



Conservatives
for
Property Rights

March 12, 2024

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

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

Dear Representatives Massie and Kaptur:

Conservatives for Property Rights (CPR) proudly supports the Restoring America's Leadership in Innovation Act (RALIA). Thank you for your leadership advancing these extremely important intellectual property (IP) rights.

As you know, CPR emphasizes the central importance of private property in all its forms—physical, personal, financial, and intellectual. Rights in private property rank among the unalienable rights the Founders referenced in the Declaration of Independence. Moreover, they placed patents' securing the private property rights of inventors in Article I, Section 8 of the Constitution itself. We do not consider property rights a conservative or liberal issue, though this coalition approaches property rights from a conservative philosophical perspective.

The Restoring America's Leadership in Innovation Act would strengthen private property rights in one's inventions and discoveries. The bill would broadly reverse the antipatent onslaught of recent years. RALIA would counter the ongoing assault by courts, Congress, the Administrative State, and patent-infringer special interests. The harm done to our patent system is reflected in the fact that global venture capital (VC) invested in the United States has fallen. The U.S. share of VC dropped from 82% in 2004 to 49% in 2021 as the Supreme Court's *eBay* ruling spares patent infringers from injunction, the *Alice-Mayo* framework causes patent-eligible unpredictability, and enactment of the America Invents Act's (AIA) led to infringers' greater ability to cancel issued patents, game the litigation system, and disrupt commercialization of inventions. Also, patent licensing royalty rates have dropped over the same period.

In short, our patent system desperately needs the restoration of its traditional strengths: clear, robust private property rights akin to those afforded real estate; returning patent eligibility to a mere threshold question distinct from patentability considerations; patent reliability due to bright-line validity presumption, with federal courts the venue for disputing patent validity; and restored access to injunctive relief against patent infringers to bar them from continued accrual of ill-gotten gains.

RALIA would address these pressing uncertainties and weaknesses plaguing the U.S. patent system. This legislation affirms and recovers the fact that a patent secures private property rights—not the government awarding a “public franchise.” This bill undoes some of the worst excesses of the AIA, such as by repealing administrative quasijudicial patent validity challenges

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— Alexander Hamilton

and restoration of pre-AIA first-to-invent and one-year grace period. It corrects major Supreme Court errors, ensuring patent-eligible subject matter in software and biotechnology, restoring injunctive remedies, and bolstering patent rights in licensing and transfer of patents. CPR commends your ensuring the right to de novo judicial review, ending automatic publication of patent applications prior to patent issuance, restoring best mode, and eliminating patent fee diversion.

This legislation would substantially remediate harms that now jeopardize America's competitiveness and empower an ever-increasingly aggressive China. RALIA would strengthen the hand of inventors to fend off patent infringers and stand a fighting chance at leapfrogging entrenched corporations by bringing new innovations to market. The bill would equally benefit innovative, established firms engaged in standards development, patent licensing, and global markets where their inventive talents give the United States a competitive advantage in emerging technologies such as 5G wireless, artificial intelligence, biopharmaceuticals, and advanced manufacturing.

Thus, Conservatives for Property Rights applauds the Restoring America's Leadership in Innovation Act and looks forward to working with you to strengthen patent property rights and to restore the Founders' original intent of a solidly property rights-based patent system that promotes progress in science and useful arts.

Sincerely,

James Edwards
Executive Director
Conservatives for Property Rights

Kevin L. Kearns
President
U.S. Business & Industry Council

C. Preston Noell, III
President
Tradition, Family, Property, Inc.

Colin Hanna
President
Let Freedom Ring

Seton Motley
President
Less Government

Bob Carlstrom
President
AMAC Action

Richard Manning
President
Americans for Limited Government
Americans for Limited Government Foundation

David Williams
President
Taxpayers Protection Alliance

James L. Martin
Founder/Chairman
60 Plus Association

Saulius "Saul" Anuzis
President
60 Plus Association

Paul Caprio
Director
Family PAC Federal

Jenny Beth Martin
Honorary Chairman
Tea Party Patriots Action

Ashley Baker
Director of Public Policy
The Committee for Justice

Curt Levey
President
The Committee for Justice

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— Alexander Hamilton

Tom DeWeese
President
American Policy Center

Anthony Zagotta
President
Center for American Principles

* Organization names appear for identification purposes only.

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— Alexander Hamilton*