

June 13, 2019

Senator Chris Coons  
218 Russell Senate Office Building  
Washington D.C., 20510

Senator Thom Tillis  
113 Dirksen Senate Office Building  
Washington D.C., 20510

Representative Doug Collins  
1504 Longworth House Office Building  
Washington D.C., 20515

Representative Hank Johnson  
2240 Rayburn House Office Building  
Washington D.C., 20515

Representative Steve Stivers  
2234 Rayburn House Office Building  
Washington D.C., 20515

Dear Sens. Coons and Tillis, and Reps. Collins, Johnson and Stivers:

We are writing to express our concerns about draft legislation recently proposed by the House and Senate Judiciary Committees that would alter the criteria for patent eligibility in the US, in part by abrogating conclusions drawn from several recent unanimous decisions by the Supreme Court.

We fear that the consequent changes in eligibility would substantially increase the numbers and kinds of U.S. patents, producing an unintended, detrimental effect on the conduct of basic scientific research. These changes are likely to undermine a remarkably successful tradition in which discovery of the fundamental features of nature proceeds in a generally open fashion, with little or no intellectual property protection, allowing inventors to take full advantage of discoveries about the natural world in order to make products that contribute to our nation's economic growth and well-being.

The signatories to this letter include biomedical scientists who have advanced our understanding of basic life processes, largely through federally supported work in the academic or not-for-profit sector; others who have developed therapeutics, diagnostics, and other medical products in commercial settings; and many who have worked in both sectors, as indicated by the listed affiliations. We all endorse the importance of providing patent protection for inventions of many kinds, not just those in the biomedical arena, that conform to historical standards for eligibility; and we accept the idea that those standards need periodic review. But we fear that any legislation, like the current proposal, that appears to allow the patenting of natural materials (like genes), natural processes, and even untested ideas, may hamstring basic science and slow discovery, thereby compromising the nation's ability to enhance the quality of health care and foster economic progress.

In situations that bring the interests of different groups into conflict about the conduct of science, it has often proven useful for Congress to ask the government's long-standing advisor on science policy, the National Academy of Sciences (NAS), to study the matter and to make recommendations. A recent review of its published work shows that the issues raised by the proposed legislation have not been previously examined by the NAS.

We strongly urge Congress to direct the NAS to perform a thorough study of the nation's requirements for patent eligibility and of the draft proposal's potential consequences for our country's science and industry, before enacting any relevant legislation.

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