

group's dubious honor . . . for blocking a bill to back inspectors general in their battles against waste, fraud, abuse, and mismanagement and refusing to provide a full explanation on why he did so.

Then, just over this weekend, the editorial board of this same newspaper wrote an opinion piece entitled, "Let the sun shine in." Let me just read an excerpt from this article:

Because Sen. Grassley's bill has attracted bipartisan support, and because Republicans and Democrats jointly have objected to efforts to thwart IGs from doing their jobs, we're confident that compromise is possible . . . We urge Sens. Reid and Grassley to work together to pass this important legislation as quickly as possible.

As I mentioned earlier, the bipartisan group of cosponsors and I have already offered half a dozen accommodations to address the concerns related to the subpoena authority provision. All of those offers are still on the table, and we stand ready to work with Senator REID and the other Senator to get this bill done; in a way that improves IG access to both documents and witness testimony.

Remember, the Inspector General Act was passed in 1978, following one of the worst political scandals in American history. Today, at least 61 Senators, the Las Vegas Review-Journal, the New York Times, the Washington Post, and good governance groups like POGO and Citizens Against Government Waste, all support restoring the intent of that act—through S. 579. This bill would redeem the free flow of information that Senator LEAHY advocated in August. And every day that goes by without overturning the OLC opinion is another day that watchdogs across the government can be stonewalled.

Let me be clear. Only one Senator is publicly standing in the way of fixing this problem. Who is the obstructionist here? Who is not doing their job? We need to find a way to get this bill done. Especially now, we need to focus on the things we can agree on. When there is something with this much bipartisan support, it should be a no-brainer. One or two Senators should not be allowed to stand in the way.

I urge my colleagues to work with me to get S. 579 passed so that IGs can resume doing the work that we asked them to do in 1978.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

DEFEND TRADE SECRETS BILL

Ms. KLOBUCHAR. Mr. President, I rise today to speak in support of the Defend Trade Secrets Act, which is before us today. I thank Senators HATCH and COONS for their important work on this bill and Chairman GRASSLEY and Ranking Member LEAHY for their leadership as well.

Stolen trade secrets cost American companies—and thus their workers—billions of dollars each year and threaten their ability to innovate and com-

pete globally. This bill will help protect vital intellectual property, and I am pleased to be a cosponsor.

Trade secrets are the lifeblood of so many businesses in America. Stealing those ideas can wipe out years of research by employees and development and cost millions of dollars in losses because competitors—those that steal the secrets—reap the benefits of innovation without putting in any of the work. Although measuring the total cost of trade secret theft is difficult, one study using multiple approaches estimates the yearly cost at 1 to 3 percent of the U.S. gross domestic product.

Today, as much as 80 percent of companies' assets are intangible, the majority of them in the form of trade secrets. This includes everything from financial, business, scientific, technical, economic, and engineering information to formulas, designs, prototypes, processes, procedures, and computer code. Trade secret theft poses a particular risk for my home State of Minnesota, which has a strong tradition of innovation and bringing technological advances to the marketplace. Our companies have brought the world everything from the pacemaker to the Post-it Notes. Protecting their intellectual property is critical to their economic success, critical to our businesses, and, most importantly, critical to the workers and employees who make their living in American businesses.

Here are some examples of what we are talking about and the costs when trade secret thefts occur.

In 2011 a former employee of the Minnesota agricultural company Cargill stole trade secrets of Cargill and Dow Chemical regarding a product and gave them to a Chinese university. The two companies suffered combined losses of over \$7 million. Fortunately, the former employee was caught, convicted, and received 87 months in prison—the strongest sentence possible. But look at the loss that occurred—\$7 million.

That same year, an employee of a Minnesota paint company, Valspar, tried to steal \$20 million worth of chemical formulas to give to a Chinese company in exchange for a high-ranking job. That really happened. The authorities caught him before he completed his theft, and he received a sentence of 15 months in jail.

But too many thefts go unprosecuted, and the costs go beyond simply dollars and cents. Medical device makers Medtronic and Boston Scientific hope to bring advanced care to patients in China. These companies would like to do even more but fear they won't be able to protect sensitive proprietary technology, and that holds them back. Stronger protection of trade secrets will benefit consumers across the world as well as trade secret owners.

In 1996 Congress enacted the Economic Espionage Act, which made economic espionage and trade secret theft

a Federal crime. Nearly 20 years later, the threat of trade secret theft has grown. Thumb drives and the cloud have replaced file cabinets for storage information, making stealing a trade secret as easy as clicking a button or touching a screen. Trade secret theft threatens not just businesses but jobs and, certainly, innovation.

Protecting the intellectual property of American businesses needs 21st century solutions. The Defend Trade Secrets Act demonstrates our commitment at the Federal level to protect all forms of a business's intellectual property. This balanced bill gives companies two more tools to effectively protect their trade secrets.

First, a party can seek an ex parte court order to seize stolen trade secrets to prevent their destruction or dissemination. To prevent abuse, the requirements to obtain an order are rigorous, access to the seized material is limited, and it is only available in what are considered "extraordinary circumstances."

