opportunities that they had for 200 years – invent your own unique technology to compete, and/or license the patented technology you wish to implement. The RESTORE Act simply takes predatory infringement of others’ patented technology off the table as a business model. This is profoundly good for American innovation, investment and competition.”

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### **About The Alliance of U.S. Startups & Inventors for Jobs**

USIJ is an association of inventors, startups, venture capital investors, entrepreneurs and

supporters, whose efforts to bring new companies and new technologies into being are entirely dependent on a reliable system of patent protection. Collectively, we have launched dozens of companies in areas including biotechnology, clean energy, AI, semiconductors, medical devices and wireless technology.



## ALG Statement on RESTORE

For nearly two decades, the federal courts have failed in their duty to enforce constitutionally-guaranteed intellectual property rights. Since the Supreme Court's 2006 decision in *eBay* limiting, we have lived in an upside-down world where large, multinational companies can steal the IP of their smaller competitors, free from the threat of injunction to stop their infringement.

The RESTORE Patent Rights Act will protect the property rights of universities, startups, individual inventors, and other small innovators by restoring the presumption that courts will issue injunctions to stop infringers from stealing IP. Congress should swiftly pass the RESTORE Act to right the wrong committed in *eBay* and ensure patent owners can reliably stop Big Tech from profiting off their ideas.

Richard Manning, President, Americans for Limited Government



Statement from Stephen Susalka  
CEO, AUTM  
July 30, 2023

AUTM – the association representing technology transfer professionals across America and around the world – applauds the introduction of the RESTORE Act.

This legislation will truly give patent holders their full rights to protect their inventions once they have been proven to be valid. For too long, rightful patent holders have not had the chance to protect their inventions adequately, leading to all sorts of economic harm. This legislation returns the law to its correct interpretation in the wake of the ill-conceived eBay v Merc Exchange case in 2006.

We thank Senators Coons and Cotton, as well as their colleagues for introducing this needed legislation.

Sincerely,

A handwritten signature in black ink that reads 'Stephen J. Susalka'.

Stephen J. Susalka, PhD, CLP, RTTP  
AUTM CEO





# Council for Innovation Promotion Celebrates Introduction of the RESTORE Act

**WASHINGTON (July 30, 2024)** – The Council for Innovation Promotion (C4IP) celebrates the introduction of the Realizing Engineering, Science, and Technology Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act of 2024 in both the Senate and House today, and praises the original sponsors, Senators Chris Coons (D-DE) and Tom Cotton (R-AR), and Representatives Nathaniel Moran (R-TX) and Madeleine Dean (D-PA), and co-sponsors, Hank Johnson (D-GA), Deborah Ross (D-NC), and Chip Roy (R-TX).

“Right now, IP thieves can get away with a slap on the wrist, knowing they’ll likely face only a one-time fee, even if found liable,” said David Kappos, board co-chair of C4IP and former Under Secretary of Commerce for Intellectual Property and USPTO Director from 2009 to 2013. “The RESTORE Act changes that. The legislation protects inventors’ fundamental right to turn their own groundbreaking ideas into real-world products.”

The RESTORE Act aims to realign patent law with the U.S. Constitution and the Patent Act’s promise of “exclusive rights” to inventors. This bipartisan bill seeks to restore injunctive relief — court orders that stop infringers from utilizing patented technology — in response to the Supreme Court’s 2006 *eBay v. MercExchange* decision. That ruling substantially curtailed the granting of such injunctions, effectively denying exclusive rights to many inventors and diluting them for all others.

“To lead the world in the technologies of the future, America must first protect its inventions at home,” said Andrei Iancu, board co-chair of C4IP and former Under Secretary of Commerce for Intellectual Property and USPTO Director from 2018 to 2021. “Inventors cannot effectively protect their inventions without the ability to exclude. The RESTORE Act defends American innovation from unlawful infringement, safeguarding our economy and national security.”

The Council for Innovation Promotion (C4IP) strongly supports this legislation, viewing it as a pivotal moment for American innovation. The bill promises to ensure a more just patent legal system by addressing the breakage caused by the 2006 Supreme Court decision.

