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July 14, 2025

The Honorable Thom Tillis, Chairman  
Senate Subcommittee on Intellectual Property

The Honorable Christopher Coons  
Senate Subcommittee on Intellectual Property

RE: American Chemical Society Support for the Patent Eligibility Restoration Act

Dear Senators Tillis and Coons,

On behalf of the American Chemical Society (ACS), I write to express our strong support for the Patent Eligibility Restoration Act of 2025 (PERA). If enacted, this legislation would bring much-needed clarity and predictability to the evaluation of subject matter eligibility under 35 U.S.C. § 101.

ACS is a federally chartered organization representing a community of more than 230,000 individuals around the world. The Society is committed to advancing chemistry through scientific research, education, and innovation—addressing critical challenges in health, energy, the environment, and beyond. Robust patent protection is essential to these efforts. Without it, scientific inventions and innovations are vulnerable to unauthorized use, weakening the incentive to invest in the research and development necessary to drive progress and advance the American economy.

ACS has long supported policies that strengthen U.S. innovation and ensure consistency and clarity in the implementation of patent law, both domestically and internationally—including with respect to subject matter eligible to be considered for patenting under § 101. The Society also advocates for the application of an objective, consistently applied test to determine patent eligibility. PERA meets both of these goals.

By eliminating ambiguous judicial exceptions to patent eligibility, PERA establishes a clear statutory baseline: any useful process, machine, manufacture, composition of matter, or improvement thereof is eligible to be considered for patent protection, unless explicitly excluded. This shift enhances the legal foundation for scientific innovation and better aligns U.S. standards with those of other leading jurisdictions—including those where U.S. companies conduct business.

In fields such as biotechnology and diagnostics, PERA restores eligibility to important breakthroughs that were previously excluded under current case law. At the same time, it maintains appropriate boundaries by permitting protection for modified natural products while excluding unmodified substances as they exist in nature. This balance encourages innovation while respecting the fundamental boundaries of the patent system.

Importantly, PERA separates the eligibility analysis under § 101 from the distinct requirements for patentability under §§ 102, 103, and 112. This separation corrects the current confusion stemming from judicial interpretations that conflate eligibility with novelty and inventiveness. By treating eligibility as a distinct threshold inquiry, the Act enhances doctrinal clarity and legal predictability—

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benefiting both inventors and investors. It also reinforces the role of § 101 as a gatekeeper that excludes only fundamental exceptions like abstract ideas and natural laws, without prematurely rejecting otherwise patentable inventions.

We appreciate your leadership on this important issue. ACS stands ready to provide further information or assistance as needed and would welcome the opportunity to engage in a more detailed dialogue on how targeted legislative reform can advance U.S. innovation. We remain committed to ensuring that the U.S. patent system continues to support scientific discovery and the advancement of the chemical enterprise that promote American business and our economy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Albert G. Horvath".

Albert G. Horvath  
Chief Executive Officer  
American Chemical Society