



March 29, 2016

Chairman Bob Goodlatte
House Judiciary Committee
2309 Rayburn House Office Building
Washington, DC 20515

Ranking Member John Conyers
House Judiciary Committee
2426 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

On behalf of the National Small Business Association (NSBA), I am pleased to support *H.R. 3326*, the *Defend Trade Secrets Act of 2015*, championed by Rep. Doug Collins, and urge the House Judiciary Committee to approve the legislation. In addition to enabling trade secret holders to act quickly and definitively to protect their trade secrets from misappropriation, the bill also addresses the evolving nature of misappropriation. With modern technology, trade secrets can move across borders instantaneously. This legislation ensures that those borders will not slow down enforcement and protection of trade secret property rights.

NSBA represents more than 65,000 small businesses from every industry and sector across every state in the country. It is dedicated to leveling the playing field and ensuring that small businesses are given the opportunity to innovate, succeed and add jobs to the economy. Because of the growing complexity of the U.S. patent system, trade secrets are increasingly becoming the intellectual property protection of choice for small businesses. Small businesses rely on these intellectual property rights to keep strategic and sensitive information protected and stay competitive with larger companies. Larger firms can afford to protect their intellectual property through patents, but that approach can be cost-prohibitive to smaller firms. A small business is also likely to be harmed more dramatically from the theft of its trade secrets, and therefore, we firmly believe small businesses have the most to gain from the enactment of H.R. 3326.

Due to the fragile nature of trade secret rights it is absolutely essential that trade secret holders be able to act quickly to protect their rights. This legislation does that by creating a federal right of action for trade secrets secret misappropriation cases. This will allow trade secret holders to file in federal court regardless of where they are and subsequently avoid many jurisdiction issues intrinsic to state courts.

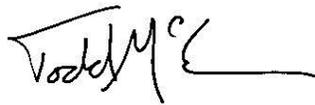
While NSBA supports the legislation, it is still concerned that codifying the ex-parte seizure practice will result in its increased, and at times, inappropriate use. We were pleased to see that the Senate Judiciary Committee adopted amendments to address this concern. We urge the House Judiciary Committee to adopt these same amendments. These amendments require courts to clearly define what is to be seized, limit access to the information by the requesting party, and require the trade secret holder show the third party is in actual possession of the trade secrets.

Ensuring that this provision is only used in the most extraordinary of circumstances and that the seized property is isolated from the requesting party make the potential gains from using this provision improperly minimal. These safeguards are necessary to ensure that this essential tool of the courts and small businesses is not used in a predatory manner. Nevertheless, because of its potential to harass competitors, the deleterious use of the procedure is certainly something which warrants continued vigilance.

However, the protections this important legislation brings to small businesses simply cannot be overstated or overlooked and we encourage you to approve H.R. 3326 with the suggested amendments, as it will strengthen and protect trade secrets and, concurrently, the U.S. economy.

Thank you for your leadership and I look forward to working with you towards passage of this bipartisan legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken". The signature is stylized with a large, sweeping initial "T" and "M".

Todd McCracken
President & CEO