“Inventors who fall victim to infringement can’t necessarily be made whole through a payout — they need courts to stop infringement in its tracks,” said Frank Cullen, executive director of C4IP. “It’s time for Congress to stand up for U.S. innovators by passing the RESTORE Patent Rights Act of 2024.”

C4IP’s letter to House Judiciary Committee leadership in support of restoring injunctive relief can be found [here](#).



**About Council for Innovation Promotion:** The Council for Innovation Promotion is a bipartisan coalition dedicated to promoting strong and effective intellectual property rights that drive innovation, boost economic competitiveness, and improve lives everywhere.



Conservatives  
for  
Property Rights

For immediate release  
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Contact: Ryan Moy  
rmoy@crcadvisors.com

### **Statement on RESTORE Patent Rights Act Introduction**

This statement on the introduction of the Realizing Engineering, Science, and Technology Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act may be attributed to James Edwards, Executive Director, Conservatives for Property Rights:

“CPR strongly supports the RESTORE Patent Rights Act because it returns meaning to the promise of exclusive rights to one’s invention. At present, due to misapplication of the 2006 *eBay v. MercExchange* ruling, permanent injunctions have become extremely difficult to obtain in patent infringement cases. Courts have turned the right to exclude into a compulsory licensing clause.

“The RESTORE Patent Rights Act will end the judicially created categorical rule of routinely denying injunctions in cases where a patent has been found valid and infringed. Denying permanent injunctions against proven infringement deprives justice for the wronged party. Moreover, it’s diametrically opposite to historical precedent and practice of two centuries.

“We applaud and thank Senators Chris Coons and Tom Cotton and Representatives Nathaniel Moran and Madeleine Dean for their leadership to right this wrong and to restore the reasonable, common-sense remedy every property owner is due when his or her private property is taken without permission.”

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Op-ed: “Restore Injunctive Relief to Keep American Innovation Alive,” Real Clear Policy

Blog post: “Injunctions: Too Much and Too Little,” Locke’s Notebook

Op-ed: “Injunctions Give Teeth to Property Rights,” Human Events





## Statement

**Ed Martin, President  
Phyllis Schlafly Eagles and Eagle Forum Education & Legal Defense Fund**

**RE: Introduction of the Realizing Engineering, Science, and Technology  
Opportunities by Restoring Exclusive (RESTORE) Patent Rights Act**

**July 30, 2024**

“The RESTORE Patent Rights Act provides a straightforward solution to a problem courts have caused by their flawed reading of the Supreme Court’s *eBay v. MercExchange* case (2006). The RESTORE Patents Act would provide a rebuttable presumption that permanent injunction is in order, once a final judgment finds infringement of a patent. For more than 200 years, federal courts routinely issued permanent injunctions in patent cases in which infringement is proven. As applied, *eBay* turned this form of justice into just the opposite: a categorical rule of denying injunctive relief to patent owners who have proven their patent is being infringed. I’m very pleased to see legislation that would return injunctive relief as a remedy against patent infringers, who otherwise would merely pay damages while continuing to benefit commercially by ongoing infringing activity.”

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“Strong intellectual property protections foster industry competition and keep prices low for consumers,” said **Ryan Walker, Executive Vice President, Heritage Action**. “As inflation remains high and adversaries like China threaten American dominance in the global tech race, it’s more important than ever before to promote domestic innovation. The bipartisan RESTORE Patent Rights Act prioritizes growth and product development for American companies—two key ingredients to fixing the stagnant Biden-Harris economy.”



**For Immediate Release**

July 30, 2024

## **Innovation Alliance Applauds Introduction of RESTORE Patent Rights Act**

*Bipartisan, Bicameral Bill Would Restore the Right to Injunctions to Stop IP Theft and Promote U.S. Technological Leadership*

**WASHINGTON, D.C.** – Innovation Alliance Executive Director Brian Pomper today issued the following statement on the introduction of the bipartisan, bicameral RESTORE Patent Rights Act:

“The Innovation Alliance applauds Senators Coons (D-DE) and Cotton (R-AR) and Representatives Moran (R-TX), Dean (D-PA), Roy (R-TX), Johnson (D-GA) and Ross (D-NC) for introducing the bipartisan, bicameral RESTORE Patent Rights Act. This bill will help stop IP theft, protect inventors’ right to determine who can use their patented inventions and encourage investments in innovation that support U.S. technological leadership.

