



For Immediate Release
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Innovation Alliance Statement on Historic Senate Judiciary Committee Markup of Three Pro-Patent Bills

*Bipartisan, Bicameral Bills Would Strengthen Patent Rights to Promote
U.S. Innovation and Global Technological Leadership*

WASHINGTON, D.C. – Innovation Alliance Executive Director Brian Pomper today issued the following statement on the U.S. Senate Judiciary Committee’s scheduled September 19 markup of three bipartisan, bicameral pro-patent bills, the Promoting and Respecting Economically Vital American Innovation Leadership Act ([PREVAIL](#)) Act ([S.2220/H.R.4370](#)), the Patent Eligibility Restoration Act ([PERA](#)) ([S.2140/H.R.9474](#)) and the Inventor Diversity for Economic Advancement ([IDEA](#)) Act ([S.4713/H.R.9455](#)):

“The Innovation Alliance is thrilled to see the Senate Judiciary Committee consider these three bipartisan, bicameral pro-patent bills. Together, these bills represent a commitment to strengthening inventors’ rights and the U.S. innovation economy to ensure that we retain global technological leadership and can compete successfully with China and other countries around the world.

“**The PREVAIL Act** will restore much-needed fairness to the USPTO’s Patent Trial and Appeal Board (PTAB) process, help protect American innovators from harassment by Big Tech and other companies who violate intellectual property rights, and promote U.S. technological advancement.

“The quasi-judicial PTAB was intended to provide a quick and cost-effective alternative to district court litigation for resolving patent disputes. Instead, the PTAB process is being abused by Big Tech and others who use the administrative body to repeatedly attack the patents of smaller innovators so they can use others’ inventions without paying licensing fees. This is undermining patent rights, which provide a critical incentive for innovation in the United States.

“Despite claims that the PTAB process benefits small businesses, the most frequent [users](#) and beneficiaries of the PTAB system have been Big Tech companies, along with large Chinese tech companies such as ZTE and Huawei, who have filed hundreds of PTAB petitions to challenge the patents of smaller competitors. With armies of lawyers and nearly endless resources, these Big Tech companies have also used the PTAB to file multiple challenges against the same patents, forcing small inventors to drain their resources defending their innovations again and again.

"It is clear that the PTAB tilts the scales in favor of those seeking to invalidate patents. According to USPTO data, the PTAB invalidates more than 70% of all patent claims and at least one claim of more than 80% of the patents it reviews. These statistics led a former Federal Circuit Chief Judge to describe the Board as a 'death squad killing property rights.'

"To restore fairness at the PTAB, the PREVAIL Act will limit the ability of infringers to launch repetitive and harassing challenges against inventors. And it will harmonize the standards between the PTAB and district courts so infringers can't pick a path of least resistance for their patent challenges. This is smart legislation that will put a stop to this Big Tech abuse, protect American innovators and ensure our patent system continues to incentivize U.S. technological innovation.

"**The Patent Eligibility Restoration Act (PERA)** was drafted following years of study and deliberation with key stakeholders and makes critical reforms to patent eligibility law that will help restore certainty and predictability to the U.S. patent system.

"For nearly 150 years, Section 101 of the Patent Act was interpreted to allow inventions to be patented across broad categories of discovery. This approach supercharged American innovation and led to countless technological and medical breakthroughs in areas that could not have been imagined when Section 101 was first enacted.

"Starting in 2010, however, the Supreme Court issued a series of decisions that have upended longstanding settled law, narrowed the scope of patent-eligible subject matter, and created unworkable and unpredictable exceptions to an otherwise clear statute. These decisions have created chaos in the patent world and left inventors and lower court judges uncertain about what is patentable. Meanwhile, our foreign competitors, including China, are granting patents on many inventions that are now unpatentable here. As a result, innovation and venture capital are being driven overseas.

"The disparity in patent eligibility between the United States and our foreign competitors is particularly problematic in critical and emerging technology areas such as artificial intelligence (AI), 5G/6G, advanced computing and biotechnology, as well as medical diagnostics. This not only undermines U.S. competitiveness and the ability of the United States to remain the global leader in innovation, but it harms U.S. national security as other countries challenge U.S. leadership in developing these key technologies.

"PERA would clarify categories of inventions that are eligible to receive patents, restoring needed certainty and predictability for American innovators and investors, and ensuring the United States avoids ceding leadership in key technologies to our foreign adversaries and competitors.

"**The IDEA Act** takes important steps to broaden participation in inventing and patenting, which will help promote American innovation and competitiveness.

"The USPTO and leading researchers have found that women, people of color, and individuals with lower incomes are underrepresented among U.S. inventors. Women account for less than 13% of all U.S. inventors. Black individuals make up almost 13% of the population but less than 2% of inventors. Hispanic individuals make up more than 16% of the population but less than 4% of inventors. Children in the top 1% of family income are 10 times more likely to patent in their lifetimes than children in the entire bottom half of family income. Moreover, almost half of all U.S. inventors are concentrated in just 20 of the over 3000 counties across the country.

“Yet, we still don’t have a complete picture of our inventors—or how to empower more of them—because the USPTO doesn’t collect demographic data from them. Passing the IDEA Act will help us obtain the information we need to expand our innovation talent pool and compete globally. According to [research](#) by Federal Reserve Board Member Dr. Lisa Cook, including more women and African Americans in the innovation process would increase annual U.S. GDP by up to \$1 trillion.

“The IDEA Act answers a [call](#) from the USPTO to allow the agency to create a mechanism for inventors to share their demographic data directly and voluntarily with the USPTO. The USPTO would publish this data annually and produce a biennial report evaluating the data, which would help policymakers and researchers know who is inventing and patenting and aid them in developing policies and programs to expand participation in inventing and patenting. The IDEA Act passed the Senate in 2021 as part of the United States Innovation and Competition Act (USICA) after achieving a strong bipartisan floor vote of 71-27, and the House in 2022 as part of the America COMPETES Act.

“The Innovation Alliance urges Congress to take up and pass these important pieces of legislation as soon as possible.”

For more information on the PREVAIL Act, click [here](#).

For more information on PERA, click [here](#).

For more information on the IDEA Act, click [here](#).

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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.

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