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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

March 8, 2012

RUSSELL SULLIVAN, STAFF DIRECTOR
CHRIS CAMPBELL, REPUBLICAN STAFF DIRECTOR

Ambassador Ron Kirk
United States Trade Representative
600 17th St. NW
Washington, DC 20508

Dear Ambassador Kirk,

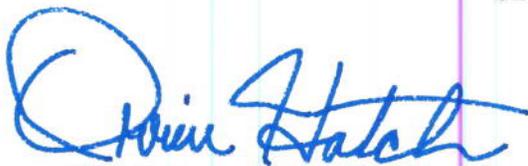
We understand that the most recent round of negotiations towards the Trans-Pacific Partnership (TPP) free trade agreement took place this month. If the TPP is going to be the standard bearer for future trade agreements, it must include provisions designed to protect the assets which underpin the 21st Century knowledge economy. In particular, the TPP agreement must ensure that trade secrets are afforded strong protection, so that America's innovators can maintain their competitive advantage in the fast-growing Asia-Pacific markets covered by the TPP.

Trade secrets, or "know-how," are among the most valuable assets for many companies across a wide variety of sectors. They are often particularly useful to start-ups and SMEs since, unlike patents, they can be protected without registration or other formalities. Unfortunately, while trade secrets are vitally important, they are also fragile commodities – once disclosed, they cannot be restored and they become devoid of value to their owner.

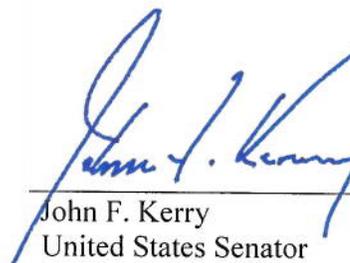
Many jurisdictions have recognized the need to protect against the misappropriation of trade secrets by private actors. Unfortunately, while necessary, such protection is not sufficient. Foreign governments have become adept at developing policies which effectively undermine the value of trade secret protection in order to advance national policy goals – often at the expense of U.S. industry. Governments (particularly those in important emerging markets) have increasingly conditioned investments on the disclosure of trade secrets, enacted testing or certification regimes which require companies to disclose confidential information to participate in domestic markets, and led efforts to use compulsory licensing mechanisms to force the disclosure of critical trade secrets which would provide their domestic champions an unfair competitive advantage.

We encourage you to ensure that the TPP includes the strongest possible provisions aimed at protecting trade secrets. Towards that end, we are prepared to work closely with you to craft provisions which will help maintain U.S. competitiveness.

Sincerely,



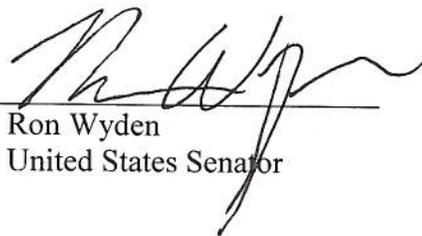
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United States Senator



Jon Kyl
United States Senator



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