



March 1, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Harry Reid
Minority Leader
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid,

On behalf of the National Small Business Association (NSBA), I am pleased to support *S. 1890*, the *Defend Trade Secrets Act of 2015*, championed by Sen. Orrin Hatch, and urge you to bring it to the floor for immediate consideration. 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 *S. 1890*.

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 ensuring trade secrets are given similar protections afforded to other forms of intellectual property including patents, trademarks and copyrights, for which no federal civil remedy currently exists.

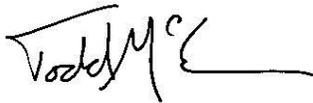
While NSBA supports the legislation, it is still concerned that codifying the ex-parte seizure practice will result in its increased, and at times, inappropriate use. We were pleased to see that the Senate Judiciary Committee adopted amendments to address this concern. Requiring courts to clearly define what is to be seized, limiting access to the information by the requesting party, and requiring the trade secret holder show the third party is in actual possession of the trade secrets will ensure that this provision 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 necessary legislation brings to small businesses simply cannot be overstated or overlooked and we encourage you to move S. 1890 to the Senate floor, as it is necessary in order to 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