Second, the bill creates a Federal private right of action for trade secret theft. Companies will be able to rely on a national standard to efficiently protect their intellectual property.

Securing the trade secrets of American businesses and their employees is a serious issue and needs to be addressed, and I urge my colleagues to support the Defend Trade Secrets Act. I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFEND TRADE SECRETS BILL

Mr. HATCH. Mr. President, later this evening, the Senate will vote on the Defend Trade Secrets Act, a bill that will enable U.S. businesses to protect their trade secrets in Federal court. Senator CHRIS COONS and I have been working on this legislation in a bipartisan way for nearly 2 years, so it is really satisfying to see the Senate poised to vote on this important bill.

To date, the legislation has 65 bipartisan cosponsors, including the distinguished Senate Judiciary Committee chairman, CHUCK GRASSLEY, and ranking member, the distinguished Senator PAT LEAHY. I appreciate their support for this bill.

I also commend our House colleagues, Representatives DOUG COLLINS and JERROLD NADLER, for their tireless efforts—and others over there as well. They have been invaluable partners in advancing this legislation in the House of Representatives. Working under the capable leadership of my dear friend, House Judiciary Committee Chairman

BOB GOODLATTE, we have come together to right an inequity facing U.S. businesses by creating a civil remedy for trade secret misappropriation.

Trade secrets—such as customer lists, formulas, algorithms, software codes, unique designs, industrial techniques, and manufacturing processes—are an essential form of intellectual property. Other forms of intellectual property, such as patents, copyrights, and trademarks, are covered by Federal civil law. Trade secrets, by contrast, are the only form of U.S. intellectual property where the owner does not have access to a Federal civil remedy for misuse or misappropriation. As a result, billions of dollars each year are lost to trade secret theft, which stifles innovation by deterring companies from investing in research and development.

Currently, the only Federal vehicle for trade secret protection is the 1996 Economic Espionage Act, which makes trade secret theft by foreign nationals a criminal offense. But this remedy criminalizes only a small subset of trade secret theft and relies on the thinly stretched resources of the Department of Justice to investigate and prosecute such offenses.

One experienced trade secret practitioner told me recently that the Justice Department typically only considers prosecuting cases with more than \$100,000 in damages. This is because trade secret investigations and prosecutions are more resource intensive and complex than most other Federal crimes, requiring a deep technological and scientific background. Given these constraints, the Justice Department and the FBI are reluctant to commit scarce resources to investigate and prosecute a single matter, especially when the same effort could result in the prosecution and conviction of other Federal crimes.

Therefore, it is not surprising that in the 20 years since the Economic Espionage Act became law, Federal prosecutors have charged only about 300 defendants for economic espionage or trade secret theft. And because these cases frequently involve multiple defendants, this equates to an average of about 10 prosecutions annually. Clearly, current Federal law is inadequate in resolving the many challenges our businesses face in today's innovation economy.

State laws have proven inadequate to protect victims of trade secret theft. Since most businesses today operate across one or more State lines, having a uniform set of standards that defines legal protections for trade secrets is crucial. That was the rationale behind creating the Uniform Trade Secrets Act, which sought to achieve nationwide uniformity in trade secret law. But over time, most States have adopted their own trade secret laws. In fact, State laws today are perhaps even more variable in their treatment of trade secrets than they were at the time the Uniform Trade Secrets Act

was proposed in 1979. This next mixed bag of differing legal regimes forces victims of trade secret theft to wade through a quagmire of procedural hurdles in order to recover their losses.

For example, if an attorney needs testimony from a witness in another State, she must first apply to her local court, asking that it request the other State to issue its own subpoena for the document or deposition. This process can take weeks, which is an eternity in a trade secret case. Under a uniform Federal standard, the process would be far more efficient. That is because all Federal courts apply the Federal Rules of Civil Procedure, allowing attorneys to obtain documents and testimony from a witness in another State without having to apply to that State's court system. Essentially, enabling businesses to protect their trade secrets in Federal court removes an unnecessary and time-consuming layer of bureaucracy.

Streamlining access to remedies is critical in trade secret cases where an expedited judicial process may be necessary to deal with thieves who pose a flight risk. Unfortunately, once a company's intellectual property is leaked and the information is made public, the trade secret loses its legal protection.

Put simply, State law is designed for intrastate litigation and offers limited practical recourse to victims of interstate trade secret theft—the contrast between intrastate and interstate. Maintaining the status quo is woefully insufficient to safeguard against misappropriation. U.S. companies must be able to protect their trade secrets in Federal court.

The Defend Trade Secrets Act will do precisely that by providing trade secret owners access to both a uniform national law and the ability to make their case in Federal courts. Likewise, the bill allows victims of trade secret theft to obtain a seizure order in extraordinary circumstances. This type of order would allow misappropriated property to be seized so that it isn't abused during the pendency of litigation. To ensure that companies do not use the seizure authority for anti-competitive purposes, this legislation requires those seeking redress to make a rigorous showing that they own the trade secret, that the trade secret was stolen, and that third parties would not be harmed if an ex parte order were granted. The bill also allows for employees to move from one job to another without fear of being wrongfully charged with trade secret theft.

