adeia

April 29, 2025

Senator Thom Tillis
Chairman
Senate Judiciary Committee Subcommittee on Intellectual Property

Senator Chris Coons
Ranking Member
Senate Judiciary Committee Subcommittee on Intellectual Property

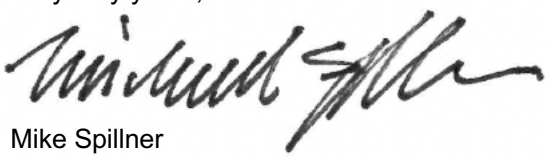
Dear Senator Tillis and Senator Coons:

I am writing on behalf of Adeia Inc., a publicly-traded U.S research and development (R&D) company (NASDAQ: ADEA) that invents and develops next-generation technologies for the media and semiconductor industries. Adeia is among the most innovative companies in America, ranking in the Top 75 of all organizations worldwide that were granted the most patents by the U.S. Patent and Trademark Office (USPTO) in 2024.[1]

Adeia strongly supports the Patent Eligibility Restoration Act (PERA) and the Promoting and Respecting Economically Vital American Innovation Leadership Act (PREVAIL). PERA and PREVAIL, if enacted, will strengthen and restore intellectual property protections for U.S. inventors, fueling American economic growth, technological progress, and global competitiveness. The bills make critical improvements to the U.S. patent system by clarifying patent eligibility standards and restoring much needed balance to administrative patent validity proceedings.

Adeia, much like other American R&D and growth tech companies, relies heavily on stable and reliable patent protection to support its business. A strong patent system is essential to incentivizing and protecting Adeia's investments in new, emerging technologies. For this reason, we commend you both for your leadership and unyielding commitment to the strengthening of the U.S. patent system through the re-introduction of PERA and PREVAIL.

Very truly yours,



Mike Spillner
Head of Government Affairs and Public Policy
Adeia Inc.

[1] https://ipo.org/wp-content/uploads/2025/01/2024-Top-300-Patent-Owners-List.pdf

Statement: PERA Act will Help Discoveries Move Beyond the Lab, Reach Patients

MAY 1, 2025

Today, Senators Thom Tillis (R-NC) and Chris Coons (D-DE) reintroduced the Patent Eligibility Restoration Act (PERA), a bipartisan effort to restore clarity and balance to the U.S. patent system by amending Section 101 of the Patent Act. Alliance for Aging Research President and CEO Sue Peschin, MHS, released the following statement:

The Alliance applauds Senators Tillis and Coons for reintroducing PERA. This bipartisan legislation is essential to ensuring that scientific discoveries can be developed into new diagnostic and medical technologies that improve the lives of patients, particularly older adults.

Accurate and early diagnosis is a foundation of effective health care, especially for older patients managing chronic diseases. Advanced diagnostic tools — built on decades of biomedical research — enable earlier detection, more targeted care, and better health outcomes. Yet uncertainty in Section 101 of the Patent Act has created barriers that slow the development and availability of these innovations.

PERA will restore much-needed clarity, helping ensure that new discoveries can move beyond the laboratory and reach patients. Strong and reliable intellectual property protections are vital to encouraging the continued advancement of medical technologies and supporting their translation into real-world solutions.

Older patients stand to benefit significantly from advances in diagnostics, which can lead to earlier interventions, improved quality of life, and reduced health care costs over time. By reinforcing the framework that supports innovation, PERA will help deliver better outcomes for patients and strengthen our health care system.

We thank Senators Tillis and Coons for their leadership and urge Congress to act swiftly to pass this important legislation.

FOR IMMEDIATE RELEASE
April 28, 2025

The Alliance of U.S. Startups and Inventors for Jobs strongly supports the Patent Eligibility Restoration Act of 2025 introduced by Senators Thom Tillis (R-NC) and Chris Coons (D-DE).

Chris Israel, Executive Director of USIJ said the following regarding the introduction of PERA,

"This bipartisan and much-needed bill would strike a decade of judicial tinkering that has needlessly turned the question of patent eligibility into a confusing mess and harmed the U.S. versus our economic competitors. While the U.S. has spent a decade holding back innovations in areas such as fintech, diagnostic solutions and medical devices trying to figure out whether they are "abstract" or not, our competitors are moving forward and protecting these inventions.

PERA would be particularly beneficial to American startups and innovators by providing the clarity needed to attract investment for new ventures in essential areas such as medical devices, diagnostics, manufacturing and a whole new range of advancements powered by software."

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AIPLA
American Intellectual Property Law Association

April 29, 2025

The Honorable Thom Tillis
Chair
U.S. Senate Judiciary Subcommittee
on Intellectual Property
U.S. Senate
113 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Christopher Coons
Member
U.S. Senate Judiciary Subcommittee
on Intellectual Property
U.S. Senate
218 Russell Senate Office Building
Washington, D.C. 20510

RE: Patent Eligibility Restoration Act

Dear Chair Tillis and Member Coons:

The American Intellectual Property Law Association (AIPLA) is pleased to support the reintroduction of the Patent Eligibility Restoration Act (PERA), in the 119th Congress. This critical legislation addresses longstanding uncertainty in U.S. patent eligibility jurisprudence and provides necessary clarity to ensure our patent system continues to promote innovation and investment across all technological sectors.

AIPLA is a national bar association of approximately 7,000 members including professionals engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

PERA is crucial for restoring predictability to patent subject matter eligibility under 35 U.S.C. § 101. The bill eliminates vague judicial exceptions and reaffirms that any useful process, machine, manufacture, or composition of matter—or any improvement thereof—should be eligible for patent protection, subject only to clearly defined exclusions. By clarifying the statutory scope of eligibility, PERA strengthens incentives for R&D, particularly in emerging industries such as artificial intelligence, biotechnology, and medical diagnostics.

