



FOR IMMEDIATE RELEASE:

Senators Patrick Leahy (D-VT), John Cornyn (R-TX), and Thom Tillis (R-NC) introduced the Patent Trial and Appeal Board (PTAB) Reform Act of 2022. Chris Israel, Executive Director of the Alliance of U.S. Startups and Inventors for Jobs (USIJ), issued the following statement:

“The PTAB Reform Act of 2022 is disastrous for patent-intensive, venture-backed startups. It will guarantee that every patent that poses a competitive risk to Big Tech and that is being litigated or considered by the ITC will face multiple challenges - in court and at the PTAB. It turns the balance that had been promised in the America Invents Act on its head. IPRs were meant to be an alternative to district court litigation. This bill statutorily guarantees that they will always be in addition to litigation.

The bill statutorily prohibits the PTO Director from denying an IPR if the exact same patent is being considered, or has already been held valid, by a district court or the International Trade Commission. So, every patent that poses a competitive risk to Big Tech and that is being litigated or considered by the ITC, or has already been found valid and infringed, is guaranteed an IPR. PTAB was once called an “alternative” to litigation, it has now become yet another expensive and time-consuming tactic for Big Tech companies who, along with the Chinese, file a disproportionate number of IPRs.

Some of this abuse was addressed during the prior Administration by the Fintiv decision instituted in 2020. Fintiv was challenged in court multiple times by Big Tech companies and they lost every time. The PTAB Reform Act would statutorily overturn the Fintiv precedent and guarantee serial IPRs even after a patent owner succeeds in court.

If the goal is to ultimately dissuade small companies from even trying to enforce their patents this bill moves us closer in that direction.

This bill would allow PTAB challenges to increase dramatically and then offer government funding to pay for the legal expenses of the startups whose patents are attacked by large competitors. Seriously, in what world does that make sense? Why not address the problem of Big Tech abusing the patent system and empower small companies in the first place? Giving startups a government lawyer when their companies are being driven out of business isn't going to help much.”

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About the USIJ:

USIJ is an association of inventors, startups, venture capital investors, entrepreneurs and

supporters, whose efforts to bring new companies and new technologies into being are entirely dependent on a reliable system of patent protection. Collectively, we have launched dozens of companies in areas including biotechnology, clean energy, medical devices and wireless technology.

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