In addition to the overwhelming bipartisan support among my Senate colleagues, more than 50 companies and associations have endorsed the Defend Trade Secrets Act. Leaders in the technology, life sciences, manufacturing, energy, automotive, agricultural, and telecommunications sectors support this bill, among others.

Many letters and opinion pieces have been written in support of the bill. Let me briefly share some of the comments from our Nation's business leaders.

In an op-ed published in *The Hill*, Aric Newhouse from the National Association of Manufacturers states, "The [Defend Trade Secrets Act] encourages investment in cutting-edge research and development and will have an immediate, positive impact on our innovative sector, ultimately creating jobs and opportunity in manufacturing in the United States."

In a piece published by the *Washington Times*, David Hirschmann from the U.S. Chamber of Commerce writes, "The Defend Trade Secrets Act creates a federal civil cause of action that currently does not exist. Creating a new federal civil cause of action will help industry help itself."

In an op-ed in the *Washington Examiner*, Mark Lauroesch from the Intellectual Property Owners Association writes, "Every day without this law, our companies are losing millions of dollars to trade secret theft."

Victoria Espinel from the BSA Software Alliance writes in the *Huffington Post*, "The Defend Trade Secrets Act would provide that important, missing remedy, and help usher in the harmonized system that will benefit not only software innovation but our entire American economy."

Guy Blalock from Utah's *IM Flash* writes in the *Salt Lake Tribune*, "Enacting the bill will have an immediate, positive impact on innovative companies that create jobs in this country."

In a joint op-ed published in the *Salt Lake Tribune*, Rich Nelson from the Utah Technology Council and Lane Beattie from the Salt Lake Chamber of Commerce write that the Defend Trade Secrets Act "equips business owners with the tools they need to combat trade secret theft."

Finally, Eli Lilly's Michael Harrington and Microsoft's Erich Andersen in an op-ed published in *Forbes* write, "This thoughtful and carefully considered legislation will adapt America's trade secret regime to reflect 21st Century realities and will strengthen this critical form of intellectual property."

Mr. President, I ask unanimous consent to have printed in the *RECORD* the op-eds from which I have quoted following my remarks.

Throughout my 40 years of service, I have been a part of almost every significant intellectual property initiative that has come before the Senate—from the Digital Millennium Copyright Act, which sought to streamline our copyright system for the digital era, to the America Invents Act, which overhauled our patent system to help ensure American innovators' property rights are adequately protected in the 21st century.

Legislating in the area of intellectual property requires patience and perseverance. The bill on which we are voting tonight has been 2 years in the making. Initially, providing a Federal standard and civil remedies for trade secrets had little support. It took much effort not only to identify the precise nature of the problem—a problem that

amounts to hundreds of billions of dollars in economic loss for U.S. companies annually—but also to develop a solution that could garner the support of virtually all stakeholders. This required soliciting input from a broad range of interests and working closely with dozens of trade associations, affected businesses, and policymakers on both sides of the aisle. The final version of the legislation that the Senate will pass later this evening reflects input and additions from a broad coalition of interested parties.

It also reflects a number of instances where a careful balance had to be struck between competing interests. As has been true of several recent intellectual property efforts, the interests of the technology sector and the pharmaceutical industry are not always aligned. The same was true when it came to trade secrets. Yet we worked hard to develop a solution that could meet the needs of both. This balance is perhaps best exemplified by the joint op-ed I mentioned a moment ago, coauthored by the general counsel of one of America's leading pharmaceutical companies and a senior executive from one of America's prominent tech companies.

As chairman of the Senate Republican High-Tech Task Force and coauthor of the Hatch-Waxman Act, I know how critical it is to strike the right balance such that both high-tech and life science industries can support a bill. We have struck that balance with the Defend Trade Secrets Act.

Not only will we succeed in defending the trade secrets of American businesses, I hope the passage of the bill will serve as a springboard to spur congressional action in other areas of intellectual property, including patent litigation reforms. I commend in particular House Judiciary Committee Chairman BOB GOODLATTE for his steadfast work in this regard, and I stand ready to do everything in my power to help him in this endeavor.

Tonight's passage of fundamental trade secret law reform would be a significant achievement at any time, let alone in the challenging partisan environment we face today. Indeed, today's Senate vote is not only a watershed moment for the intellectual property and business communities; it is also an example of what Congress can accomplish when we put our party politics aside and focus on areas of agreement. Throughout my Senate service, I have always sought, whenever possible, to seek common ground in order to advance public policy priorities that will benefit the American people and the American economy. With this bill, we have done just that.

I want to thank Senate Majority Leader MITCH MCCONNELL for leading the Senate in such a way to make constructive bipartisan legislating possible. I appreciate his support for this legislation and his willingness to devote valuable floor time to help ensure its passage. Tonight we will add the

Defend Trade Secrets Act to a long list of legislation the Senate has passed in the last 15 months since the senior Senator from Kentucky assumed leadership of the U.S. Senate. This is yet another example that the Senate is back to work for the American people.

