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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend title 35, United State Code, to limit the ability of persons who pose a threat to national security to receive and enforce patents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FITZGERALD introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 35, United State Code, to limit the ability of persons who pose a threat to national security to receive and enforce patents, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prohibiting Adversarial
5 Patents Act of 2026”.

1 **SEC. 2. LIMITATION ON ABILITY OF PERSONS WHO POSE A**
2 **THREAT TO NATIONAL SECURITY TO RE-**
3 **CEIVE AND ENFORCE PATENTS.**

4 (a) IN GENERAL.—Chapter 10 of title 35, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 106. Limitation on ability of persons who pose a**
8 **threat to national security to receive and**
9 **enforce patents.**

10 “(a) LIMITATION.—Notwithstanding any other provi-
11 sion of law—

12 “(1) a person may not be issued a United
13 States patent for an invention if that person (or any
14 subsidiary, affiliate, successor, assign, legal rep-
15 resentative, or privy of such person)—

16 “(A) is an entity on the Non-SDN Chinese
17 Military-Industrial Complex Companies List
18 (NS-CMIC List) maintained by the Office of
19 Foreign Assets Control of the Department of
20 the Treasury under Executive Order 14032 (86
21 Fed. Reg. 30145; relating to addressing the
22 threat from securities investments that finance
23 certain companies of the People’s Republic of
24 China), or any successor order;

25 “(B) is identified as a Chinese military
26 company in the most recent annual report sub-

1 mitted pursuant to section 1260H of the Wil-
2 liam M. (Mac) Thornberry National Defense
3 Authorization Act for Fiscal Year 2021 (Public
4 Law 116–283; 10 U.S.C. 113 note); or

5 “(C) produces or provides communications
6 equipment or service on the list published by
7 the Federal Communications Commission under
8 section 2(a) of the Secure and Trusted Commu-
9 nications Networks Act of 2019 (47 U.S.C.
10 1601(a));

11 “(2) any United States patent issued to a per-
12 son described under paragraph (1) shall be unen-
13 forceable; and

14 “(3) no procedure, including any procedure
15 under the Patent Prosecution Highway Program,
16 may be used to conduct an expedited review an ap-
17 plication for a patent filed by a person described
18 under paragraph (1).

19 “(b) WAIVER.—

20 “(1) IN GENERAL.—The President may waive
21 the application of the prohibition under subsection
22 (a) with respect to a person for successive periods of
23 not more than 180 days each if the President—

24 “(A) determines that there is not an essen-
25 tial security interest in applying the prohibition

1 under subsection (a) with respect to a person;
2 and

3 “(B) submits, not less than 30 days before
4 waiving such prohibition, a report to the Com-
5 mittee on the Judiciary of the Senate and the
6 Committee on the Judiciary of the House of
7 Representatives—

8 “(i) a specific and detailed rationale
9 for the determination that there is not an
10 essential security interest in applying the
11 prohibition with respect to that person;

12 “(ii) a description of the activity that
13 resulted in the person being included on a
14 list or in a report described under subpara-
15 graphs (A) through (C);

16 “(iii) an assessment of the signifi-
17 cance of such activity to the national secu-
18 rity interests of the United States or allies
19 of the United States; and

20 “(iv) an explanation of any effort
21 made by the United States to secure the
22 cooperation of the government with pri-
23 mary jurisdiction over the person or the lo-
24 cation where the activity described in

1 clause (ii) occurred in to terminate, as ap-
2 appropriate, or penalize such activity.

3 “(2) CONSISTENCY WITH INTERNATIONAL OBLI-
4 GATIONS.—The President shall ensure that in grant-
5 ing any waiver under this subsection, the President
6 exercises such authority in a manner that is con-
7 sistent with international obligations.

8 “(c) NO EFFECT ON PATENT APPLICATION; OWNER-
9 SHIP AND TERM OF PATENT.—The application of the pro-
10 hibition under subsection (a), or the grant of any waiver
11 under subsection (b), to a person shall not affect—

12 “(1) the ability of such person file a patent ap-
13 plication;

14 “(2) except as provided in subsection (a)(3), the
15 examination of any such application; or

16 “(3) the ownership or term of any patent owned
17 by such person.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 10 of title 35, United States Code, is amended
20 by inserting after the item relating to section 105 the fol-
21 lowing:

“106. Limitation on ability of persons who pose a threat to national security
to receive and enforce patents.”.