We commend the sponsors of this bill for their leadership in addressing the effects of recent jurisprudence that has led to inconsistent and often differing outcomes in the lower courts and before the U.S. Patent and Trademark Office. We believe this legislation will significantly enhance legal certainty for inventors, businesses, and investors, and help maintain the United States' leadership in global innovation.

AIPLA urges the Senate Judiciary Committee to quickly advance PERA. We appreciate your consideration of our views and look forward to supporting the Committee's work in modernizing and strengthening the U.S. patent system.

Sincerely,

Vincent E. Garlock
Executive Director
American Intellectual Property Law Association

CC: Members of the Senate Judiciary Committee

STATEMENT BY STEPHEN SUSALKA
CEO, AUTM
ON INTRODUCTION PERA
MAY 1, 2025

“AUTM — the association representing technology transfer professionals — thanks Senators Tillis and Coons and others for their leadership in introducing PERA. This legislation is crucially needed to address the ambiguities that the courts have created about what is, and what is not, patent eligible. At a time when the U.S. is competing for innovation leadership, its patent system needs to clearly delineate this process so that it can move forward on numerous discoveries that otherwise would wither on the vine.”

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April 30, 2025

Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator:

On behalf of the Bayh-Dole Coalition, I would like to reaffirm our support for the bipartisan, bicameral ***Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act*** **and the** ***Patent Eligibility Restoration Act (PERA)***. These bills would strengthen the U.S. patent system and uphold the principles of the Bayh-Dole Act, which provides the legal framework for turning federally funded research into real-world inventions.

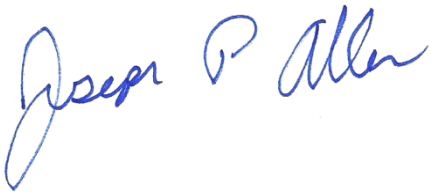
As you may recall from our previous letter, the Bayh-Dole Coalition is a group of innovation-oriented organizations and individuals committed to celebrating and protecting the Bayh-Dole Act, as well as informing policymakers and the public of its many benefits. Because the success of Bayh-Dole depends on a robust and stable patent system, the PREVAIL Act and PERA are essential to restoring clarity and fairness where it has eroded -- ensuring that publicly funded discoveries continue to attract investment, drive progress, and deliver value to the American people.

The PREVAIL Act addresses persistent issues at the Patent Trial and Appeal Board (PTAB), which currently permits repetitive challenges against innovators' patents. By restoring procedural fairness and limiting duplicative challenges, PREVAIL would provide critical protections for university inventors and other small entities, helping ensure that federally funded breakthroughs can progress from lab to market.

PERA addresses another foundational concern: the uncertainty around which types of inventions are eligible for patent protection. From life-saving diagnostic tools to AI-driven technologies, entire categories of cutting-edge innovation remain mired in ambiguity. PERA would restore much-needed clarity to eligibility standards, empowering researchers and investors to pursue breakthroughs that often originate in public research institutions and are vital to national competitiveness.

Together, these legislative efforts would reinforce the pillars of American innovation by ensuring that our patent system empowers, rather than obstructs, inventors. We commend the Committee's leadership in advancing these important reforms and urge you to preserve their core provisions, as the strength of our innovation economy depends on it.

Sincerely,



Joseph P. Allen
Executive Director
Bayh-Dole Coalition

BIO APPLAUDS NEW LEGISLATION TO PROTECT PATENT RIGHTS AND PROMOTE U.S. INNOVATION

WASHINGTON, D.C. -- The Biotechnology Innovation Organization praised lawmakers for introducing two bipartisan, bicameral bills that'd strengthen America's patent system and accelerate medical progress:

"The Biotechnology Innovation Organization commends Senators Thom Tillis (R-NC) and Chris Coons (D-DE) and Representatives Kevin Kiley (R-CA) and Scott Peters (D-CA) for spearheading the Patent Eligibility Restoration Act (PERA Act). It likewise applauds Senators Coons and Tillis and Representatives Nathaniel Moran (R-TX) and Deborah Ross (D-NC) for their Promoting and Respecting Economically Vital American Innovation Leadership Act (PREVAIL Act)."

"PERA will finally clarify which inventions are eligible for patent protection. The existing uncertainty -- created by a series of Supreme Court decisions -- undermines researchers' cutting-edge work and makes it harder for American innovators to invest in R&D. At a time when the American people are demanding that critical industries be brought home, we cannot afford to place our innovators at a disadvantage with overseas competitors."

"The PREVAIL Act will empower startups and small businesses by realigning the Patent Trial and Appeals Board with Congress's original intent. Lawmakers had hoped the PTAB would provide a faster and cheaper *alternative* to costly federal court litigation. But over the past decade and a half, entrenched corporations have abused PTAB proceedings, using them to harass innovators with expensive, duplicative patent challenges in two forums at once."

# # #

About the Biotechnology Innovation Organization: BIO is the world's largest advocacy organization, representing approximately 1,000 members with a central mission -- supporting the policies, regulations, and ecosystem that increase access to innovation and make our industry's discoveries possible. The majority of BIO's members are research-intensive biotechnology companies working on cutting-edge medical breakthroughs to improve the health of patients and families.