I also want to take this moment to thank the staff members who have been instrumental in getting us to this point. Let me start by thanking my senior judiciary counsel, Matt Sandgren, whose relentless determination helped make tonight a reality. I also thank my chief of staff, Rob Porter, for his unmatched leadership in shepherding this bill forward. Together, Matt and Rob have been an invincible team, working hand in glove throughout this process. I personally appreciate their excellent work.

I also recognize my superb press team for their efforts, J.P. Freire, Matt Whitlock, and Sam Lyman. I am also appreciative of my dedicated law clerks, Ryan Karr and Jaclyn D'Esposito.

I also acknowledge the important contributions of Senator COONS' current and former staff: Ted Schroeder, Andrew Crawford, Erica Songer, and Jonathan Stahler.

There are also several staff on the Senate Judiciary Committee who have been instrumental in helping with this key intellectual property bill: Rita Lari Jochum, Jonathan Nabavi, Alexandra Givens, Danielle Cutrona, Eric Haren, Lee Holmes, Lartae Tiffith, Gary Barnett, Daniel Swanson, Ray Starling, Ethan Arenson, Chad Rhoades, and Sam Simon.

I also acknowledge the following House staff for their hard work and commitment to this bill: Shelley Husband, Brandon Ritchie, Jennifer Choudhry, Sally Larson, Jason Everett, and David Greengrass.

Finally, I thank the many staff members from majority leader MITCH MCCONNELL and minority leader HARRY REID who helped to make this bill's passage a reality. I wish to especially thank Laura Dove, Sharon Soderstrom, Hazen Marshall, John Abegg, Chris Tuck, and Ayesha Khanna.

Enacting meaningful public policy reform in the midst of a contentious Presidential election is something to celebrate. In very real ways, this bill will help strengthen our economy and allow businesses to grow and create additional jobs for hard-working Americans. I hope my colleagues will join me in safeguarding American ingenuity by voting for the Defend Trade Secrets Act. They will not be sorry by doing that.

I understand Senator COONS is here, and I want to recognize him and all the work he has done with me on this bill. He is a wonderful partner on the Judiciary Committee, and I personally appreciate him very much.

With that, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Hill, Mar. 10, 2016]

US MANUFACTURERS TO CONGRESS: KEEP US COMPETITIVE, PASS TRADE SECRETS LEGISLATION

(By Aric Newhouse)

Trade secrets, an essential form of intellectual property, are among the most valued business assets for manufacturers. They can include everything from the special recipe for a food or beverage to the formula for a chemical or pharmaceutical. This proprietary information powers the innovation on a shop floor, which drives job creation at facilities in communities across our country.

Trade secrets can comprise as much as 80 percent of the value of a company's knowledge portfolio, and according to one estimate, theft costs businesses in this country some \$250 billion a year. The current system desperately needs to be updated to provide the owners of trade secrets the ability to pursue intellectual property thieves aggressively and efficiently, in full cooperation with the federal government.

While patent, copyright and trademark owners can protect their rights in federal court, trade secret owners must instead rely on an array of state law remedies that were designed with small-scale, intrastate theft in mind. Although those laws may be sufficient and appropriate when, for example, an employee takes a former employer's customer list to a competitor down the street, they are ill-suited for the fast-moving, multijurisdictional cases in today's global economy.

Fortunately, there is important, bipartisan legislation that would fill this gap and assist manufacturers in pursuing trade secret thieves and protecting intellectual property. The Defend Trade Secrets Act of 2016 (DTSA)—a bipartisan, bicameral bill led by Sens. Orrin Hatch (R-Utah) and Chris Coons (D-Del.) and Reps. Doug Collins (R-Ga.) and Jerrold Nadler (D-N.Y.)—creates a federal civil cause of action for trade secret misappropriation to unify trade secrets law nationwide. The bill would also offer trade secrets owners the same legal options as owners of other forms of intellectual property.

The National Association of Manufacturers has long supported a federal civil remedy for trade secret theft and urges passage of DTSA. The consensus-oriented approach of the legislation has drawn strong support from all industry groups and manufacturing subsectors, including biotech, pharmaceutical, medical device, automotive, agriculture and beyond.

Trade secrets are vital to the competitiveness of companies throughout our economy, and the threat to these innovations is becoming more serious and more complex. By creating a strong, uniform body of trade secrets law nationwide, the DTSA ensures that our laws keep pace.

Congress should move quickly to pass this important legislation because strong trade secrets protection is critical to the American economy and to manufacturers' competitive advantage in the global economy. The DTSA encourages investment in cutting-edge research and development and will have an immediate, positive impact on our innovative sector, ultimately creating jobs and opportunity in manufacturing in the United States.

[From the Washington Times, Mar. 17, 2016]

PROTECTING AMERICAN INTELLECTUAL PROPERTY

(By David Hirschmann)

American innovation has brought consumers across the globe many of the cutting edge products and technologies that have, quite literally, changed the world. From lifesaving medicines to computer software to incredibly efficient ways to generate energy,

American companies are at the forefront of the “innovation economy” and the creators of millions of domestic jobs.

