



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

October 7, 2025

The Honorable Thom Tillis
Chairman
Senate Judiciary Intellectual Property
Subcommittee
113 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Adam Schiff
Ranking Member
Senate Judiciary Intellectual Property
Subcommittee
112 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Tillis and Ranking Member Schiff:

In advance of the Subcommittee's October 8 hearing, "The Patent Eligibility Restoration Act -- Restoring Clarity, Certainty, and Predictability to the U.S. Patent System," we write to express our strong support for The Patent Eligibility Restoration Act of 2025, S. 1546, and its House companion, H.R. 3152. We applaud the Subcommittee's attention to this foundational issue of patent law, impacting the future of our nation's innovation, competitiveness, and national security, by holding this hearing.

We especially would like to thank you, Senator Tillis, for your unwavering and tireless leadership with PERA, providing a thoughtful legislative solution to a problem that has already taken a toll on American innovation, having vexed inventors, the courts, and the innovative community for over a decade. We also extend our thanks to the bill's other Senate and House co-sponsors: Senators Coons, Blackburn, and Hirono, as well as Representatives Kiley and Peters.

The Council for Innovation Promotion (C4IP) is a bipartisan coalition dedicated to promoting strong and effective intellectual property rights that drive innovation, boost 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 Court of Appeals for the Federal Circuit, former Chief Judge Paul Michel and Judge Kathleen O'Malley. Our board also includes two distinguished public servants: Lamar Smith, former U.S. Representative for Texas's 21st congressional district and Chairman of the full body of this Committee, and Gary Locke, former Governor of Washington, U.S. Secretary of Commerce, and U.S. Ambassador to China under President Obama.

Ever since the conclusion of the Supreme Court's recent four cases that dramatically expanded the scope of judicial exceptions to Congress's instruction that the patent system welcome any invention constituting a "process, machine, manufacture, or composition of matter," the doors of the U.S. patent system have been shut to critical areas of innovation including, for example, medical diagnostics and other areas of life sciences and a wide array of inventions involving computers.¹

The fallout has been significant, with cases invalidating patents to inventions long thought to be the types of innovation that the patent system is meant to promote -- new methods of detecting disease, improvements to digital cameras and automobile components, to name a few.² Evidence is mounting of inventions being abandoned, such as promising insights that could translate into the next breakthrough diagnostic, but where the lack of patent protection means that researchers, companies, investors, and others seek opportunities that will more reliably and predictably allow them to recoup their investments if a product succeeds.³

PERA would restore patent eligibility for these kinds of inventions and many others. It provides a rational framework for delineating between subject matter that belongs in the patent system and that which does not. PERA allows in subject matter that requires human intervention or manipulation of nature -- not nature itself. The bill also draws a clear line between the technical sort of subject matter appropriate for the patent system and areas of entrepreneurship that are solely focused on cultural or business improvements. PERA will correct the excesses of recent court decisions on subject matter eligibility and bring predictability and uniformity to this area of the law for courts, patent examiners, innovators, and the public.

While the loss of innovation due to poor legal infrastructure is deeply troubling on its own, compounding the problems caused by this jurisprudence is its impact on

¹ 35 U.S.C. § 101; *Bilski v. Kappos*, 561 U.S. 593 (2010); *Mayo Collaborative Servs. V. Prometheus Labs., Inc.*, 566 U.S. 66 (2012); *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 579 U.S. 576 (2013); *Alice Corp. v. CLS Bank, Int'l*, 573 U.S. 208 (2014).

² *Athena Diagnostics, Inc. v. Mayo Collaborative Servs.*, 927 F.3d 1333 (Fed. Cir. 2019) (denying petition for rehearing en banc) (holding ineligible a diagnostic for a rare disease); *Am. Axle & Mfg. v. Neapco Holdings LLC*, 967 F.3d 1285, 1292 (Fed. Cir. 2019) (holding ineligible an automobile propshaft); *Yu v. Apple Inc.*, 1 F.4th 1040 (Fed. Cir. 2021) (holding ineligible a digital camera).

³ See, e.g., Paul Michel, David Kappos, Corey Salsberg, Matthew Dowd, *Presenting the Evidence for Patent Eligibility Reform: Part III*, IPWatchdog (Oct. 18, 2022) (describing research abandoned for diagnostics for systemic lupus erythematosus, Alzheimer's disease, major depressive disorder, the risk of melanoma causing metastasis in the brain, schizophrenia), <https://ipwatchdog.com/2022/10/18/presenting-evidence-patent-eligibility-reform-part-iii-case-studies-litigation-data-highlight-additional-evidence-harm/id=152193/>.

U.S. leadership in innovation and national competitiveness. The major trading partners of the United States all currently have patent systems with broader subject matter eligibility. Research shows that the United States is falling seriously behind in numerous areas of technology.⁴ Without a predictable and reliable patent system for all areas of technology to provide the basis for robust, sustained private investment, the United States may not be able to pull ahead.

But the good news is that the patent system -- when operating properly -- has historically been the source of the United States's innovative strength. The patent system empowers those with bold new ideas whose worth may be initially doubted -- but with perseverance backed by a reliable legal regime, such disruptive, innovative ideas can flourish.

In sum, PERA is vital, much-needed legislation. We welcome today's hearing and hope that it will lead to the next stage in the legislative process with a committee markup. C4IP again thanks the Subcommittee for its efforts on this important issue and stands ready to assist in any way that it can.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Cullen", is positioned below the "Sincerely," text.

Frank Cullen
Executive Director
Council for Innovation Promotion (C4IP)

⁴ Jennifer Wong, *Critical Technology Tracker: two decades of data show rewards of long-term research investment* (Aug. 30, 2024) (China leads in 57 of 64 tracked technologies; the United States leads in seven), <https://www.aspi.org.au/strategist-posts/critical-technology-tracker-two-decades-of-data-show-rewards-of-long-term-research-investment/>.