



Chairman Devin Nunes
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

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Chairman Nunes:

The Institute for Liberty is a not-for-profit advocacy organization based here in Washington, DC, focusing on federal public policy. Two of our areas of expertise are private property rights (including intellectual property rights), and global trade policy. We believe in a rational, common-sense approach to trade (and the protection of intellectual property rights), and as such, appreciate the time you are taking to examine the U.S. trade agenda and our relationship and membership in the World Trade Organization (WTO).

Part and parcel of a rational, common-sense approach to trade policy is the recognition of the WTO's important role in resolving disputes regarding international trade agreements. Further, we share the mission of seeking to reduce or unwieldy tariffs. But not all tariffs that harm free trade principles are simply affixed to the price of imports. Foreign countries like China, France, Japan, and Taiwan have taken an offensive footing into the intellectual property arena by erecting government-sponsored "patent trolls" (GSPTs) which raise the price of goods from would-be commercial competitors outside their borders. Further, it is our belief that WTO member states that control entities like these are likely in violation of numerous trade obligations under the WTO.

The offensive actions of GSPTs are akin to the protectionist industrial policies of many 19th-century regimes. Exacerbating the problem, because national governments are tasked with regulating intellectual property rights; GSPTs create a tremendous inherent conflict as the regulators and lawmakers then become the shareholders as well. Foreign governments cannot both be authoritarian regulatory agents *and* market actors at the same time. Otherwise, they are placed at an unfair advantage relative to their competitors, and become the very essence of crony capitalist states (or crony communist states).

Consider China's Ruichuan IPR Funds, France Brevets, the Innovation Network Corporation of Japan, or Taiwan's Industrial Technology Research Institute. These quasi-governmental/quasi-market actor entities are setting a dangerous precedent that could set off an international "race to the bottom" which encourages other nations to either start their own GSPT or risk falling behind in a globalized marketplace. France Brevets has openly and proudly asserted that they will be using their acquired patents to the benefit of only companies within their borders, while taking offensive legal action exclusively against foreign companies.

In the past, Chairman Nunes, you have previously taken leadership by presenting draft legislation designed to reign in foreign abuse of the Tariff Act of 1930, 19 U.S.C. § 1337, known as "Section 337," with particular focus on foreign entities which lack actual domestic industry through significant expenditures in plant, equipment, labor, or capital. GSPTs like those listed above serve as the epitome of these abuses. France Brevets and Taiwan's Industrial Technology Research Institute have already taken infringement actions in the U.S. District Court for the Eastern District of Texas, which has a well-known reputation for siding with patent infringement plaintiffs (as we are certain you are well-aware, the Eastern District of Texas is the epicenter of America's domestic patent troll problem, plaguing entrepreneurs throughout the nation).

Never has it been more imperative that the U.S. demonstrate vigilance in foreign trade policy and priorities, particularly in the face of protectionist foreign governments who choose to abuse the system on which we rely. We must push back against the cronyism of other nations. Foreign governments which fund and control GSPTs are colluding with their country's corporate assets. This massive subsidization by nations who host GSPTs tips the scales of the free market and serves to undermine our nation's economic interests and role in global trade

Thank you for the committee's attention to these and other vital trade related concerns. If you have any questions or require additional information from the Institute for Liberty, do not hesitate to contact me at (202) 261-6592 or via email at Andrew.Langer@InstituteForLiberty.org

Respectfully,

Andrew Langer, President
Institute for Liberty