

To the office of U.S. Representative Scott Fitzgerald

Re: HR 9142 (119th Congress), Prohibiting Adversarial Patents Act of 2026 • Latest action (2026-06-04): Referred to the House Committee on the Judiciary.

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Office of record (Congress.gov): 2444 Rayburn House Office Building, Washington, DC • (202) 225-5101

National Security Patent Integrity Act of 2025

The measure, as described from the official record: Prevent individuals who pose a national security threat from obtaining or enforcing patents, thereby protecting sensitive technologies from being controlled by adversaries.

THE PROPOSAL

Section 1. Short Title. This Act may be cited as the 'National Security Patent Integrity Act of 2025'.

Section 2. Purpose. The purpose of this Act is to prevent the issuance or enforcement of patents that would harm national security, while ensuring due process and limiting federal action to constitutional bounds.

Section 3. Definitions. (a) 'Covered person' means an individual or entity that is (1) a foreign government, or an agent thereof, that the Secretary of State has designated as a state sponsor of terrorism; (2) a person subject to sanctions under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) for engaging in activities that threaten national security; or (3) a person who has been convicted of a crime under 18 U.S.C. 793 (espionage) or 18 U.S.C. 794 (gathering or delivering defense information to aid foreign government). (b) 'Patent' means a patent issued under title 35, United States Code.

Section 4. Restriction on Patent Issuance and Enforcement. (a) The United States Patent and Trademark Office (USPTO) shall not issue a patent to a covered person. (b) No court of the United States shall enforce a patent held by a covered person. (c) The USPTO shall establish procedures to identify covered persons before patent issuance, including review of relevant sanctions lists and criminal records.

Section 5. Due Process Protections. (a) Before denying a patent or enforcement under this Act, the USPTO or court shall provide written notice to the applicant or patent holder, including the specific basis for the determination. (b) The applicant or patent holder shall have the right to a hearing before an administrative law judge within 60 days of the notice, at which they may present evidence and challenge the determination. (c) A final agency action may be appealed to the United States Court of Appeals for the Federal Circuit.

Section 6. Oversight and Reporting. The Director of the USPTO shall report annually to the House Committee on the Judiciary and the Senate Committee on the Judiciary on the number of applications denied, patents affected, and any appeals filed under this Act.

Section 7. Funding. This Act shall be funded through existing USPTO fee collections, with no additional appropriation required.

Section 8. Sunset. This Act shall expire 5 years after the date of enactment, unless reauthorized by Congress.

Section 9. Effective Date. This Act shall take effect 180 days after enactment.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Existing USPTO fee collections
Funding Amount	No additional appropriation; costs absorbed within current USPTO budget
Sunset Years	5 years
Oversight Body	House Committee on the Judiciary and Senate Committee on the Judiciary
Enforcement Mechanism	USPTO denial of patent issuance; federal courts shall not enforce patents held by covered persons; appeals to the Federal Circuit
Effective Date	180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 8 (Patent Clause)
- Fifth Amendment (Due Process Clause)
- Tenth Amendment (reservation of powers to states)

Concerns with the measure as written:

- The original bill may violate Fifth Amendment Due Process by denying patent rights without clear procedural safeguards and judicial review.
 - The definition of 'threat to national security' may be overly broad, potentially infringing on First Amendment rights and equal protection under the Fifth Amendment.
 - The bill may exceed Congress's enumerated powers under the Patent Clause (Article I, Section 8, Clause 8) by imposing restrictions not tied to promoting the progress of science and useful arts.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Democratic priorities honored: protects national security from foreign adversaries, includes robust due process protections (notice, hearing, appeal), and ensures oversight by congressional committees. Republican priorities honored: limits federal action to clearly defined categories (state sponsors of terrorism, sanctioned persons, convicted spies), avoids broad executive discretion, uses existing funding without new taxes, and includes a sunset clause to prevent permanent overreach.

Values for America is a nonpartisan, constitution-first SI think tank. This brief is informational. It is a policy proposal, not law, and it does not support or oppose any candidate or party. Full analysis and sources: <https://www.valuesforamerica.com/solutions/73> · Methodology: <https://www.valuesforamerica.com/methodology>