“A patent grants its owner the right to prevent others from using their invention. For more than two centuries, a patent owner whose rights had been infringed could obtain a permanent injunction to enforce that right, stopping an infringer from making, using, selling, or importing their invention. But in 2006, the Supreme Court undermined this right in *eBay v. MercExchange* by altering the legal test for obtaining an injunction and holding that money damages for past infringement should be sufficient. If courts won’t enforce a patent by preventing others from using an invention, that calls into question what rights the patent bestows and seriously undermines the value of the patent.

“New [research](#) shows that since the *eBay* decision injunction rates in patent cases have plummeted by more than 91% for patent licensing entities, including universities, and more than 66% for manufacturing companies. The rapid decline in injunctive relief has allowed Big Tech and other large companies to steal the inventions of smaller competitors with impunity. Without injunctions as a remedy, it is cheaper for megacorporations to steal patented technologies and risk the possibility of paying a court-ordered royalty after months or years of expensive litigation than it is to follow the law and pay for a license up front.

“This has serious consequences for the U.S. innovation economy and U.S. global technology leadership. When inventors cannot enforce their patent rights, investors are reluctant to fund the risky and long-term R&D needed for continued U.S. leadership in foundational and emerging technologies. Moreover, courts in China continue to grant injunctions in 95% of patent infringement cases. Inventors in the United States deserve rights at least as strong as inventors in China.

"The RESTORE Act will address this problem by restoring the right to an injunction in cases where the patent is proved valid and infringed. We urge Congress to take up and pass this vital bill as soon as possible."

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**ABOUT THE INNOVATION ALLIANCE**

The Innovation Alliance represents innovators, patent owners and stakeholders from a diverse range of industries that believe in the critical importance of maintaining a strong patent system that supports innovative enterprises of all sizes. Innovation Alliance members can be found in large and small communities across the country, helping to fuel the innovation pipeline and drive the 21st century economy. Learn more at [www.innovationalliance.net](http://www.innovationalliance.net).

Contact: Paige Rusher, (202) 315-2352  
[Paige@SevenLetter.com](mailto:Paige@SevenLetter.com)

7/30/2024

### **Inventor's Project Statement on RESTORE Patent Rights Act**

As the Inventors Project, we represent a coalition of small inventors that support strong patent rights. Patents have proven their value in the American Economy, and have helped drive generation upon generation of American innovation.

As the only “right” in the original constitution, as the thing celebrated by the first Congress by hosting the “Machine Room” across from the first Senate Chamber, as the public policy that Lincoln described as adding, “The fuel of interest to the fire of genius”, and one of the few fully equitable public policies, patents have helped shape and enable the American Dream.

However, recent changes in the patent system have eroded their value. And, devaluing patents discourages innovation and has significant economic consequences.

Therefore, we are happy to support the RESTORE Act, and support the idea of helping restore the strength to patents that they deserve and that they need to function as intended.

The power and strength of the patent system is based on incentives. If there are no repercussions for stealing an idea, and if there is no relief even after a judge has ruled that an invention has been infringed, then it is like we do not have a patent system. Predatory infringement becomes the business model, instead of research and development or licensing.

Innovation has driven our country this far, and with the help of the RESTORE Act innovation will keep driving us forward.

Charles Sauer  
President, Market Institute  
Director, Inventors Project



"Perverse incentives under current law encourage companies - including those in countries increasingly adversarial to America's interests like China - to steal inventions from more innovative competitors. Startups in the medical technology ecosystem are the engines of innovation and develop many of the medical breakthroughs that improve and save patients' lives. They deserve protection, but are often powerless to stop the theft of their intellectual property. Congress can help to level the playing field by passing the 'RESTORE Patent Rights Act,' and codifying the presumption that a permanent injunction will be granted after infringement is proven."

-- Mark Leahey, President and CEO, Medical Device Manufacturers Association (MDMA)