

March 15, 2016

The Honorable Penny Pritzker
Secretary
United States Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear Secretary Pritzker:

We applaud the Administration's leadership in providing appropriate protection for trade secrets. The February 2013 Administration Strategy on Mitigating the Theft of U.S. Trade Secrets set forth an important path for protection. We are pleased that the commitment to trade secret protection has been continued, as is evident in the text of the Trans-Pacific Partnership.

Congress has also been engaged in an effort to improve trade secret protection. The bipartisan Defend Trade Secrets Act (S. 1890 and H.R. 3326, or DTSA) will bolster economic growth and job creation by ensuring that our most innovative companies can protect their trade secrets from theft.

Businesses ranging from startups and small companies to larger corporations have intellectual property assets that increasingly include trade secrets. Yet trade secrets are currently afforded only very limited protection under federal law. The Defend Trade Secrets Act would give American businesses the tools they urgently need to combat the theft of their most valuable assets.

In the Senate, the Act has already been reported favorably by the Judiciary Committee. Last Congress, the House Judiciary Committee approved similar legislation. We applaud the consensus-oriented approach of the bill's sponsors, Senators Orrin Hatch (R-UT) and Chris Coons (D-DE), as well as Representatives Doug Collins (R-GA) and Jerrold Nadler (D-NY), and note that their efforts have strengthened the DTSA and deepened support among Members and companies across many industries.

The DTSA has the bipartisan support of more than 50 Senate cosponsors and more than 120 cosponsors in the House, and enjoys widespread enthusiastic support from a broad array of U.S. companies, representing technology, medical device, agriculture, biotech, pharmaceutical, automotive, manufacturing, clean energy, consumer products and other sectors. Improving the legal framework that protects American intellectual property is truly a shared venture. It requires the Administration, Congress, the Courts, and the business community to all work together.

The impact of trade secret theft on our economy is profound, and it is a growing threat to America's competitiveness and economic growth. Trade secrets include proprietary technologies and techniques, formulas and codes, customer lists, unique manufacturing processes, and other innovations that give companies a competitive edge. Due to

technological advances in global connectivity and data storage, trade secrets are increasingly vulnerable to theft. Unfortunately, this is a trend that we expect to continue. Digital technology, while providing many benefits worldwide, also enables borderless theft on a mass scale -- both domestic and abroad, by corporations and others.

Despite their increasing importance to American businesses, trade secrets lack the same federal legal protections available for other forms of intellectual property. Although federal law makes it a crime to misappropriate a trade secret, it provides the victims of theft no civil remedy. Unlike owners of patents, copyrights, and trademarks, who do have access to a federal civil cause of action, trade secret owners are relegated to an array of state laws for relief. While state courts can be effective for addressing small-scale, local, and physical theft, they are ill-equipped to deal with the global, borderless theft of trade secrets, often accomplished instantaneously by cyber-related means.

The Defend Trade Secrets Act would close a significant gap in federal intellectual property law by creating a uniform federal civil remedy for trade secret misappropriation, which will streamline and simplify trade secrets litigation, and allowing companies to protect their most valuable assets. DTSA contains an important, yet narrow, seizure mechanism. This carefully tailored provision would prevent the value of intellectual property from being destroyed by a thief who may attempt to flee the country or to sell the secret to the highest bidder.

Ensuring consistent, robust trade secret protection would help create an environment that is conducive to innovation and creativity. Enactment of the DTSA would encourage American innovation, incentivize research and development, preserve and enhance job creation in the United States, and provide better protection for our intellectual property abroad by setting the gold standard for trade secret protection internationally, thereby strengthening the ability of U.S. negotiators to seek improved legal protections for intellectual property in the international arena.

We urge you to continue the Administration's leadership in securing protection for trade secrets by communicating support for passage of the Defend Trade Secrets Act.

Sincerely,

Adobe
Advamed
Alliance of Automobile Manufacturers
AIPLA (American Intellectual Property Law Association)
Association of Global Automakers, Inc.
Boston Scientific
BSA | The Software Alliance (BSA)
Caterpillar Inc.
Corning Incorporated

The Dow Chemical Company
DuPont
Eli Lilly and Company
Fiber to the Home Council Americas
General Electric
Honda
IBM Corporation
Illinois Tool Works Inc. (ITW)
Information Technology Industry Council (ITI)
Johnson & Johnson
Medical Device Manufacturers Association (MDMA)
Micron Technology, Inc.
Microsoft Corporation
The National Alliance for Jobs & Innovation (NAJI)
National Association of Manufacturers
New England Council
NIKE
Pfizer
Philips Lighting
The Proctor & Gamble Company
Semiconductor Industry Association (SIA)
Siemens Corporation
Software & Information Industry Association (SIIA)
Telecommunications Industry Association (TIA)
Texas Association of Manufacturers
The U.S. Chamber of Commerce
United Technologies Corporation (UTC)

cc: The Honorable Michael Froman
 United States Trade Representative

 The Honorable Michelle Lee
 Under Secretary of Commerce for Intellectual Property
 Director of the United States Patent and Trademark Office

 The Honorable Daniel Marti
 United States Intellectual Property Enforcement Coordinator