

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
Hearing on “Protecting Trade Secrets: the Impact of Trade Secret Theft on American
Competitiveness and Potential Solutions to Remedy This Harm”
December 2, 2015**

Today’s hearing focuses on a topic that is essential to our Nation’s economy and our status as the leading source of innovation around the world.

In Vermont, trade secrets protect the specialized knowledge of woodworkers and artisans that have been crafting heirloom products for generations. They protect the secret recipes for Vermont craft brews and closely-guarded customer lists for our top tourist services. They protect cutting-edge technologies that Vermont businesses are developing in plastics, complex manufacturing, software, and green technology. Trade secrets are relied on by countless businesses to help keep their products and services unique.

Today we will hear about the importance of trade secrets from two companies that have used proprietary information to build global brands and create tens of thousands of jobs across America and around the world. Yet trade secrets are especially important to small businesses, which often lack the resources to seek patent protection for their inventions. The features that make trade secret protections so useful also make them vulnerable, since disclosure by a rogue employee or by a cyber-attack can end their confidential status in an instant.

In the United States, trade secret law is the one form of intellectual property protection that currently lacks a federal civil remedy. I have heard from businesses, practitioners, and law enforcement experts that creating such a remedy will improve the law by promoting uniformity and reducing the procedural hurdles that companies now face when stolen information is taken across state lines. Carefully written legislation will fill this gap in the law, and provide businesses in Vermont and across the country with an improved tool to protect their intellectual property.

It will also ensure that our Federal law serves as a meaningful example internationally. During my travels to China and other countries I have emphasized the need for strong global protection of trade secrets. There is much more to be done to address the problem of trade secret theft internationally, but adopting a uniform Federal policy at home is one important step.

Good, thoughtful work is being done in this Committee to craft such legislation. One priority for me has been ensuring that any seizure remedy to protect trade secrets is narrowly-tailored—for example, so that actions to protect confidential information on a computer server do not unintentionally impact other content on the server that is unrelated to the theft. I thank Senators Coons and Hatch for working with me and with technology companies to address this concern. I look forward to the Committee’s continued consideration of the bill.

In 2012, we passed two pieces of legislation that helped improve our trade secret laws, including the Theft of Trade Secrets Clarification Act, which I introduced to close a troubling loophole in the law that allowed an employee who had stolen trade secrets to go free because the stolen

secret was not part of a product sold in interstate commerce. I am glad that the Committee is continuing its bipartisan work in this vital area. I look forward to working with Chairman Grassley, Senators Hatch and Coons, and with all members of this Committee on this important issue for American businesses.

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