



March 20, 2024

The Honorable Thomas Massie  
2453 Rayburn House Office Building  
United States Congress  
Washington, DC 20515

The Honorable Marcy Kaptur  
2186 Rayburn House Office Building  
United States Congress  
Washington, DC 20515

**Subject: Restoring Americas Leadership in Innovation Act**

Dear Representatives Massie and Kaptur,

US Inventor ([www.USInventor.org](http://www.USInventor.org)) is writing to express our strong support for your bill, the Restoring America's Leadership in Innovation Act of 2024 (RALIA), We believe this bill is extremely important in restoring the significant decline in American innovation.

US Inventor was founded in 2013 to advocate for independent inventors and startups with an initial mission of strengthening patent rights. Today, with more than 80,000 members in every state and every industry, we continue that mission. Our members are responsible for hundreds of thousands of patented inventions and countless of startups commercializing these inventions. We advocate for the very foundation of American innovation— Patent rights.

In the United States, patent rights have been gutted by all branches of government. Patents no longer stop infringers because injunctive relief is nearly impossible to obtain, and patents are invalidated at alarming rates. This has opened the floodgates to massive predatory infringement, destroying startups that could have competed with Big Tech thereby enabling Big Tech's monopolization, and allowing China to take the global lead in [37 of 44 technologies](#) critical to our national security and economic growth.

In a 2006 case, [eBay Inc. v. MercExchange, L.L.C.](#) (eBay), the Supreme Court all but eliminated injunctive relief, replacing it with a public interest test. To pass the test, a patent owner must have a product on the market and the ability to distribute that product at the level of the infringer. So, if a huge multinational steals an invention and massively commercializes it, running the startup out of business, the startup and its investors cannot stop the infringer. It is now a CEO's fiduciary duty to steal the inventions of startups, massively commercialize them, and run the startups out of business.

The [America Invents Act of 2011](#) (AIA) created the [Patent Trial and Appeal Board](#) (PTAB), which is an administrative tribunal in the U.S. Patent and Trademark Office (USPTO). The PTAB invalidates 84% of the patents it fully adjudicates. There is no due process, no jury and limited discovery. Almost all invalidations are under obviousness via the Supreme Court's subjective KSR test.

A 2014 Supreme Court decision called [Alice Corp. v. CLS Bank International](#) (Alice) created an exception to what is eligible to be patented, called an abstract idea. However, the Supreme Court did not define what qualifies as an abstract idea. Whatever they meant it to be, it made most



inventions implemented in software ineligible for patent protection. Today, the courts invalidate around 50% of patents challenged under the abstract idea, and the USPTO has [refused to issue thousands of meritorious patents whose companion applications are patented in China or Germany.](#)

The odds of winning a patent infringement suit in the U.S. are dismal, and the cost of litigation is astronomical. It should not surprise anyone that investment has slowed in U.S. startups building the next generation of critical technologies. Early-stage funding of U.S. startups is down 62%. We are at a 40-year low in startups. In what should have been recognized as a harbinger of things to come, a 2018 report from technology analysts CB Insights stated that “China has overtaken the US in the funding of AI [Artificial Intelligence] startups,” The Verge [reported](#), “[China] accounted for 48 percent of the world’s total AI startup funding in 2017, compared to 38 percent for the US.” If the U.S. is to remain the global leader in innovation, the patent system must be fixed.

RALIA does what its title says. It will restore Americas leadership in innovation.

RALIA 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 principal mandate that a patent grants to the inventor an exclusive right to the invention.

RALIA restores 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 will bring certainty and reliability to issued patents, thereby encouraging innovation in important fields of technology.

RALIA eliminates the PTAB as a review tribunal after a patent is granted. This restores the presumption that a patent is valid. The validity of a patent can still be challenged in district court as it worked for our first 200 years.

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

US Inventor is pleased to work with you to help pass RALIA.

Sincerely,

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