FOR IMMEDIATE RELEASE
May 1, 2025
Contact: info@cfif.org

Center for Individual Freedom Reiterates Strong Support for PERA and the PREVAIL Act

WASHINGTON, DC – Two bipartisan bills to help restore legal certainty and fairness for America's innovators were reintroduced today in Congress: the **Patent Eligibility Restoration Act (PERA)** and Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act. The Center for Individual Freedom (CFIF) reiterates its strong support for both bills and urges their swift passage.

"China and other foreign competitors are working to surpass the United States as the world's innovation leader," said CFIF President Jeffrey Mazzella. "The stakes are extremely high. Yet, legal uncertainty on patent eligibility and a tipping of the scales at the Patent Trial and Appeal Board (PTAB) against patent holders have weakened America's patent system.

"It's time to reassert America's leadership to unleash U.S. innovation. Congress should act to pass PERA and the PREVAIL Act without delay," said Mazzella.

CFIF has long supported PERA and the PREVAIL Act, along with **other legislation** to strengthen patent rights. In November, CFIF released a **web video** urging Congress to pass PERA and the PREVAIL Act. The video features legal and policy experts who have appeared on CFIF's ***IP Protection Matters* podcast** explaining how the legislation will help clarify patent eligibility and provide balance to PTAB proceedings.

The legal and policy experts appearing in the web video include: The Honorable Paul R. Michel, former Chief Judge on the U.S. Court of Appeals for the Federal Circuit; Alden Abbott, Senior Research Fellow at Mercatus Center and former General Counsel at the Federal Trade Commission; Chris Israel, Executive Director of Alliance of U.S. Startups and Inventors for Jobs; James Edwards, Founder and

Executive Director of Conservatives for Property Rights; and Karen Kerrigan, President & CEO of the Small Business & Entrepreneurship Council.

Watch the video **here** and below.

PERA is sponsored in the U.S. Senate by Thom Tillis (R-NC) and Chris Coons (D-DE), and Representatives Kevin Kiley (R-CA) and Scott Peters (D-CA) in the U.S. House. The PREAVAIL Act is sponsored by Senators Coons and Tillis, and Representatives Deborah Ross (D-NC) and Nathan Moran (R-TX).

Link to release: https://cfif.org/v/index.php/press-room/7236-cfif-reiterates-strong-support-for-pera-and-the-prevail-act

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21C The Coalition for 21st Century Patent Reform

21C Welcomes the Reintroduction of the Patent Eligibility Restoration Act

Washington, D.C., May 1, 2025 – 21C welcomes the bicameral, bipartisan introduction of the *Patent Eligibility Restoration Act* (PERA) and thanks Senators Thom Tillis (R-NC) and Chris Coons (D-DE), as well as Representatives Kevin Kylie (R-CA) and Scott Peters (D-CA), for their continued leadership on patent eligibility reform. PERA will override recent Supreme Court decisions that have been misinterpreted to exclude critical inventions from patent protection under Section 101 of the Patent Act, introducing instead a simpler, more objective approach to defining patentable subject matter.

Effective reforms to our patent laws, as outlined in PERA, will significantly boost private sector investment in innovation, spurring economic growth and competitiveness, benefiting society, and protecting U.S. national security. PERA will ensure that groundbreaking advancements in medical diagnostics and lifesaving treatments, traditional manufacturing, software development, and even the most dynamic technologies considered critical to national security and competitiveness – including artificial intelligence, 5G, and quantum computing – earn patent protection. In addition, the bill will prevent overreach, safeguard genuine innovation, and promote fair competition by excluding from patent eligibility fundamental concepts that do not result from human ingenuity. This includes mathematical formulae, certain economic or social processes, genes as they exist in the human body, and natural materials as they exist in nature.

In 21C's view, PERA strikes the right balance by replacing an unworkable and unpredictable approach with one that the entire inventor ecosystem can use and rely on to protect their inventions and drive breakthroughs and societally beneficial inventions, while including important safeguards to ensure that fundamental concepts and natural materials remain freely available for public use. 21C looks forward to continuing to work with the bill's sponsors to achieve PERA's passage.

In particular, 21C applauds PERA's sponsors for promptly reintroducing PERA. This legislation represents a significant step forward in clarifying patent eligibility while maintaining necessary standards on what is ultimately patentable. These clarifications will ensure that the United States remains the most attractive place in the world to invest, invent, and grow. *See* www.PatentsMatter.com.

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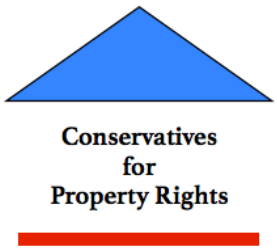

April 30, 2025

Senator Thom Tillis
113 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Chris Coons
218 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Tillis and Coons:

Conservatives for Property Rights (CPR) strongly supports the Patent Eligibility Restoration Act (PERA) and appreciates your devoted leadership to restore the breadth and certainty of what constitutes patent-eligible subject matter.

CPR, a coalition of conservative and libertarian organizations, emphasizes the central importance of private property in all its forms—physical, personal, and intellectual—to human flourishing. Private property rights rank among the unalienable rights the Founders referenced in the Declaration of Independence. Notably, the Founders specified intellectual property (IP) rights in the U.S. Constitution itself. Thus, IP rights transcend conservative and liberal politics.

The Senate IP Subcommittee hearings you held the summer of 2019 built a vast, indisputable record that illustrated the widespread confusion about what is and what is not patent-eligible under section 101 of the Patent Act (35 U.S. Code 101). Those hearings made plain the scope and nature of the problem. Judicially created exceptions that ignore the plain language of the law are particularly to blame. The U.S. Supreme Court, especially, as well as lower courts have compounded patent uncertainty and unreliability. The damage from contradictory, judicially created exceptions to patent eligibility costs American innovation, security, and competitiveness.

