



Andrei Iancu, Co-Chair  
David Kappos, Co-Chair  
Judge Paul Michel (Ret.), Board Member  
Judge Kathleen O'Malley (Ret.), Board Member  
Frank Cullen, Executive Director

May 15, 2024

The Honorable Maria Cantwell  
511 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Ted Cruz  
167 Russell Senate Office Building  
Washington, D.C. 20510

Dear Chairwoman Cantwell and Ranking Member Cruz,

The Council for Innovation Promotion (C4IP) writes to express its concerns about the unintended consequences for American innovation that may be caused by the Invent Here, Make Here Act of 2023, S. 1956, scheduled to be considered by the Senate Commerce Committee on May 16, 2024.

C4IP is a bipartisan coalition dedicated to promoting strong and effective intellectual property rights that drive innovation, boost economic competitiveness, and improve lives everywhere. Founded and chaired by former directors of the U.S. Patent and Trademark Office from previous Democratic and Republican administrations, our nonprofit organization aims to be a valued partner to those considering policies impacting America's IP system.

The Invent Here, Make Here Act of 2023 has the laudable goal of trying to ensure that inventions made in the United States with federal research dollars are developed and manufactured in the United States as well. C4IP is concerned, however, that by strengthening the already-existing legal preference for domestic manufacturing into a stronger requirement that is harder to waive, the bill will make it unduly difficult for universities and other recipients of federal funds to license their patented inventions at all. It is already a challenge to license the sort of early-stage research that is typically funded at these institutions, and they cannot single-handedly change the face of American manufacturing to guarantee a ready domestic partner or, in order to meet the waiver requirements of the bill, bear the costs of a more extensive waiver process, and new reporting requirements.

These burdens increase the likelihood that federally-funded patented inventions will sit unused, undeveloped, and unlicensed on university shelves, helping no one. If it proves too difficult for universities to license these patents, they might simply be copied and developed by foreign entities who are willing to risk that universities will not have the resources to police infringement of these patents either. This

potential for copying is especially great coming from countries with significant reserves of state-directed financial support for commercial development, such as China. Even worse, universities might conclude that it makes no economic sense to patent their innovations at all, paving the way for foreign copying while removing the incentives for private-sector commercialization in this country.

In sum, this bill is likely to harm some of the very institutions it is seeking to help—universities and other federally-funded institutions doing the pathbreaking research that has the potential to keep the United States as the world leader in innovation. But trying to solve a domestic manufacturing slump by requiring American universities to partner with American manufacturers when none exist will not solve this crisis. It is, instead, more likely to lead universities to the conclusion that licensing is not a cost-effective use of their time or resources, leaving taxpayers' investment in basic research gathering dust in the pages of academic journals.

We hope that the Senate Commerce Committee will halt its consideration of the bill and work with universities and other stakeholders on solutions that will advance American innovation and manufacturing without such a strong potential for unintended consequences. To that end, C4IP stands ready to provide any further input that may be requested as the Committee works on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Cullen', is positioned below the word 'Sincerely,'.

Frank Cullen  
Executive Director  
Council for Innovation Promotion (C4IP)

cc:

Sen. Amy Klobuchar, Member, Senate Committee on Commerce, Science, and Transportation  
Sen. Brian Schatz, Member, Senate Committee on Commerce, Science, and Transportation  
Sen. Ed Markey, Member, Senate Committee on Commerce, Science, and Transportation  
Sen. Gary Peters, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Tammy Baldwin, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Tammy Duckworth, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Jon Tester, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Kyrsten Sinema, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Jacky Rosen, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Ben Ray Luján, Member, Senate Committee on Commerce, Science, and Transportation

Sen. John Hickenlooper, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Raphael Warnock, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Peter Welch, Member, Senate Committee on Commerce, Science, and Transportation

Sen. John Thune, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Roger Wicker, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Deb Fischer, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Jerry Moran, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Dan Sullivan, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Marsha Blackburn, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Todd Young, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Ted Budd, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Eric Schmitt, Member, Senate Committee on Commerce, Science, and Transportation

Sen. J. D. Vance, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Shelley Moore Capito, Member, Senate Committee on Commerce, Science, and Transportation

Sen. Cynthia Lummis, Member, Senate Committee on Commerce, Science, and Transportation