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Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our rock, we look to You for safety in a chaotic world. We are grateful that You hear our prayers, responding to our requests for help.

Be a shield for our Senators, protecting them from dangers seen and unseen. As they put their trust in You, fill them with Your Spirit, giving them confidence in the unfolding of Your powerful providence. Lord, remind them that no weapon formed against them will ultimately prosper. Lead them like a shepherd beside still waters, as You fill their hearts with Your peace.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. YOUNG). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Utah.

NOMINATION OF ANDREI IANCU

Mr. HATCH. Mr. President, I rise in support of the nomination of Andrei

Iancu to be Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office.

USPTO is critically important. It is a critically important agency that stands at the crossroads of innovation, technology, and property rights. It is tasked with ensuring that our laws properly compensate ingenuity and invention, while at the same time stopping bad actors who seek to game the system.

Intellectual property has been a focus of mine throughout my entire Senate service. Early in my tenure, I authored the Hatch-Waxman Act, which made possible the rise of the modern generic drug industry. More recently, I played a key role in the America Invents Act, which rebalanced our patent system to ensure high-quality patents and reduce abusive litigation. Just last Congress, I authored the Defend Trade Secrets Act, a landmark piece of legislation that created a federal private cause of action to prevent trade secret theft and other nefarious activity.

I have also led the charge against patent trolling—the practice of buying up patents solely for the purpose of bringing lawsuits—and argued forcefully that forum shopping in patent cases must not be allowed. I was gratified to see the Supreme Court last year strike a blow against abusive forum shopping in its TC Heartland decision.

In my remaining months here in this body, I intend to continue ahead full-bore on intellectual property reform. Digital music licensing, royalties for visual artists, and online filtering are just a few of my intellectual property priorities for this year.

Given my focus on intellectual property, I take a keen interest in the Patent and Trademark Office and in the individual selected to run the office. I have to say that I couldn't be more pleased by President Trump's nomination of Andrei Iancu to be the next USPTO Director.

Andrei has an extensive background in patent litigation. He is a partner at Irell & Manella, one of the Nation's leading intellectual property law firms. For 6 years, he was the firm's managing partner. Andrei has represented clients across the spectrum, from tech companies to drug manufacturers to aerospace firms. He understands all sides of patent law because he has litigated all sides.

In an area fraught with allegiances to particular industries or groups, Andrei can bring a neutral, unbiased perspective because he has already had to approach issues from so many different angles.

Andrei has been named a leader in intellectual property and patent law by Chambers USA every year for the last 11 years. He has been named attorney of the year by California Lawyer and lawyer of the year by the Los Angeles Business Journal. His bona fides are top notch. I have full confidence that Andrei will make an outstanding USPTO Director.

Subject-matter eligibility, PTAB reform, and continued controversies over forum shopping are just a handful of the issues that will soon be coming across his desk. There will also be questions about fee setting, fee diversion, and IT modernization. As I move forward on my intellectual property priorities this year, I look forward to working with Andrei and his future colleagues at USPTO to make our patent and trademark system the best it can possibly be.

We owe it to the American people to ensure that our intellectual property laws keep pace with our rapidly changing world. That has always been one of my chief focuses here in this body, and it will continue to be so throughout the rest of my term.

DATA PRIVACY

Mr. HATCH. Mr. President, I would also like to take a couple of minutes to

• This “buller” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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discuss a bill that I will be introducing with Senators COONS, GRAHAM, and WHITEHOUSE called the Clarify Lawful Overseas Use of Data Act, or the CLOUD Act. It is a tremendously important bill that will help to solve the problems that have arisen in recent years with cross-border law enforcement requests.

The rise of email and cloud computing has put our data privacy laws on a collision course with the privacy laws of other countries. Information in emails or in the cloud can be stored on servers virtually anywhere in the world. This means that when law enforcement seeks access to such information, the information may be located in another country.

This state of affairs causes problems both for law enforcement and for email and cloud computing providers. It causes problems for law enforcement because warrants traditionally stop at the water's edge and because laws in other countries may prohibit disclosure to foreign law enforcement, and it causes problems for email and cloud computing providers because they find themselves caught between orders by U.S. law enforcement to disclose data in other countries and laws in those other countries that may forbid such disclosure.

The question of whether warrants issued to U.S.-based providers may require providers to disclose data stored in other countries is currently before the U.S. Supreme Court in the United States v. Microsoft case. Oral argument in the case will be heard later this month.

No matter how the Court rules, however, problems will remain. Either law enforcement will lack the ability to obtain in a timely manner email and documents in the cloud that are stored overseas or providers will find themselves caught between conflicting domestic and foreign laws.

The CLOUD Act creates a clear, workable framework to resolve these problems. The bill has four key components.