PERA would tremendously help rectify the current situation. This legislation would invalidate all judicially created exceptions to patent eligibility. It would restore the intentional breadth of the section 101 threshold question as to patent-eligible subject matter. This bill would prohibit examiners, courts, the Patent Trial and Appeal Board, or others from considering substantive patentability requirements (sections 102, 103, and 112) or from fixating on a specific patent claim apart from the invention as a whole in a 101 threshold determination with respect to a specific invention or discovery.

PERA would correct the *Alice-Mayo* morass, clarifying how applied mathematical formulae and modified natural or genetic matter most certainly may be patent-eligible, as well as rescuing computer-implemented inventions from judicial lawmaking that has extrastatutorily excluded them. The legislation's enumerated exceptions would differentiate mathematical formulae and mental processes alone, natural or genetic material as found in nature, and certain processes as not patent-eligible due to lack of human intervention. The exclusion of naturally occurring human genes should put an end to the false claim that human beings could be patented.

Thus, CPR is pleased to voice its support for the Patent Eligibility Restoration Act. We stand ready to work with you to advance this needed legislation.

Sincerely,

James Edwards, Ph.D.
Founder and Executive Director
Conservatives for Property Rights

Kevin L. Kearns
President
U.S. Business & Industry Council

Ryan Ellis
President
Center for a Free Economy

Jeffrey Mazzella
President
Center for Individual Freedom

Tom DeWeese
President
American Policy Center

Seton Motley
President
Less Government

James L. Martin
Founder/Chairman
60 Plus Association

Saulius "Saul" Anuzis
President
American Association of Senior Citizens

George Landrith
President
Frontiers of Freedom

Matthew Kandrach
President
Consumer Action for a Strong Economy

Anthony Zagotta
President
Center for American Principles

Bob Carlstrom
Executive Director
Prosperity for Us Foundation

Charles Sauer
President
Market Institute

Council for Innovation Promotion
C4IP®

Andrei Iancu, Co-Chair
David Kappos, Co-Chair
Judge Paul Michel (Ret.), Board Member
Judge Kathleen O'Malley (Ret.), Board Member
Frank Cullen, Executive Director

May 1, 2025

The Honorable Thom Tillis
113 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chris Coons
218 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Tillis and Coons:

I am writing on behalf of the Council for Innovation Promotion (C4IP), a bipartisan coalition dedicated to promoting strong and effective intellectual property (IP) rights that drive innovation, enhance American economic competitiveness, and improve lives everywhere. C4IP is chaired by two former Directors of the U.S. Patent and Trademark Office (USPTO), Andrei Iancu and David Kappos, who served under Presidents Trump and Obama, respectively. Our board also includes two retired judges from the U.S. Court of Appeals for the Federal Circuit, former Chief Judge Paul Michel and Judge Kathleen O'Malley.

We write today to express C4IP's strong support for the reintroduction of the Patent Eligibility Restoration Act (PERA) and the Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act. We thank Senators Thom Tillis, Chris Coons, Dick Durbin, and Mazie Hirono as well as Representatives Deborah Ross, Nathaniel Moran, Kevin Kiley, and Scott Peters for their continued leadership on these issues.

Together, these bipartisan bills would restore clarity, fairness, and predictability to the U.S. patent system. Because the patent system provides the foundation for our country's innovation engine, the improvements that these bills would make would directly support innovators — ensuring that they have the confidence and incentives needed to invest in research and development, leading to strengthened economic growth and sustained American leadership in innovation.

For over a decade, U.S. innovators have faced profound uncertainty regarding what types of inventions qualify for patent protection under Section 101 of the Patent Act. Judicial decisions have introduced vague, subjective, and unpredictable eligibility tests. As a result, inventors, research institutions, and investors are often left unsure whether critical advances — particularly in cutting-edge fields like medical diagnostics, biotechnology, artificial intelligence, and computer-implemented technologies — can be protected.

This uncertainty has chilled investment, slowing the commercialization of groundbreaking discoveries and weakening America's competitiveness in sectors vital to public health, national security, and economic growth. Notably, U.S. patent eligibility doctrine has become unusually uncertain and restrictive compared to other advanced economies — leaving American innovators at a disadvantage as foreign competitors provide clearer, more reliable protections for emerging technologies.

PERA would restore clarity, certainty, and predictability by establishing straightforward, objective, and administrable standards rooted in statutory text. The bill would eliminate vague, judicially created exceptions like "abstract ideas" and "laws of nature," replacing them with understandable rules for what is eligible. It would ensure that genuine technological innovations, including diagnostics, biotechnology, and computer-implemented inventions, remain eligible for protection. By replacing subjective judicial tests with clear statutory guidance, PERA would revitalize investment, encourage research in critical fields, and restore Section 101 to its intended role of promoting innovation and economic growth in the 21st century.

While PERA addresses substantive eligibility standards, the PREVAIL Act would strengthen procedural fairness at the Patent Trial and Appeal Board (PTAB) by implementing targeted, commonsense reforms that promote fairness, efficiency, and consistency. The legislation would eliminate duplicative litigation by requiring challengers to choose their forum — either continuing a case in district court or proceeding before the PTAB — once the PTAB institutes a trial. It would also harmonize legal standards by requiring the PTAB to apply a clear and convincing evidence standard to invalidate patents and use the same claim construction standard applied in federal courts. In addition, PREVAIL would strengthen estoppel protections to prevent repetitive challenges across venues and ensure that only real parties in interest with a substantial stake may pursue PTAB proceedings.

