



US Inventor Supports the Restoring America's Leadership in Innovation Act

October 25, 2021

On behalf of more than 30,000 inventors across the United States, U.S. Inventor strongly supports the Restoring America's Leadership in Innovation Act (RALIA). This pro-inventor legislation would reverse many of the adverse changes to the U.S. patent system of the past two decades.

Congress, the courts, and administrative bodies have in recent years done extensive damage to what was formerly the world's "gold standard" patent system. U.S. Inventor is heartened by the breadth and depth of what you propose to accomplish with the Restoring America's Leadership in Innovation Act.

First, RALIA would reverse the U.S. Supreme Court's erroneous ruling in *Oil States Energy Services v. Greene's Energy Group*, thus reverting to the U.S. jurisprudence of two centuries: patents secure exclusive, private property rights in inventions. This is the appropriate, desirable course not only in principle, but for the practical benefits to society of reliable patents. Secure, private patent rights give inventors and business partners confidence to negotiate, collaborate, and bring new products to consumers. This means jobs, practical benefits, funds for R&D, and new competition with entrenched market incumbents. This would shore up patents and inventors and be a boon to consumers and the U.S. economy.

Second, RALIA would eliminate the Patent Trial and Appeal Board (PTAB), which has been so very destructive in its 10 years of existence. PTAB's repeal would end its vast disruption to secure private property rights in patents. PTAB invalidates about 85 percent of patent claims challenged before this unbridled quasi-judicial body. As stated in our amicus brief in *Oil States*, "the onset of the PTAB with its strong shift in outcomes has distorted the beacon and bargaining effects." Therefore, RALIA would reduce uncertainty, enabling inventors to attract capital and strike bargains to commercialize their inventions.

Third, RALIA would restore 35 U.S. Code section 101 to the broad, threshold question as Congress intended. This would correct the inscrutable "judicial exceptions" and contradictory rulings courts have rendered. This would undo the harm courts have inflicted on patent-eligible subject matter doctrine. The change would ensure that substantive patentability criteria of novelty, usefulness, and obviousness are contemplated separately from patent eligibility determinations. This would bring greater certainty and reliability to issued patents, particularly for computer-implemented inventions and biotechnological inventions.

Fourth, RALIA would reverse what amounts to a categorical rule regarding permanent injunctions after the Supreme Court's *eBay v. MercExchange* ruling. Today, courts are far more likely to deny motions for injunctive relief in patent cases. This after the defender of patent rights has proven patent validity and that the patent is being infringed.

The practical effect of the post-eBay de facto rule denying injunctions leaves infringers free to continue producing knockoff products, selling the knockoffs, and with no urgency from an injunction causing them to stop the ongoing infringement and collection of ill-gotten gains. Thus, the post-eBay categorical rule denies patent owners exclusivity over their inventions and turns patent rights into a compulsory license. RALIA would restore exclusive patent rights and enable inventors to meaningfully enforce their exclusive patent rights. Patentees would be able to halt infringement. This reform would make a tremendous difference, leveling the playing field for the patent rights holder.

RALIA would constructively reset America's patent system. As we illustrate above, this bill would effectively correct a great number of erroneous judicial rulings and repeal the worst elements of the Leahy-Smith America Invents Act. Independent inventors long to see the end of the harmful AIA chapter and the start of a reinvigorated new innovation-centered chapter. Therefore, U.S. Inventor endorses the Restoring America's Leadership in Innovation Act.

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