

STARTUPS ARE SOARING NATIONWIDE

Startups need balanced laws that protect new ideas while preserving a framework that promotes innovation. Two key developments in patent law have fostered growth and innovation in the startup ecosystem.

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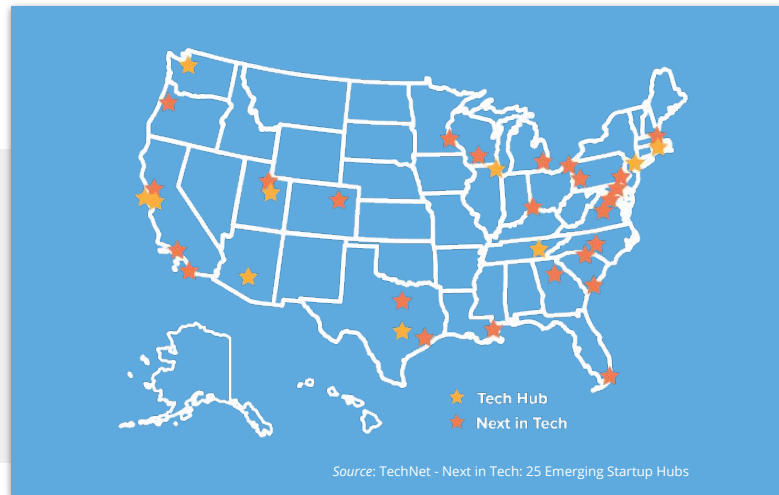
The **America Invents Act** (AIA) brought important reforms for improving patent quality, including creating the *inter partes* review (IPR) procedure. Through IPR, a company can petition the Patent Office to reconsider the patentability (or lack thereof) of issued patents, and the Patent Office can evaluate important prior art that was missed before. Using IPR, companies facing abusive patent litigation can challenge invalid patents at the Patent Office in a procedure that is much faster and cheaper than fighting in court.

Since the enactment of the AIA and the institution of IPR in 2012, according to the Kauffman Index Report and the National Venture Capital Association:

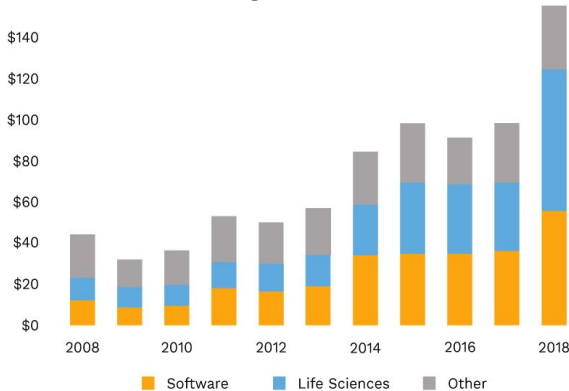
- Startup activity has increased by 194 percent
- Venture capital investment has reached an all-time high
- Startup hubs have spread outside of top metro areas

2

The 2014 Supreme Court ***Alice Corp. v. CLS Bank*** decision confirmed that patents can be issued for actual inventions but not for abstract ideas. This decision knocked out the vague software and business method patents often asserted by patent trolls, while confirming that real advances in software technology are patentable.



US VC deals (\$B) by sector



Source: PitchBook - NVCA Venture Monitor

Venture capital investment has risen steadily over the last 15 years. In 2018, venture capital investors deployed an all-time high of over \$132 billion in the US. Capital invested into the life sciences sector alone reached a record high of \$23 billion invested across over 1,200 companies in 2018. This follows consistent growth in funding that was most pronounced after the AIA went into effect, when VC funding jumped from \$41.5 billion in 2012 to \$77 billion in 2016, a 54% increase.

Furthermore, startups are thriving not just in Silicon Valley but across the country. Between 2014 and 2016, the areas in the US outside the top 35 metro areas accounted for almost half of net new startups. Arguments that the *Alice* decision and IPR have reduced VC funding are baseless.

What does have a chilling effect on startups and innovation? Abusive patent litigation. Reforms that address such abusive litigation ensure that startups will continue to thrive.