These reforms would reduce wasteful duplication, improve consistency across venues, and ensure that patent rights are adjudicated under fair and predictable rules. By curbing strategic abuse of the PTAB process and reducing duplicative burdens on innovators, PREVAIL would make it easier for inventors to defend their patents without facing costly, repetitive, and burdensome proceedings. Strengthening procedural protections at the PTAB is essential to restoring balance to the U.S. patent system and supporting robust innovation and legitimate competition.

For America's innovative businesses, these improvements are especially critical. Today, large, well-resourced corporations can exploit procedural gaps by launching parallel, duplicative attacks on the same patent in multiple venues, forcing innovators to endure unsustainable litigation costs, prolonged uncertainty, and pressure to settle or abandon their rights. PREVAIL would restore fairness to the system by curbing these abusive tactics and ensuring that innovators have a meaningful opportunity to protect and enforce their IP rights.

Together, PERA and PREVAIL represent thoughtful, bipartisan solutions to restore confidence in America's patent system. Strong, reliable IP rights do not stifle competition — they drive it by fostering the incentives necessary for sustained innovation, dynamic economic growth, and American technological leadership. Without these critical reforms, the United States risks losing its innovation advantage to foreign competitors that offer more consistent and predictable protections for inventors.

We value your leadership in championing these critical reforms and urge Congress to prioritize the swift passage of PERA and the PREVAIL Act. C4IP stands ready to assist in advancing policies that strengthen America's IP system and secure its future as the global leader in innovation.

Sincerely,

Frank Cullen
Executive Director
Council for Innovation Promotion (C4IP)

EAGLE FORUM®
EDUCATION & LEGAL DEFENSE FUND

Founded by Phyllis Schlafly in 1981

info@phyllisschlafly.com

April 30, 2025

The Honorable Chris Coons
218 Russell Senate Office Building
U.S. Senate
Washington, DC 20510

The Honorable Thom Tillis
113 Dirksen Senate Office Building
U.S. Senate
Washington, DC 20510

Dear Senators Tillis and Coons:

Eagle Forum Education & Legal Defense Fund, a nonprofit organization founded by Phyllis Schlafly in 1981, applauds your bipartisan leadership seeking to address disquieting jurisprudence concerning patent-eligible subject matter. Your diligent commitment and efforts have culminated with the **Patent Eligibility Restoration Act (PERA)**.

You are quite familiar with the source of this disrupted area of patent law. The U.S. Supreme Court has eviscerated 35 U.S.C. § 101, particularly concerning medical diagnostics and software. For example, in its *Mayo Collaborative Services v. Prometheus Laboratories* decision, the court conflated patent eligibility with novelty and nonobviousness in relation to method claims. In *Ass'n. for Molecular Pathology v. Myriad Genetics, Inc.*, the court confused composition of matter related to isolated DNA, despite section 101's explicit inclusion of materials and processes among patent-eligible subject matter and the Constitution's use of the word "discoveries" and 101's use of "discovers" in relation to patent eligibility.

In *Alice Corp. v. CLS Bank*, the court virtually eliminated the patenting of software, which *Alice* essentially dismissed as an abstract idea. This continued down the wrong road of the Supreme Court's upholding of the Federal Circuit Court of Appeals' ruling in *Bilski v. Kappos*. In their respective upholding of a Patent Office denial of patent eligibility for a software-based business method patent, the courts effectively overturned the *State Street* machine-or-transformation test, adding complexity and uncertainty regarding business methods and software. In short, courts have ignored plain statutory language and substituted their legislating for Congress's. None of the victim classes of inventions and discoveries should have been rendered ineligible for patents.

The right road to restoring appropriate breadth to section 101 requires policies by which Congress overrules the judicial arrogation of legislative power in this area of the law. It requires returning 101 jurisprudence to the "anything under the sun that is made by man" as the patent-eligible standard. Further, it requires eliminating the many judicially created exceptions; prohibiting courts from creating future patent eligibility exceptions; ensuring that considerations relating to sections 102, 103, or 112 of Title 35 do not enter into 101 determinations; requiring that 101 decisions assess the invention as a whole, rather than specific claims; specifying applied mathematical formulas, computer-implemented inventions, and modified natural or genetic matter as being patent-eligible; drawing a distinction between those types of patent-eligible subject matter and patent-ineligible, naturally occurring human genes and natural matter, a mathematical formula in and of itself, and mental processes. Many of the policies included in PERA would address these issues.

In addition, Eagle Forum Education & Legal Defense Fund observes that certain provisions in PERA would allay concerns about the prospect of human genes being patent-eligible under restored 101. Some opponents of 101 restoration have fomented the claim that reforming 35 U.S.C. section 101 would allow human genes and naturally occurring material to be patented. The apparent intent is to alarm prolife groups and individuals in hopes of actuating them to oppose 101 reform.

As a prolife organization that also is a conservative leader on patent issues, Eagle Forum ELDF reassures fellow prolifers who may have reservations about 101 reform. Laws of nature and naturally occurring substances, including the genes in our bodies, would not be patentable, under current law or reforms such as those in PERA, because the genes do not meet threshold criteria of section 101. Even were there a threshold level of "useful improvement," human genes would fail to be patentable on grounds of novelty and obviousness.

Gene-based diagnostic tests, such as assays, constitute the practical application of a discovery of the correlation between the presence of a certain, isolated gene and the probability of certain disease. These may appropriately be considered for patenting. Such discoveries and inventions do not patent human genes. They do promote human life and are consistent with prolife principles.