But our position as a global leader in innovation is under attack. Individuals, organizations and even some countries, want to take shortcuts and gain a competitive edge by stealing our ideas and manufacturing know-how—the “secret-sauce” that separates American industry from those who seek to duplicate our success. This theft of America’s trade secrets is a growing—and increasingly alarming—threat to our economic security.

What separates a Coca-Cola from a store-brand counterpart is its secret formula, and Kentucky Fried Chicken relies on its unique blend of 11 herbs and spices to distinguish itself in the market. Both are examples of trade secrets.

But trade secrets are also used to designate propriety manufacturing processes or highly technical algorithms for biologic formulas that may one day be eligible for patent protections. This form of intellectual property (IP) encompasses a wide range of information and processes across virtually every industry sector and among companies large and small.

Trade secrets are often the crown-jewels of a small, innovative start-up that has neither the expertise nor budget to seek patent protection because their limited capital is spent developing the next big idea and putting people to work building the next must-have product.

The Defend Trade Secrets Act currently under consideration in Congress would give American companies another tool to fight trade secrets theft.

This is a rare piece of legislation with broad and diverse support. Introduced by Sens. Orrin Hatch, Utah Republican and Chris Coons, Delaware Democrat, and Reps. Chris Collins, New York Republican and Jerrold Nadler, New York Democrat this is a truly bipartisan and bicameral bill. Currently, the bill enjoys the support of 62 senators and 127 representatives, along with thousands of companies, industry associations, and think tanks.

As well stated by White House Intellectual Property Enforcement Coordinator Daniel Marti, “Trade secret theft is a serious and pervasive problem that threatens the economic health and competitiveness of this country. The Administration is committed to protecting the innovation which drives the American economy and supports American jobs.”

Examples include foreign nationals digging new hybrid seeds out of cornfields in the heartland, embedded employees walking out the door with proprietary manufacturing processes, and hackers downloading secret research data. Once in possession of the trade secret, criminals want to get out of Dodge fast, and will typically flee the country to peddle these precious corporate assets to the highest bidder. To stop such theft, companies must be able to act quickly and effectively.

Unfortunately, current remedies alone are not enough to prevent the flight of these thieves. While law enforcement is a willing partner and often very helpful, too often they lack the bandwidth or resources to act quickly enough and stop these criminals before it’s too late.

Currently, a patchwork of state laws and federal criminal penalties are available to companies or individuals confronted with trade secrets theft. The Defend Trade Secrets Act creates a federal civil cause of action that currently does not exist.

Creating a new federal civil cause of action will help industry help itself. The bill has many provisions to make sure that this new

federal cause of action is not abused and employees are protected—including whistleblowers.

In an increasingly competitive global marketplace, it is critical that the right tools are in place to ensure that American ideas and jobs are not stolen and sold overseas. The U.S. Chamber of Commerce urges Congress to move this much needed legislation quickly so that it may become law and our industry and workers can remain at the forefront of the innovation economy.

[From Forbes, Apr. 4, 2016]

WE NEED TO SAFEGUARD THE SECRETS OF AMERICA’S INNOVATION ECONOMY

(By Michael Harrington and Erich Andersen)

America has long been recognized as a world leader in innovation. Not only does the unending flow of new inventions make life better for consumers, it also helps create new jobs and opportunities for millions of American families. The “intellectual property” associated with American innovation is protected by a network of laws, including patents, copyrights, trademarks and trade secrets. These legal protections are essential to reward innovation and encourage continued investment in American research and development. Unfortunately, trade secrets are the only form of intellectual property that do not receive robust federal protection. This needs to change.

Trade secrets include secret formulas, customer lists and methods of manufacturing developed at great expense and that have significant value to companies, which take steps to ensure their confidentiality. American businesses, regardless of size, must be able to continue to invest the enormous resources required to develop the products of the future, from the latest in cloud computing and artificial intelligence to the next generation of life-saving medicines. The Defend Trade Secrets Act, bipartisan legislation pending before the Senate and House, would provide 21st century protection for America’s trade secrets. It has the strong support of our companies and scores of others representing a diverse cross section of industries.

In the digitally networked world, the need for robust trade secret protection has only increased. Businesses no longer compete against the company across the street—they sell products across the country and around the world. Gone are the days when a business kept its know-how on paper—its business plans, its manufacturing process, the secret sauce that gave the business a competitive edge—and locked it in a desk drawer or a safe. Today, companies store their data and business-critical information electronically, primarily in the cloud. Decentralization has allowed companies to rely on networks of manufacturers and service providers who must all be able to access, use and store this trade secret information. The ability to share secrets confidentially with such providers, with the knowledge they can be protected, is vital to the continuing growth of the American economy. While digitalization of information has facilitated the access to trade secrets essential to the conduct of business, it has also enabled anyone intent on doing harm to purloin vast amounts of information with no more than a computer key stroke to a thumb drive or the cloud.

