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United States Patent & Trademark Office
600 Dulaney Street
P.O. Box 1450
Alexandria, VA 22313

**RE: Request for Information Regarding Patent Eligibility Jurisprudence Study, Docket No. PTO-P-2021-0032**

To whom it may concern:

The Market Institute, a nonprofit organization dedicated to supporting policies that promote economic growth and entrepreneurship, is pleased to have the opportunity to comment on the U.S. Patent and Trademark Office's "Request for Information Regarding Patent Eligibility Jurisprudence Study" (Docket No. PTO-P-2021-0032).

We are happy to see the PTO's efforts in this area, and quick response to the bipartisan request for this action.

The current state of patent eligibility is troubling and putting us – the U.S - at a disadvantage to the rest of the world. Recent reports put China ahead of the U.S. in Artificial Intelligence innovation, we are falling behind the crypto-currency revolution, and who knows the impact of other innovations that we are missing because of the quagmire that has been created in deciding what is patent-eligible and what is not.

This problem needs to be sorted out – and quickly.

We have 13,000 members that represent different portions of the innovation market, and they have all felt the effects. However, the largest effect that we have seen is the disincentive to invent. While this is hard to impossible to quantify – it is easy to understand that if an inventor can't protect their idea and if investors don't believe that an idea can be protected – then they won't risk their home or savings to pursue an idea.

To combat this we have members that advise inventors to start overseas – China – before bringing the idea to the US. We have also had members that have shifted towards trade secrets, but this comes at lower valuations and therefore the lower incentives. And, in conjunction with the problems that have been created by the post-grant review systems created by the America Invents Act 10 years ago – innovation is slowing down among our members – and the US in general.

This slow down doesn't necessarily hurt the economy of today – it will hurt tomorrow. And, every day that we wait to solve the problems - the problems will get worse as more and more capital flows to countries where intellectual property is celebrated and protected.

Our country was founded on the idea of intellectual property protections. It was the only right explicitly granted in the Constitution, and when the first Congress met there was actually a room devoted in that building to display the inventions of the day. We were a nation of inventors – we can get there again.

The Market Institute appreciates the opportunity to provide input on this important subject, and we look forward to a future that includes broad patent eligibility.

Sincerely,

Charles Sauer
President
Market Institute