In conclusion, Eagle Forum Education & Legal Defense Fund commends your proposals for fixing problems courts have caused by unduly limiting what is regarded as patent-eligible subject matter. Such policies would return 101 to its proper role as a threshold criterion.

Respectfully,

John Schlafly
Treasurer

Andrew L. Schlafly
Counsel

James Edwards
Patent Policy Advisor

Statement from Heritage Action Executive Vice President Ryan Walker”

Heritage Action proudly supports the Patent Eligibility Restoration Act (PERA) and the Promoting and Respecting Economically Vital American Innovation Leadership Act (PREVAIL Act) to strengthen America’s patent system, drive innovation, and bolster our global competitiveness. Congress must act now to ensure the United States remains a global leader in technological advancement and secure a stronger, more competitive future for America.

22 April 2025

Senator Thom Tillis
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Chris Coons
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

In re: *Patent Eligibility Restoration Act (PERA)*

IEEE-USA fully supports the *Patent Eligibility Restoration Act (PERA).* Thousands of individual U.S.-based members of IEEE depend on reliable and effective patent rights to secure the benefits of their inventions and technological innovations. High-tech inventions have driven the U.S. economy since IEEE was founded by Thomas Edison, Alexander Graham Bell, and Nicola Tesla over a century ago. Like Edison, Bell, and Tesla, IEEE members rely on predictable and effective patent rights to license or otherwise commercialize their inventions in the innovation economy, growing jobs, and contributing to economic growth.

Decisions on subject matter eligible for patent protection – the kind and type of inventions to be protectable under U.S. patent laws – should be made under predictable rules. Categories of inventions that are eligible for patent protection are defined in 35 U.S.C. §101 ("any … process, machine, manufacture, or composition of matter, or any … improvement thereof").

However, judicial decisions have expressly created "exceptions" to the categories of subject matter defined by *35 U.S.C. §101* and promulgated various tests and criteria to determine when those exceptions apply. Those exceptions and criteria have narrowed the scope of innovations eligible for patenting and introduced uncertainty into what innovations are eligible for patent. The judicially created restrictions on patent eligibility put the United States at a competitive disadvantage as foreign governments seize on opportunities to expand the scope of eligible subject matter in their countries. Many inventions are patentable in China and Europe, but are ineligible in the U.S.

PERA eliminates the confusion created by courts as to what inventions are patent eligible and helps the U.S. regain a competitive edge in innovation. This legislation brings much-needed reform to subject matter eligibility, building into U.S. patent law the certainty as to which inventions are eligible for U.S. patent protection. PERA brings balance back to the patent system.

IEEE-USA thanks Senator Tillis and Senator Coons for sponsoring PERA and we ask that Congress pass this bill as soon as possible. Please do not hesitate to contact Erica Wissolik at e.wissolik@ieee.org or (202) 360-5023 if you wish to discuss the issue with us further.

Sincerely,

Nils Smith
IEEE-USA Vice President, Government Relations

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Web: http://www.ieeeusa.org

For Immediate Release
May 1, 2025

Innovation Alliance Applauds Reintroduction of PREVAIL and PERA Patent Bills

Bipartisan, Bicameral Bills Will 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 reintroduction of two bipartisan, bicameral pro-patent bills, the Promoting and Respecting Economically Vital American Innovation Leadership Act (PREVAIL) Act and the Patent Eligibility Restoration Act (PERA):

> "The Innovation Alliance applauds the reintroduction of PREVAIL and PERA. We thank Senators Chris Coons (D-DE) and Thom Tillis (R-NC) for sponsoring both bills, Representatives Nathan Moran (R-TX) and Deborah Ross (D-NC) for sponsoring PREVAIL, and Representatives Kevin Kiley (R-CA) and Scott Peters (D-CA) for sponsoring PERA.
>
> "Together, these bipartisan, bicameral 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.
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> "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.
>
> "PERA, which was drafted following years of study and deliberation with key stakeholders, makes critical reforms to patent eligibility law that will help restore certainty and predictability to the U.S. patent system.
>
> "The Innovation Alliance greatly appreciates the members on both sides of the aisle who came together to work on reasonable modifications to PREVAIL and PERA to address concerns raised last fall. We now urge Congress to take up and pass these bills as soon as possible."

For more information on the PREVAIL Act, click here.
For more information on PERA, 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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MDMA Statement of Support on Reintroduction of the Bipartisan "PREVAIL Act" and "PERA"

WASHINGTON, DC – The Medical Device Manufacturers Association's (MDMA) President and CEO Mark Leahey issued the following statement today applauding the bipartisan reintroduction of the "Promoting and Respecting Economically Vital American Innovation Leadership Act (PREVAIL Act)" and the "Patent Eligibility Restoration Act (PERA):"

"MDMA thanks Senators Thom Tillis (NC) and Chris Coons (DE) for the bipartisan reintroduction of the 'PREVAIL Act' and 'PERA.' These important bills would strengthen intellectual property rights, which ultimately results in new innovative cures, therapies and diagnostics to help address the needs of patients and providers. The United States cannot maintain and grow our leadership position in medical technology innovation without strong IP protections in place, and the 'PREVAIL Act' and 'PERA' would support this critical work to bolster our ecosystem."

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Statement of Chuck Hong, co-founder and CEO of Netlist CEO in Support of the Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act and the Patent Eligibility Restoration Act (PERA)

April 30, 2025

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 applaud Senator Thom Tillis and Senator Chris Coons for reintroducing these important bills and urge the Senate to ensure their swift passage.

The Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act provides a critical opportunity to restore predictability and balance to the U.S. patent system. By curbing serial abuse and preventing duplicative challenges, while still disincentivizing frivolous lawsuits by NPE's, 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.

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PO Box 14354, Research Triangle Park, NC 27709
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April 29, 2025

The Honorable Thom Tillis
US Senate
113 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Tillis,

On behalf of the North Carolina Life Sciences Organization, I want to thank you for reintroducing the Patent Eligibility Restoration Act and the Promoting and Respecting Economically Vital American Innovation Leadership Act. These two pieces of important legislation will bring much needed certainty and protection for patent holders, particularly those early innovators, crucial to American ingenuity.

PERA brings certainty and overdue clarity to Section 101 of the Patent Act. The existing uncertainty in the law has been a major impediment to the cutting-edge work of our innovators. In addition, this legislation would also afford US innovators the same protection now enjoyed by their foreign counterparts. At a time when the American people are demanding that critical industries be brought home, this equal treatment will be especially important.

The PREVAIL Act will empower startups and small businesses by realigning the Patent Trial and Appeals Board with Congress's original intent. Lawmakers had hoped the PTAB would provide a faster and cheaper alternative to costly federal court litigation. Instead, it has been abused to make it much harder and more expensive for small innovators to protect their patents. Promoting fair treatment for inventors, improving efficiency and ensuring the USPTO has adequate resources to administer the patent system will work to again incentivize American innovation and enable small entrepreneurial companies to compete.

As you know, NCLifeSci represents the life sciences industry in North Carolina with over 250 members, both large and small, the great majority of whom rely on intellectual property as the basis of their business and the lifeblood with which they can raise funds to advance their technology and hopefully provide treatments and cures for patients, food to feed the world and sustainable options for our climate.

NCLifeSci applauds your commitment to hearing from interested parties and we look forward to working with you and helping you to ensure passage of these important safeguards to our American patent system.

Sincerely,

Laura F. Gunter
President, NCLifeSci

Daniel Amburn, ***Chairman*** | Laura Gunter, ***President*** | Lauren Joyce, ***Treasurer*** | David Etchison, ***Secretary*** |
Samuel Taylor, ***Immediate Past President*** | Neal Fowler, ***Immediate Past Chairman***

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Chairman Emeritus, John Irick | *President Emeritus,* Charles Hamner

Proposed reforms now being considered by Congress would remove damaging uncertainties and strengthen US patents at a time of major technological change

As the operator of patent pools related to 5G, Wi-Fi, IoT and video, Sisvel has a front-row seat to the creation and implementation of the technology standards that power growth and connectivity. Patent licensing plays a decisive role in determining how the economic benefits of these advances are distributed. Royalty flows are shaped by patent law and policy across the world's major economies.

Today, most of the influential legal decisions in this fast-developing area are being made by judges in the EU, the UK, India and China. That's partly because over the last 20 years the United States has walked away from its traditional role as a champion of strong patent rights. Other jurisdictions have stepped in to fill the void, so it is their courts that are now writing the rules of the road for the technologies of the future.

Three bipartisan bills pending in Congress would help to change this. By removing uncertainties and pitfalls unique to the US patent system, they would give innovators the confidence to once again make US patents central to their commercial and legal strategies:

- The **RESTORE Act** - introduced in the Senate by Sen. Chris Coons (D-DE) and Sen. Tom Cotton (R-AR), and in the House of Representatives by Rep. Nathaniel Moran (R-TX) Rep. Chip Roy (R-TX), Rep. Deborah Ross (D-NC), Rep. Henry C. Johnson (D-GA), Rep. Madeleine Dean (D-PA) and Rep. Scott H. Peters (D-CA) - would give patent owners the tools they need to stop infringement through the courts.
- The **Patent Eligibility Restoration Act (PERA)** - introduced in the Senate by Sen. Chris Coons (D-DE) and Sen. Thom Tillis (R-NC), and in the House of Representatives by Rep. Kevin Kiley (R-CA) and Rep. Scott Peters (D-CA) - would provide much-needed clarity on what kinds of inventions are eligible for patent protection.
- The **PREVAIL Act** - introduced in the Senate by Sen. Chris Coons (D-DE), Sen. Thom Tillis (R-NC), Sen. Dick Durbin (R-IL) and Sen. Mazie K. Hirono (D-HI), and in the House of Representatives by Rep. Ken Buck (R-CO) and Rep. Deborah Ross (D-NC), Rep. Nathanial Moran (R-TX) and Rep. Bill Posey (R-FL)- would place sensible limits on third-party attacks against granted patent rights.

Sisvel is a global business. The patent owners we work with come from every corner of the world. We support these commonsense, bipartisan bills because they will restore the strength to US patents they traditionally enjoyed.

RESTORE: Giving US patent owners tools to halt infringement

The core of the patent bargain is the disclosure of an invention in exchange for the time-limited right to exclude others from practising it. For most of US history, that meant patent owners that proved infringement were presumptively entitled to an injunction: a court order forcing the infringer to stop.

The 2006 *eBay* decision of the US Supreme Court did away with this presumption, replacing it with a four-factor test. In practice, this has drastically reduced the number of injunctions awarded to patent owners that have undertaken the difficult and expensive process of proving their claims in court.

Without the realistic prospect of injunctive relief, US patent holders have little leverage in negotiations with large companies that are using their inventions without permission, and which can hold out for years and years while reaping huge sums from the sale of infringing products.

Injunctions are much more readily obtained in other jurisdictions. This is one of the major reasons why so many important global patent cases are currently being decided outside the United States.