Trade secrets are also unique among forms of intellectual property in how they are legally protected. They are governed under state law rather than by federal statute. That is, although it is a federal crime to steal a trade secret, a business that has its trade secrets stolen must rely on state law to pursue a civil remedy. Owners of copyrights, patents, and trademarks can go to

federal court to protect their property and seek damages when their property has been infringed, but trade secret owners do not have access to such a federal remedy. This can prove unwieldy and ineffective when the trade secret thief crosses state lines—and all too often these thieves are ultimately heading overseas so that the unscrupulous can unfairly exploit and profit from the fruits of American know how in the global economy. This can result in significant loss of American prosperity and jobs.

Our state-by-state system for trade secret protection was simply not built with the digital world in mind where one device containing purloined information can literally destroy a hard-earned competitive edge. In today’s global economy, however, trade secrets are increasingly stored and used across state line and even national borders. A uniform, national standard for protection will greatly benefit innovative enterprises of all sizes.

We commend Senators Orrin Hatch and Christopher Coons and Representatives Doug Collins and Jerrold Nadler for introducing the bipartisan Defend Trade Secrets Act. This thoughtful and carefully considered legislation will adapt America’s trade secret regime to reflect 21st Century realities and will strengthen this critical form of intellectual property. We urge favorable and expeditious consideration by both the Senate and House.

The PRESIDING OFFICER (Mr. COATS). The Senator from Delaware.

Mr. COONS. Mr. President, I begin my remarks by thanking my colleague, good friend, and the leader in this effort to pass the Defend Trade Secrets Act in the Senate today, the President pro tem of the Senate, Senator ORRIN HATCH. In his four decades of service in this body, Senator HATCH has become well known for his ability and willingness to work across the aisle, to be a genuine leader in intellectual property matters, and to fight tirelessly for America’s inventors and inventions. I am grateful for the small role I have been able to play in partnering with Senator HATCH to bring this important piece of legislation through the Judiciary Committee and to the floor today.

Our country has long been the unquestioned world leader in the creation and production of innovative ideas. Simply put, for over two centuries we understood the critical connection between preserving intellectual property rights and creating sustained economic growth. As a result, we are second to none when it comes to innovation. Yet a critical form of IP, intellectual property, has somehow slipped through the cracks of Federal protection. Of course, I am talking about trade secrets, such as the secret formula for Coca-Cola, Kentucky Fried Chicken, customer lists, pricing strategies, and key stages in a vital manufacturing process. They are the lifeblood of great companies that can lead to the creation of products that make a company unique and uniquely profitable. It should come as no surprise that they are a major contributor to our economy. By some estimates, trade secrets are worth \$5 trillion to publicly listed American companies alone.

Despite the importance of trade secrets to our economy and our innovation ecosystem, trade secrets remain

the only form of intellectual property not protected from theft under Federal civil law. More specifically, a misuse of trade secrets doesn't provide the owner with a Federal private right of action to seek redress. This means companies today have to rely on State courts or on Federal prosecutors to protect their rights. The multi-State procedural and jurisdictional issues and the hurdles you have to clear that arise in such cases are oftentimes intensive, costly, and complicated.

Meanwhile, the Department of Justice, currently empowered to protect trade secrets on the Federal level, lacks the resources to prosecute many of the cases that arise. By the time the existing protections catch up with bad actors who have taken off with a customer list, formula, or recipe, it is often too late. Unlike physical goods, you simply can't take back trade secrets once they have been shared with the public. Once a trade secret is no longer secret, it loses its legal protection.

This glaring oversight in our Federal legal system has become increasingly problematic in recent years as technology has made it easier and easier to steal trade secrets. Today a foreign competitor can steal a vital trade secret from an American manufacturer with just a few key strokes through a cyber attack. This hasn't gone unnoticed. The rate of cyber trade secret theft is at an alltime high, and our foreign competitors are stealing American innovation with woefully inadequate repercussions. This uptick and steady rise in trade secret theft is affecting American businesses large and small across our country. Today the misappropriation of trade secrets is estimated to cost American companies between \$160 and \$480 billion annually. That money would be so much better spent by investing in new products, growing businesses, and creating jobs.

For example, my home State of Delaware has felt the impact of trade secret theft. Many are familiar with DuPont's signature product Kevlar, an extraordinarily strong and lightweight synthetic fiber that is best known for its use in lifesaving body armor. It is worn by dedicated police officers and the brave men and women in our Armed Forces. It has literally saved thousands of lives, including more than 3,000 law enforcement officers across this country.

About 10 years ago, DuPont developed a next generation of Kevlar, which was even lighter and better able to withstand penetrating trauma from a wide range of rifle rounds or IED-generated shrapnel. This technology represented a real breakthrough in safety, but it cost millions upon millions to develop. You see, chemically the spun polyaromatic fibers that make up Kevlar are not that complicated, but the fabrication and production method that give the fiber strength and flexibility is incredibly difficult to develop and then execute.

One day about 6 years ago—just 4 years after DuPont had developed this next-generation protective technology—a rogue employee took the trade secrets and the know-how behind manufacturing this new product and went and gave it to a rival manufacturing company in Korea by using DuPont's trade secrets. The potential loss to DuPont from this one instance of trade secret theft cost roughly \$1 billion.

