



The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

July 13, 2026

Re: Strong Opposition to the Patent Eligibility Restoration Act (PERA)

Dear Chairman Grassley and Ranking Member Durbin:

We, the undersigned organizations representing startups, independent software developers, and the broader technology innovation ecosystem including end users, write regarding the Committee's hearing, *From Genes to Machines: The Patent Eligibility Debate*. As the Committee considers proposals to revise patent eligibility law, we reiterate our strong opposition to the Patent Eligibility Restoration Act (PERA), which would dramatically expand patent eligibility by weakening the longstanding safeguards embodied in 35 U.S.C. § 101.

We appreciate the Committee's continued attention to patent law and innovation policy. As Congress considers whether legislative changes to 35 U.S.C. § 101 are warranted, we urge the Committee to reject PERA and preserve the carefully developed limits on patent eligibility that have long protected competition, innovation, and the public interest.

For more than a decade, Section 101 has served as an important safeguard against patents that claim abstract ideas, mathematical concepts, laws of nature, fundamental business practices, and other fundamental building blocks of innovation. These judicially recognized limits have helped reduce abusive patent litigation while allowing patents on genuine technological inventions. Weakening these safeguards would reverse years of progress and impose substantial costs on startups, software developers, nonprofits, researchers, and consumers.

1. Strong Patent Eligibility Standards Protect Innovation and Competition.

The Supreme Court's patent eligibility decisions—from *O'Reilly v. Morse* through *Alice Corp. v. CLS Bank*—reflect a longstanding principle: no one should obtain exclusive rights over fundamental ideas or basic methods of organizing human activity simply by implementing them on a generic computer.

These limits are especially important in software, artificial intelligence, biotechnology, and other rapidly evolving fields where innovation is cumulative. Developers build upon existing

algorithms, mathematical techniques, and general methods every day. Expanding patent eligibility to encompass these foundational concepts would create unnecessary barriers to innovation, increase licensing costs, and discourage new market entrants.

2. PERA Would Invite a New Wave of Patent Troll Litigation.

One of the most significant benefits of current Section 101 jurisprudence has been its role in reducing abusive litigation brought by non-practicing entities (NPEs), commonly known as patent trolls.

For years, patent trolls acquired vague software and business-method patents and used them to threaten businesses across virtually every sector of the economy. Because defending even a meritless patent lawsuit can cost hundreds of thousands, or even millions of dollars, many small businesses and startups chose to settle rather than fight.

The Supreme Court's patent eligibility decisions curtailed this abusive business model by preventing patents on abstract ideas and generic computer implementation from being asserted in court. PERA would weaken those decisions and reopen the door to precisely the type of litigation that Congress, the courts, and innovators have spent years trying to reduce.

Patent trolls do not build products, commercialize inventions, or bring new technologies to market. Instead, they profit by exploiting litigation costs and legal uncertainty. PERA would strengthen this abusive business model by expanding the scope of patents available for assertion. Any legislative proposal that expands patent eligibility should therefore be evaluated not only for its effect on patent owners, but also for its likely impact on the thousands of innovative companies that would become targets of abusive patent assertions.

3. AI Innovation Requires Open Building Blocks, Not Broader Monopolies.

Proponents of PERA have argued that expanding patent eligibility is necessary for American leadership in artificial intelligence. We respectfully disagree.

AI innovation depends on broad access to algorithms, mathematical models, data processing techniques, and other foundational tools. Granting exclusive rights over these basic building blocks would create dense patent thickets that increase development costs, discourage new entrants, and divert investment away from research and development and toward litigation.

Moreover, AI evolves at an extraordinary pace. Patents issued years after an application is filed often cover concepts that have already become standard practice, creating legal uncertainty without meaningfully encouraging innovation.

America's leadership in AI depends on competition, interoperability, and rapid technological advancement, not broader monopolies over abstract ideas.

4. Small Businesses and Independent Innovators Would Bear the Greatest Costs.

The entities most harmed by PERA would not be the largest technology companies. Large corporations often possess extensive patent portfolios and substantial litigation budgets.

Instead, the greatest burden falls on startups, independent software developers, nonprofits, open-source projects, and small businesses that lack the resources to defend themselves against questionable patent claims.

Strong eligibility standards help ensure that innovators compete by building better products, not by accumulating vague patents or threatening costly litigation.

Conclusion

The existing patent eligibility framework strikes an appropriate balance between rewarding genuine technological innovation and protecting the public's ability to build upon fundamental ideas and scientific principles.

As the Committee considers the future of Section 101, we urge Congress to reject the Patent Eligibility Restoration Act (PERA) and preserve these critical safeguards. PERA would bolster abusive patent litigation, encourage patent troll activity, increase costs for innovators, and ultimately reduce, not promote American innovation and competitiveness.

We appreciate the opportunity to share our views and look forward to continuing to work with the Committee on policies that promote genuine innovation while protecting the public interest.

Respectfully,

Electronic Frontier Foundation
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Public Interest Patent Law Institute