



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

July 14, 2023

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

Dear Senator Tillis,

I write on behalf of the Council for Innovation Promotion (C4IP) to applaud your introduction of the [Patent Eligibility Restoration Act, S. 4734](#), as it would safeguard America's intellectual property system, thereby empowering creators and pushing U.S. innovation to new frontiers.

C4IP is a bipartisan coalition chaired by two former directors of the U.S. Patent and Trademark Office (USPTO) appointed by presidents of different parties. We believe a strong and effective IP system is the single most important driver of U.S. innovation.

This legislation would clarify the categories of inventions eligible for patent protection under [35 U.S.C. § 101](#). In doing so, it seeks to eliminate ongoing uncertainty caused by a series of Supreme Court decisions beginning in 2010. These rulings have damaged American innovation and the dynamic economy it supports by injecting confusion into what research will be protected from immediate copying through patent protection versus areas that may see patents invalidated even after significant resources have been invested into their development.

While there is a long history of federal courts delineating certain exceptions for patent eligibility, the Supreme Court's recent rulings decade have broadened those exceptions so far that they threaten the vitality of American innovation. New inventions across crucial sectors of our economy -- from software to biotechnology -- are effectively barred from eligibility.

These decisions have already had a chilling effect on research and development. Going forward, businesses and investors will continue to reduce or cease funding in areas where they can't secure the intellectual property protection that allows for a

return on investment. For medical innovation and other sectors of intense global competition related to software, the situation is already dire.

S. 4734 would rectify this problem by clarifying these cutting-edge areas of research are indeed eligible for patent protection. It would also resolve general questions surrounding the scope of patent eligibility overall, thereby providing concrete and useful guidance for researchers, companies, and investors.

Opponents of this legislation make many claims that are squarely contradicted by the text of the bill. For example, some have argued that the bill would allow for patents on products of nature, such as human genes and abstract ideas. In fact, the legislation explicitly clarifies that discoveries in these areas are ineligible for patent protection.

As the Senate considers measures to spur economic growth and maintain U.S. international competitiveness, S. 4734 should be a centerpiece. Your leadership on this issue is greatly appreciated and C4IP looks forward to working with you and your staff to see that S. 4734 becomes law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Cullen', is positioned below the text 'Sincerely,'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank Cullen
Executive Director
Council for Innovation Promotion