First, it authorizes the United States to enter into bilateral data-sharing agreements with qualifying countries under which the United States agrees to lift its bar on disclosure to law enforcement in a qualifying country if that country similarly agrees to lift any bar it has on disclosure to U.S. law enforcement. The CLOUD Act sets forth stringent requirements for such agreements in order to ensure privacy and data security. In particular, it provides that any requests by foreign law enforcement to U.S. providers under such an agreement cannot target or request information on U.S. persons.

Second, the CLOUD Act clarifies that a warrant served on a U.S. provider may reach data stored overseas provided the data is within the provider's possession, custody, or control. This will enable U.S. law enforcement investigating crimes to obtain information stored overseas without having to re-

sort to cumbersome diplomatic channels.

Third, the CLOUD Act gives email and cloud computing providers the ability to challenge a warrant issued for data stored overseas if complying with the warrant would cause the provider to violate the laws of a foreign country. The court hearing such a challenge determines whether, in the interests of international comity, the warrant should be modified or quashed.

Finally, the CLOUD Act authorizes providers to disclose to a foreign government the fact that the provider has received a warrant for information stored in that country, provided the foreign government has entered into a bilateral data-sharing agreement, as previously described. This will enable the foreign government to assess compliance with the terms of the agreement and intervene diplomatically if it believes the request is inappropriate.

The CLOUD Act has broad support in both the tech community and among law enforcement. It bridges the divide that sometimes we see between these two groups.

The bill is an outgrowth of my International Communications Privacy Act, or ICPA, coupled with the United States-United Kingdom bilateral agreement framework that many of my colleagues are familiar with. Indeed, the United States-United Kingdom bilateral agreement framework outlined in the CLOUD Act is intended as a model for future agreements between the United States and other countries that are committed to privacy, human rights, and international law enforcement cooperation.

Expediently implementing similar agreements with the European Union and other allies is critical to protecting consumers around the world and facilitating legitimate law enforcement investigations.

I am pleased to be introducing this very important landmark legislation with my friends from Delaware, South Carolina, and Rhode Island, and intend to push hard to see it enacted in the very near future.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. SCHUMER. Mr. President, first, it is always a pleasure to hear from my friend, the Senator from Utah, when I agree with him and even when I don't.

Mr. HATCH. I thank my colleague.

Mr. SCHUMER. It is serious stuff.

FUNDING THE GOVERNMENT

Mr. SCHUMER. Mr. President, we must pass another extension of government funding by this Thursday. There isn't much time to waste, and yet Speaker RYAN is again considering a CROMnibus—a short-term extension of funding for urgent domestic priorities

but a long-term extension and a large increase in funding for defense—to placate the ultraconservatives in his caucus.

Of course, a CROMnibus is merely a ruse designed to slash funding for education, healthcare, infrastructure, and scientific research—all the things that many in the Freedom Caucus don't want the government to support. That is why 44 Senate Democrats warned our Republican colleagues in a letter last year that we wouldn't support a CROMnibus and that it could never pass the Senate.

We want to fund defense, absolutely, but we also want to fund programs that help the middle class, like education, like infrastructure, like scientific research. We are standing up and saying we must do both. That is how this body works. Different people have different views, and we compromise. Maybe there are some on my side who don't want to spend as much on defense as the Republican side does, but it is a compromise. I, for one, appreciate that we need robust defense spending.

Sending a CROMnibus to the Senate—one that just funded defense and cut programs crucial to the middle class—would be barreling head-first into a dead end. Speaker RYAN needs to do what is best for the country and work in a bipartisan way to fund the government, even if not every faction of his caucus will go along. If he lets the Freedom Caucus be the tail that wags the dog, there is no way we will reach an agreement that can pass the Senate, and it would jeopardize the positive discussions going on right now about the budget, disaster aid, immigration, and more.

REPUBLICAN TAX BILL

Mr. SCHUMER. Now, for a word on the Republican tax bill, even as corporations plow tens of billions of dollars into share-buybacks and stock-repurchasing programs, instead of raising wages or hiring more workers, President Trump and congressional Republicans are doing their best to portray their \$1.5 trillion corporate giveaway as a boost to working Americans.

I am sure that President Trump's address in Ohio today will focus on the few companies that have given bonuses, but I wonder how many of those bonuses delivered around Christmas were annual and would have been given anyway. I wonder how many of those bonuses were linked to the tax bill in corporate press releases to curry favor with the President, even though they would have been given anyway.

I bet President Trump will not mention a thing about the slew of layoffs and stock buybacks in the wake of the bill. I bet he will not dare mention that 80 percent of the benefits of this bill went to the top 1 percent and that the middle class should have gotten a lot more than they are getting. We all know that corporations have spent billions enriching their shareholders,