Not only does trade secret theft cost American businesses revenue, which puts American jobs at risk, but it also discourages businesses from investing in critical research and development, and of all the sectors in the American economy, trade secrets are most central for manufacturing and for manufacturing in advanced materials. If you know an employee can steal your company's trade secret, potentially resulting in a loss of up to \$1 billion, that trade secret that was the product of years of research and development, as was the case for DuPont with their next-generation Kevlar, it becomes harder and harder to justify investing substantial sums in the R&D needed to continue to produce technological breakthroughs and cutting-edge manufacturing in the United States.

This trade secret theft can have a devastating, long-term impact on our country's ability to innovate and compete. It is also of particular concern in my home State of Delaware, where R&D is critical to our economy and sustaining our manufacturing sector. These protections in today's Defend Trade Secrets Act will only grow in importance as our country continues to cultivate advanced manufacturing.

Delaware has a proud legacy of encouraging cutting-edge science. We are home to hundreds of basement inventors who have tinkered, designed, and perfected inventions. Some have become well known internationally, such as Kevlar, and others are not as well known but are critical to our economy. That is why I introduced, along with my friend and senior colleague Senator HATCH, the Defend Trade Secrets Act. This bill creates a new Federal private right of action for the misappropriation of trade secrets. It uses an existing Federal criminal law, the Economic Espionage Act, to define trade secrets, and it draws heavily from the existing Uniform Trade Secrets Act which has been enacted by many States to define misappropriation.

Simply put, our bill will harmonize U.S. law. Each State has a slightly different trade secret law, and they vary in many different ways. Not all of these differences are major, but they affect the definition of what a trade secret is or what an owner must do to keep a secret or what constitutes misappropriation or what damages and remedies are available.

Our Defend Trade Secrets Act creates a single national baseline, or a minimal level of protection, and gives trade secret owners access to both a uniform

national law and to the reach of Federal courts, which provide nationwide service of process and execution of judgments. However, it is important to know this bill does not preempt State law because States are, of course, free to continue to add further protections.

In my view, this bill is a commonsense solution to a very serious problem. Senator HATCH and I first introduced this bill in April of 2014, and we reintroduced it last July with just four original cosponsors. The bill before us today now has 65 bipartisan cosponsors in the Senate. An identical version in the House, introduced by DOUG COLLINS of Georgia and JERRY NADLER of New York, now has 128 cosponsors. Congressmen COLLINS and NADLER have been great partners in this effort. Congressman JOHN CONYERS has also provided invaluable support.

In addition to the broad bipartisan support we have collected on this bill from our colleagues, we have gained endorsements from dozens and dozens of companies as diverse as Boeing, Corning, Microsoft, and DuPont. I believe it is also a testament to the hard work and esteem in which Senator HATCH is held by his colleagues. Senator HATCH has long been a leader in intellectual property and has been able to lead a successful, open, and collaborative process that has allowed us to move the bill to this point today.

Many of our colleagues, Republicans and Democrats, had suggestions for ways to improve the original draft. I am proud many of the Senators who originally raised concerns or questions have now become cosponsors of the bill as a result of Senator HATCH's leadership and our collaboration.

In today's political climate, it is easy to forget that to get things done, we don't have to agree on everything, we just have to agree on one thing. In this case, we have all agreed that losing hundreds of billions of dollars annually to trade secret theft and misappropriation has been hurting American businesses and our economy.

This bill is truly bipartisan. Frankly, it has united industry, practitioners, and Members of this body in a way we don't see often enough today. I rarely have an opportunity to work closely with the Heritage Foundation, the National Association of Manufacturers, and intellectual property owners on the same bill, but good policy can make for unique partnerships. With the bill before us today, the good policy is a commonsense proposal that creates a clear national standard and facilitates businesses' protection of their trade secrets in Federal court.

I thank all of my colleagues who have cosponsored and supported this bill. It has been a pleasure to work with them as we worked to ensure that this final bill is bipartisan and achieves our goal of protecting American trade secrets.

The formula for how we, together, got to this point is simple. Senator HATCH and I saw a problem, we found a

coalition that wanted to fix it, and we came together to find a solution.

I thank former Senator Kohl, with whom I first discussed this issue when I came to the Senate. I thank him for his early interest and involvement in trade secret protections. Of course, I am particularly grateful to Senator HATCH for his championship of this bill and leadership in finding consensus. I wish to join him in thanking Chairman GRASSLEY and Ranking Member LEAHY for their critical support and commend my colleagues for their focus on this issue. I wish to specifically thank Senators WHITEHOUSE, FEINSTEIN, GRAHAM, and FLAKE for their contributions to this bill that has strengthened it.

I would be remiss if I didn't recognize and thank the tremendous efforts our staff contributed together to get this bill to where it is today. Senator HATCH has thanked many of the floor staff, leadership staff, and staff in the House, and I would like to add to my thanks to Matt Sandgren in Senator HATCH's office and to my tireless, dedicated, and recently departed from my office chief counsel, Ted Schroeder, as well as Jonathan Stahler, Andrew Crawford, and Erica Songer on my staff.

