



Conservatives
for
Property Rights

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Statement on Draft Reform of Patent Eligibility

(Washington, D.C.) — Conservatives for Property Rights today issued the following statement regarding Senators Thom Tillis's and Chris Coons' draft reforms to Section 101 of the Patent Act:

"Conservatives for Property Rights commends Senate IP Subcommittee Chairman Tillis and Ranking Member Coons for their leadership addressing patentable subject matter. The U.S. Supreme Court, especially, and lower courts have confused and compounded the confusion over the understanding of what's patentable. The damage has fallen hardest on life sciences and software inventions. It costs American innovation, security, and wealth and job creation.

"Senators Tillis and Coons, along with Reps. Doug Collins, Hank Johnson, and Steve Stivers, are taking steps to provide clarity, certainty and reliability — seeking to clean up the mess courts have created. We appreciate the framework, the collaborative process, and the good-faith effort to invite input from stakeholders, as seen in independent inventors having a seat at the table.

"The draft legislative language is a good, solid effort to repair 101. CPR applauds its general direction. We're comfortable with the approach put forward on Section 101, including those described as additional legislative provisions. We have reservations about 100(k) and 112(f), reflecting the concerns several of the witnesses have discussed and the potential unintended consequences.

"Section 101 is necessarily broad because it's a threshold. By no means will everything that qualifies as patentable subject matter satisfy the more exacting criteria for patentability: novelty, usefulness, nonobviousness. That is, just because something enters the gate doesn't guarantee it will be issued a patent at the end of patent examination. This approach, which the Tillis-Coons draft would restore, keeps faith with the private property rights basis underpinning Article I, Section 8, Clause 8 of the Constitution.

"We denounce the underhanded tactics of the ACLU and others. In order to stop much-needed legislation, they're spreading misinformation designed to alarm proliferators about patenting genes in human bodies. Several witnesses witheringly dispelled those false claims. The 101 proposal would not allow such patents, while enabling truly prolife medical diagnostics.

"CPR will work with Sens. Tillis and Coons and their House counterparts as this process continues. At the end of the day, restoring the threshold nature of 101 is the goal and within reach."

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