

H.R. 5874 Restoring America's Leadership in Innovation Act

This legislation restores patent protection for inventors and mitigates a generation of laws, regulations, and court decisions that have discouraged innovation by failing to secure to inventors the exclusive rights to their discoveries.

TODAY'S INVENTORS:

- Face hundreds of thousands of dollars in legal expense and annihilation of their patent rights by the Patent Trial and Appeal Board (PTAB)
- Are denied the basic right to exclude others from using their invention under the 2006 *eBay* decision
- Have their patents declared abstract and ineligible through incoherent application of the Supreme Court's *Alice* test – without evidence or testimony
- Must endure a decade or more of litigation and spend tens of millions of dollars in legal expense to obtain a final judgment in court against infringers
- Are denied meaningful participation in the patent system, which stifles our main source of innovation

ABOLISHING THE PTAB

The PTAB has cancelled claims in 84% of the 3,000+ patents reviewed since 2011 and most inventors do not have a half a million dollars necessary to fund a legal defense. The PTAB has proven to be a failed experiment. In practice it is not faster, nor cheaper, nor an alternative to regular district court. It has not mitigated patent trolls, but has only made it harder for legitimate small businesses to compete. This bill will abolish the PTAB by repealing the related provisions of the 2011 America Invents Act. Accused infringers will have the right to challenge validity in a regular court of law, which is how the U.S. patent system worked for our first 190 years.

RESTORING INJUNCTIVE RELIEF

In *eBay* (2006) the Supreme Court held that inventors cannot decide who uses their invention or how it is used. This bill mandates that a patent conveys to the inventor true ownership over the rights to their invention, including the right injunctive relief. The Constitution and economic principle mandate that the patent grant to the inventors the exclusive rights to their discoveries.

STRIKING JUDICIALLY CREATED ELIGIBILITY TESTS

This bill would restore 35 U.S. Code section 101 to the broad, threshold question as Congress intended, upholding patents for “**any** new and useful process, machine, manufacture, or composition of matter”. This provision resolves the inscrutable “judicial exceptions” and contradictory rulings courts have rendered. It would bring greater certainty and reliability to issued patents, thereby encouraging innovation in important fields of technology.

Other substantive provisions include restoring the first-to-invent procedure and ending premature publication of patent applications.

Organizations supporting H.R. 5874 include American Business Defense Council, American Conservative Union, Americans for Limited Government/Americans for Limited Government Foundation, Association of University Technology Managers, Conservatives for Property Rights, Eagle Forum ELDF, Let Freedom Ring, 60 Plus, the Small Business Technology Council, U.S. Business & Industry Council, U.S. Inventor, and Vote America First.

Sponsor: Thomas Massie (R-KY); **Co-sponsors:** Lauren Boebert (R-CO), Ken Buck (R-CO), Michael Cloud (R-TX), Warren Davidson (R-OH), Byron Donalds (R-FL), Pat Fallon (R-TX), Louie Gohmert (R-TX), Lance Gooden (R-TX), Paul Gosar (R-AZ), Marjorie Taylor Greene (R-GA), Dusty Johnson (R-SD), Doug LaMalfa (R-CA), Tom McClintock (R-CA), Alex Mooney (R-WV), Barry Moore (R-AL), Ralph Norman (R-SC), Chip Roy (R-TX), Pete Sessions (R-TX), Greg Steube (R-FL), Tom Tiffany (R-WI)