

March 19, 2024

The Honorable Jason Smith
Chairman
U.S. House Ways & Means Committee
1101 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
U.S. House Ways & Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Smith and Ranking Member Neal:

The Advancing America's Interests Act (H.R. 3535) adds significant hurdles to the ability of the U.S. International Trade Commission (ITC) to prevent products that infringe U.S. intellectual property (IP) rights from being imported into the United States. For more than a decade, Big Tech companies have advocated this bill to make it easier for them to keep their manufacturing supply chains in China rather than the United States.

The so-called Advancing America's Interests Act should be soundly rejected.

Making it easier to import products from China is unwise. Making it easier to import from China products that infringe U.S. intellectual property is the self-inflicted weakening of our innovative edge. The foundation for the tariffs President Trump imposed on Chinese imports was to respond to China's wholesale violations of U.S. IP rights. There is no justification for rewarding China by weakening the ITC.

George Mason University law professor Adam Mossoff explains, "What Big Tech companies want is clear: a free pass to pirate inventions they didn't invent and to import infringing products manufactured in China. . . . Applying rules of evidence and due process, the ITC has consistently rejected Big Tech's rhetoric. Congress should do the same and reject the AAIA, a bill that would serve only to hurt American innovators and bolster China."¹

The same special interests that favor H.R. 3535 misguide, claiming that the ITC was designed to go after imports from foreign companies. They assert that U.S. companies shouldn't be subject to exclusion orders. In truth, though, the only thing that has changed since the ITC was created is that, in recent decades, Big Tech companies moved most of their manufacturing to China. That makes them subject to the ITC.

The Big Tech proponents of H.R. 3535 claim it's needed because "patent trolls" are "increasingly flocking" to the ITC and holding American innovators hostage for spurious litigation settlements. Pardon the pun, but this is patently false. A total of 32 patent

¹ Adam Mossoff, "Big Tech's 'patent troll' attacks are a smokescreen — don't let them fool you," *The Hill*, Aug. 18, 2023 (<https://thehill.com/opinion/technology/4157340-big-techs-patent-troll-attacks-are-a-smokescreen-dont-let-them-fool-you/>).

infringement cases was filed at the ITC in 2023, the lowest number in years, and down over 40 percent from the 54 such cases filed the year prior.² These caseload numbers demonstrate that, while the ITC serves an important role, it is a highly limited one that simply doesn't involve that many people. Infringers lack credible evidence of a problem.

If companies want to avoid having their imports blocked by the ITC, they can return their supply chains to the United States, stop infringing U.S. innovators' IP, or both. Weakening the ITC will only facilitate keeping U.S. supply chains in China.

We urge you to oppose the Advancing America's Interests Act.

Respectfully,

James Edwards
Executive Director
Conservatives for Property Rights

Ed Martin
President
Phyllis Schlafly Eagles
Eagle Forum Education & Legal Defense Fund

Seton Motley
President
Less Government

Richard Manning
President
Americans for Limited Government
Americans for Limited Government Foundation

Jenny Beth Martin
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Tea Party Patriots Action

Kevin L. Kearns
President
U.S. Business & Industry Council

Charles Sauer
President
Market Institute

Bob Carlstrom
President
AMAC Action

James L. Martin
Founder/Chairman
60 Plus Association

Saulius "Saul" Anuzis
President
American Association of Senior Citizens

C. Preston Noell III
President
Tradition, Family, Property, Inc.

Maureen Blum
President
Strategic Coalitions & Initiatives, LLC

Dick Patten
President
American Business Defense Council

Anthony Zagotta
President
Center for American Principles

² WIT Legal, *2023 in Review: Key ITC Insights* (<https://assets.law360news.com/1803000/1803843/itc-report.pdf>).

cc: Speaker of the House Mike Johnson
House Minority Leader Hakeem Jeffries
House Trade Subcommittee Chairman Adrian Smith
House Trade Subcommittee Ranking Member Earl Blumenauer

* Organization names are given for identification purposes.