

December 1, 2015

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Orrin G. Hatch
Committee on the Judiciary
United States Senate
104 Hart Senate Office Building
Washington, DC 20510

The Honorable Christopher A. Coons
Committee on the Judiciary
United States Senate
127A Russell Senate Office Building
Washington, DC 20510

Re: AIPLA Support for S. 1890, the Defend Trade Secrets Act of 2015

Dear Chairman Grassley, Ranking Member Leahy, Senator Hatch and Senator Coons:

I am writing on behalf of the American Intellectual Property Law Association (“AIPLA”) to express our support for S.1890, the Defend Trade Secrets Act of 2015, which would amend the Economic Espionage Act of 1996 (“EEA”) to create a federal civil remedy for trade secret misappropriation.

AIPLA is a national bar association of approximately 14,000 members who are primarily lawyers engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping establish and maintain fair and effective laws and policies that stimulate and reward invention while balancing the public’s interest in healthy competition, reasonable costs, and basic fairness.

The economy of the United States depends on the innovations of its businesses. There has been a significant increase in commentary and media reports describing a growing rise in trade secret theft from foreign hackers, international companies, and rogue employees interested in stealing U.S. businesses’ trade secrets. In February 2013, President Obama’s Administration issued a

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report on the Strategy on Mitigating the Theft of Trade Secrets, which recognized the increasing problem of trade secret theft against U.S. corporations.¹

AIPLA believes that although state trade secret laws afford U.S. companies many protections, they may not provide adequate procedural remedies or protection in all cases of trade secret misappropriation. The ability to have a national approach and be able to utilize the broad jurisdictional powers of federal courts would greatly assist many trade secret claimants. Accordingly, AIPLA believes that a federal civil cause of action empowering companies to protect their own trade secrets from misappropriation, such as that which would be established by S. 1890, is imperative. Despite their best efforts, government agencies and prosecutors may not be able to move as quickly or with the nimbleness of a private litigant in some circumstances. Given the importance of speed and injunctive relief in many trade secret cases, a federal private right of action would be a powerful tool in the case of trade secret misappropriation.

AIPLA appreciates the Committee's attention to this issue. We believe that the time has come for a federal civil remedy for trade secret misappropriation, and we look forward to working with the Committee on S. 1890 as the process moves forward.

Sincerely,



Denise W. DeFranco
President
American Intellectual Property Law Association

¹ Executive Office of the President of the United States, Administration Strategy on Mitigating the Theft of U.S. Trade Secrets 1 (2013), https://www.whitehouse.gov/sites/default/files/omb/IPEC/admin_strategy_on_mitigating_the_theft_of_u.s._trade_secrets.pdf.