The RESTORE Act would effectively override the *eBay* decision, amending the patent statute with one simple, crucial paragraph:

If, in a case under this title, the court enters a final judgment finding infringement of a right secured by the patent, the patent owner shall be entitled to a rebuttable presumption that the court should grant a permanent injunction with respect to that infringing conduct.

Sisvel supports this bill which reinforces the private property rights inherent in the grant of a US patent and would restore to US courts a much more prominent role in global patent jurisprudence. We commend Senators Coons and Cotton, and Representatives Moran, Roy, Ross, Johnson, Dean and Peters for their initiative.

PERA: Providing clarity on what's patentable

PERA is an important step towards restoring predictability to the US patent system.

Over the past decade, the lack of clear guidance on patent eligibility has created significant uncertainty, particularly for cutting-edge technologies. A confusing and inconsistent body of judge-made law has proceeded from the Supreme Court's *Alice* (2012) and *Mayo* (2014) decisions, drawing criticism even from judges as they struggle to apply it.

PERA would sweep away the tangle of "judicial exceptions" to eligibility and instead re-affirm the plain language of 35 U.S. Code § 101 by clarifying that:

Any invention or discovery that can be claimed as a useful process, machine, manufacture, or composition of matter, or any useful improvement thereof, is eligible for patent protection.

However, the bill also sets out a list of bright-line, commonsense exceptions, excluding from patent eligibility:

1. A mathematical formula not part of a useful process, machine, manufacture, or composition of matter;
2. A mental process performed solely in the mind of a human being;
3. An unmodified gene, as that gene exists in the human body;
4. An unmodified natural material as that material exists in nature; and
5. A process that is substantially economic, financial, business, social, cultural, or artistic

Sisvel welcomes this clearer, simpler approach to subject matter eligibility, which will empower innovators to focus on creating transformative technologies without fear of arbitrary exclusions. We commend Senators Coons and Tillis, and Representatives Kiley and Peters for their initiative.

PREVAIL: Limiting third-party attacks on granted US patents

Another unique hazard for US patent holders is the Patent Trial and Appeals Board (PTAB), an administrative tribunal at the US Patent and Trademark Office (USPTO) established in 2012. Any party can use the PTAB to attack granted US patents while enjoying procedural advantages that would not be available in a court of law.

The PREVAIL Act would level the playing field by:

1. Requiring PTAB patent challengers to have standing;
2. Limiting serial petitions and duplicated arguments against the same patent;
3. Harmonising the PTAB's standards for claim interpretation and burden of proof with those of federal district courts; and
4. Streamlining disputes by forcing challengers to choose between challenging validity in the PTAB or in district court.

These measures strike an appropriate balance between maintaining stable and reliable patent rights while providing adequate opportunity to contest validity.

Sisvel supports this legislation, which would eliminate wasteful, duplicative disputes and curb opportunistic and abusive attacks on US patent rights. We commend Senators Coons, Tillis, Durbin and Hirono, and Representatives Buck, Ross, Moran and Posey for their initiative.

SBE Council Statement in Support of Bipartisan Bills to Strengthen U.S. Innovation and IP: PERA and PREVAIL Re-Introduced

For Immediate Release
May 1, 2025

Washington, D.C. – Today, bipartisan leaders in Congress who are spearheading efforts to protect and strengthen intellectual property (IP) are re-introducing the Patent Eligibility Restoration Act (PERA) and the Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act. Small Business & Entrepreneurship Council (SBE Council) President & CEO Karen Kerrigan issued the following statement supporting the bipartisan measures, and noted their importance to startups, entrepreneurs, and small businesses:

"SBE Council is grateful for the bipartisan leadership of House and Senate members who are re-introducing the PERA and the PREVAIL Act. This is especially noteworthy given the small business community continues to celebrate and mark World IP Day and the renewed momentum behind Administration and congressional efforts to strengthen and protect U.S. intellectual property (IP)."

"Both PERA and PREVAIL offer important reforms that are especially important for startups and small businesses, as complex processes and systemic abuses within the patent system place IP protections in peril. This means creators, innovators, and entrepreneurs are challenged to bring their ideas to the market and raise the necessary capital to build their businesses and compete with larger entities. In the end, U.S. innovation suffers as does competitiveness, economic growth, market vibrancy, and job creation."

"PERA provides clear, predictable rules for what inventions are eligible for patents. A reform that will make the patent process less complex and costly for entrepreneurs and inventors. PREVAIL restores fairness to the U.S. patent system by addressing imbalances at the PTAB through a series of critical reforms. It closes procedural loopholes, limits duplicative attacks on the same patent, aligns the standards of review with those used in federal courts, and ensures that only parties with a legitimate interest can challenge a patent. Moreover, the bill includes provisions to make patent tools more accessible to smaller firms, along with a mandate for the Small Business Administration to study and report on how the system can better support innovative small businesses."

"These reforms are critical - MIT researchers found that startups with a patent are 87 times more likely to grow than those without one. American ingenuity is driven by inventors, creators and entrepreneurs who pursue their ideas with passion and take risks to the betterment of our economy and society. Legal frameworks and protections that support their efforts and protect

their IP is needed to fuel this innovation. PERA and PREVAIL are important reforms that will boost the innovative capacity of entrepreneurs and our nation."

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SBE Council is a nonpartisan advocacy, research and education organization dedicated to protecting small business and promoting entrepreneurship. For more than 30 years, SBE Council has advanced a range of private sector and public policy initiatives to strengthen the ecosystem for strong startup activity and small business growth.

Visit www.sbecouncil.org for additional information. X: @SBECouncil

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