This major achievement is the product of many contributions, and that is how the Senate is supposed to work. Given the wide support this bill enjoys today in the Senate and the fact that there is already an identical House version with bipartisan support, I am hopeful the House will act and pass this bill without delay.

I was pleased to learn earlier today that the administration has issued a Statement of Administration Policy urging the passage of this bill and its rapid enactment into law. The sooner this bill becomes law, the sooner American businesses and companies can get back to creating jobs and producing new, life-changing products and services. Our country's legacy of innovation depends on it.

With that, I yield the floor and thank my colleague Senator HATCH.

THE PRESIDING OFFICER. The Senator from Tennessee.

REMEMBERING JUSTIN AND STEPHANIE SHULTS

Mr. CORKER. Mr. President, I rise to honor the lives of Tennessean Justin Shults and his wife Stephanie, who were killed in the attacks in Brussels, Belgium, on the morning of March 22.

I thank our senior Senator LAMAR ALEXANDER for joining me this afternoon.

We are heartbroken by this tragedy, which once again hit too close to home. Not long ago, Senator ALEXANDER and I came to this body to mourn the loss of five American heroes we lost in a terror attack in my hometown of Chattanooga. We are here again today, heartbroken that two more outstanding individuals were taken by evil, and we are reminded that terrorism knows no borders or boundaries.

Justin Shults was a native of Gatlinburg, TN. He attended Gatlinburg-Pitt-

man High School, where he was valedictorian of his class. A bright young man, Justin received an undergraduate degree from Vanderbilt University before attending Vanderbilt's Owen Graduate School of Management where he met Stephanie, a native of Lexington, KY.

Justin and Stephanie's journey is inspiring. Two young people from small towns, they set out on a journey to explore the world and to broaden their horizons.

They moved to Brussels in 2014. Justin worked for Clarcor, a Franklin, TN, manufacturing company, and Stephanie worked for Mars. They had a bright future ahead of them—a future that was stolen by terror.

To their family members and to all who loved them, we offer our prayers and deepest sympathies as we mourn their passing. We also extend condolences to all of the families who lost loved ones and to the people of Belgium.

I also thank the many individuals and organizations that were instrumental in helping Justin's and Stephanie's families in the aftermath of the attack. They include the State Department, the FBI, the consulate in Brussels, Delta Airlines, Justin's and Stephanie's companies, Clarcor and Mars, and members of my staff, especially Bess McWherter.

From Chattanooga to Paris, San Bernardino, Brussels, and beyond, we have seen unimaginable events unfold before our eyes. It is clear the fight against evil will be a long-term struggle. To protect our citizens, we must deepen our partnership with Europe and other allies to defeat ISIS and other terrorists so no more families will have to deal with the heartbreak Justin's and Stephanie's families face today.

We mourn their passing, we honor their lives, and we renew our commitment to fight against this evil.

With that, I yield the floor to our distinguished senior Senator LAMAR ALEXANDER.

THE PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I join Senator CORKER in expressing to the families of Justin and Stephanie our deepest sympathy and our horror at what happened to them in Brussels.

I wish to thank Senator CORKER as well. Because of his position as chairman of the Senate Foreign Relations Committee, he was able to do some things all of us would have liked to have been able to do. He was able to help the family by being a liaison with the families and the State Department. These are things he wouldn't say about himself, but I would like to say. He and his staff worked to help the family get expedited passports, and they have stayed in touch with the families. I hope the families of Justin and Stephanie will know that when Senator CORKER and his staff are in touch with them, that they are in touch with them

for all of us in the U.S. Senate and all of us as citizens of the State of Tennessee.

There is so much on television today that is horrible and violent and terroristic that we have become immune to it. It is almost an unreality. We don't want to believe any of it is true, until it hits home in Gatlinburg, TN, and happens to a bright young man whom everyone in the community seems to have known, one of those young men whom everybody looks at and says he is going to amount to something, we are going to watch him one day, and to a young woman from Lexington, KY, who met this young man at Vanderbilt's graduate school of management, not just in Sevier County, TN, and not just in Lexington, where so many people knew these two promising young Americans, but also in Nashville and the Vanderbilt community.

This is actually the third promising young life taken from the Vanderbilt school family. Taylor Force, a student there, was killed on a class visit to Israel a few weeks ago. At any time that is a horrifying, terrible thought, but this is a generation of young Americans who have grown up with the idea of living in the whole world, of making a contribution to the entire world. That is what Justin and Stephanie were doing when they went to Brussels with their companies, and now their lives are cut short by an evil act.

Our hearts go out to their families and to the communities from which they come in Gatlinburg, in Lexington, and in the Nashville Vanderbilt Owen school community. My personal thanks to Senator CORKER for doing what all of us want to do as well as we can, which is to be helpful to the families and express to them our appreciation for the lives of their children and our sorrow at what has happened to them.

Thank you, Mr. President.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

THE PRESIDING OFFICER. Morning business is now closed.

DEFEND TRADE SECRETS ACT OF 2015

THE PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1890, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1890) to amend chapter 90 of title 18, United States Code, to provide Federal jurisdiction for the theft of trade secrets, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defend Trade Secrets Act of 2016".