

## Vincent Shier in IP Watchdog: ‘A Cautious Welcome: Patent Community Chimes in on Tillis’ Eligibility Bill’

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**PRACTICES** Life Sciences, Pharmaceuticals, Precision Medicine and Digital Health, Patent Office Trials, Patents, Patent Prosecution and Counseling, Intellectual Property

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Haynes Boone Partner Vincent Shier was featured in an *IP Watchdog* article. Below is an excerpt:

This morning, Senator Thom Tillis (R-NC) introduced the Vincof 2022, S.4734, which would amend the U.S. Patent Act to clarify the application of 35 U.S.C. Section 101 to certain technologies. While the bill was welcomed by many in the intellectual property (IP) community, since it would abrogate or weaken many of the seminal decisions that have arguably caused confusion on eligibility over the last decade-plus, some have called the bill out as being far from perfect. Questions remain with respect to the text’s language regarding the definition of “technological” and what it means for software patents, for instance, as some commenters note below.

Here is what our respondents had to say about the text of Tillis’ latest attempt to reform Section 101.

### **Vincent Shier, Ph.D., Haynes Boone**

“The U.S. Supreme Court’s trifecta of 101 decisions (Myriad/Mayo/Alice) has thrown the U.S. patent system into disarray and had a chilling effect on the progress of science and useful arts. Sen. Tillis’ draft bill is a welcomed attempt to overturn these disturbing decisions but cannot undue what was lost over the past decade. Many technologies in the life sciences and personalized healthcare areas were left for dead by the U.S. Supreme Court with innovators struggling to keep these technologies on life support hoping for a miracle. The draft bill may be as close to a miracle as we get.

Diagnostics are valuable and important inventions, but the lack of available patent protection has undermined investment in biotechnology, sacrificing the development of many life-saving technologies. The draft bill is a significant step toward restoring U.S. leadership in biotechnology as this bill clearly establishes patentability for diagnostics. The draft bill also brings the U.S. patent system back in line with every other advanced economy which continues to allow patenting of diagnostics.

As any legislative action takes time, it is unlikely that the draft bill will be enacted anytime soon, continuing to stifle innovation. The draft bill tries to do too much and solve too many problems, making it a difficult-to-decipher word salad which is likely to be heavily modified and/or subject to more judicial uncertainty if passed. However, the best bet remains that the draft bill is likely to succumb to the all-too-common death at the hands of the tech giants.”

Excerpted from *IP Watchdog*. To read the full article, click [here](#).