

Patent Reform Protections

Problem:

Weakened patent laws continue to undermine the U.S. patent system. Changes over the last two decades discourage and deter investments in jobs and new technologies, stifles innovation, and weakens our intellectual property system.

- Since the passage of the America Invents Act (AIA) in 2012, America has dropped from #1 in innovation to # 11; slowed US patent awards allowing China to increase its patent family awards vs. the US by a factor of 5; and lost US market share due to lack of patent protection.
- Patent protections are particularly important for small inventors, who operate on much smaller margins and often rely more heavily on their intellectual property for revenue than large firms.
- According to the U.S. Small Business Administration, small businesses produce 16 times more patents per employee than large patenting firms, which has a direct correlation with job growth.
- An estimated average out-of-pocket cost for a patent application was \$38,000 in 2008 and costs have only increased with time. After an application, almost half of the patents fail to issue, and about half of those issued that are challenged in the Patent Trial and Appeals Board have claims disallowed.
- Additionally, recent Supreme Court decisions have created confusion over what can and cannot be patented. These decisions seriously undermine the longstanding world-class innovation environment in the U.S. and threaten the nation's global competitiveness.
- Technology-focused small businesses contribute new technology, competitive strength, and high-quality jobs to the U.S. economy. These businesses depend on strong and predictable patent rights to survive. Uncertainty in patent regulations adds unnecessary costs and stifle innovation. Without the foundation of stable and accessible patent rights, small businesses are not able to obtain the return-on-investment necessary to secure capital.
- In the Bloomberg 2021 Innovation Index the U.S. dropped out of the top ten ranked countries, with South Korea on the top of the list. While the U.S. topped the first Bloomberg Innovation Index in 2013, it now ranks eleventh.
- President Biden ran on a promise to reinvigorate U.S. manufacturing with a \$300 billion investment in R&D and breakthrough technologies.

Solution:

The U.S. must reassert its position as an international leader in innovation with smart fixes which will strengthen patent protections. We must act to ensure our patent system continues to serve as an engine for U.S. innovation and job creation.

- Policymakers must seek reasonable reforms to protect small business inventors from actions that could weaken existing patents and discourage innovation.
- With the majority of U.S. innovations coming from smaller companies, it is imperative that Congress support bipartisan, bicameral pro-small inventor legislation.
- Congress should support efforts akin to the Restoring America's Leadership in Innovation Act which was introduced in the 117th Congress.