



American Intellectual Property Law Association

April 29, 2025

The Honorable Thom Tillis
Chair
U.S. Senate Judiciary Subcommittee
on Intellectual Property
U.S. Senate
113 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Christopher Coons
Member
U.S. Senate Judiciary Subcommittee
on Intellectual Property
U.S. Senate
218 Russell Senate Office Building
Washington, D.C. 20510

RE: PREVAIL Act

Dear Chair Tillis and Member Coons:

The American Intellectual Property Law Association (AIPLA) is pleased to express its strong support for the reintroduction of the Promoting and Respecting Economically Vital American Innovation Leadership (PREVAIL) Act, in the 119th Congress. This legislation offers balanced and much-needed reforms to the Patent Trial and Appeal Board (PTAB) that will protect patent owners' rights while maintaining the integrity and efficiency of administrative patent challenges.

AIPLA is a national bar association of approximately 7,000 members including professionals engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

Since the enactment of the America Invents Act (AIA), post-grant review procedures such as inter partes review (IPR) have played an increasingly prominent role in patent enforcement. While these proceedings have provided effective means to challenge questionable patents, concerns have grown over procedural fairness, duplicative litigation, and the burden placed on inventors and startups. The PREVAIL Act addresses these concerns by introducing reforms that restore more balance and improve transparency in PTAB practice.

Among other provisions, PREVAIL establishes a clear and convincing evidence standard for petitioners, curbs repeated challenges against the same patent, and ensures that administrative patent judges who decide to institute review are not the same judges who decide the merits. These and other reforms in the legislation reflect a thoughtful approach to maintaining the utility of IPR while addressing concerns and aligning standards with district court litigation.

We commend the sponsors of this legislation for their bipartisan leadership and commitment to strengthening the U.S. patent system. AIPLA urges the Senate Judiciary Committee to advance the PREVAIL Act promptly to help ensure procedural fairness for patent owners and preserve the incentives that drive innovation and investment.

Thank you for your attention to this important matter. We look forward to working with the Committee to advance this legislation and support a more robust and reliable patent system.

Sincerely,

A handwritten signature in black ink, reading "Vincent E. Garlock". The signature is written in a cursive, flowing style.

Vincent E. Garlock
Executive Director
American Intellectual Property Law Association

CC: Members of the Senate Judiciary Committee