

118TH CONGRESS
2D SESSION

H. R. 8924

To require the Secretary of Commerce to identify and report on foreign adversary entities using intellectual property related to emerging technology without a license, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 2024

Mrs. KIM of California (for herself and Mr. MOOLENAAR) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To require the Secretary of Commerce to identify and report on foreign adversary entities using intellectual property related to emerging technology without a license, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting American
5 Innovation and Development Act of 2024” or the “PAID
6 Act of 2024”.

1 **SEC. 2. STATEMENT OF POLICY.**

2 Section 1752(2) of the Export Control Reform Act
3 of 2018 (50 U.S.C. 4811(2)) is amended by inserting after
4 subparagraph (G) the following:

5 “(H) To ensure the continued strength
6 and leadership of the United States in the re-
7 search and development of critical and emerg-
8 ing technologies.”.

9 **SEC. 3. PUBLIC TRANSPARENCY REGARDING FOREIGN AD-**
10 **VERSARY ENTITIES USING INTELLECTUAL**
11 **PROPERTY RELATED TO CRITICAL OR**
12 **EMERGING TECHNOLOGY WITHOUT A LI-**
13 **CENSE.**

14 (a) IN GENERAL.—Part I of the Export Control Re-
15 form Act of 2018 (50 U.S.C. 4811 et seq.) is amended
16 by inserting after section 1758 the following:

17 **“SEC. 1758A. PUBLIC TRANSPARENCY REGARDING FOR-**
18 **EIGN ADVERSARY ENTITIES USING INTEL-**
19 **LECTUAL PROPERTY RELATED TO CRITICAL**
20 **OR EMERGING TECHNOLOGY WITHOUT A LI-**
21 **CENSE.**

22 “(a) IDENTIFICATION.—

23 “(1) IN GENERAL.—The Secretary shall publish
24 in the Federal Register a notice that identifies a for-
25 eign adversary entity if a majority of the members
26 of the End-User Review Committee determines that

1 the foreign adversary entity is using a patented in-
2 vention or covered trade secret without a license, in-
3 cluding if a majority of the members of the Com-
4 mittee determines that the foreign adversary enti-
5 ty—

6 “(A) is manufacturing or selling a product
7 that incorporates a patented invention or cov-
8 ered trade secret without a license;

9 “(B) acquired a patented invention or cov-
10 ered trade secret through improper means, in-
11 cluding—

12 “(i) theft;

13 “(ii) bribery;

14 “(iii) misrepresentation;

15 “(iv) breach of, or an inducement of a
16 breach of, a duty to maintain secrecy; or

17 “(v) espionage; or

18 “(C) disclosed a patented invention or cov-
19 ered trade secret without express or implied
20 consent.

21 “(2) IDENTIFICATION BY PETITION.—

22 “(A) IN GENERAL.—A United States per-
23 son may submit a petition to the End-User Re-
24 view Committee requesting the Committee to
25 make a determination in accordance with the

1 requirements of paragraph (1) for purposes of
2 the Secretary publishing in the Federal Reg-
3 ister a notice that identifies a foreign adversary
4 entity in accordance with the requirements of
5 paragraph (1) if the United States person—

6 “(i) has reason to believe that a for-
7 eign entity is using a patented invention or
8 covered trade secret without a license; and

9 “(ii) is the owner of that patented in-
10 vention or covered trade secret.

11 “(B) DEADLINE.—After the End-User Re-
12 view Committee receives a petition submitted
13 under subparagraph (A), the Committee shall
14 make a determination with respect to the peti-
15 tion in accordance with the requirements of
16 paragraph (1) not later than 90 days after the
17 date on which the Committee receives the peti-
18 tion.

19 “(3) REMOVAL.—

20 “(A) IN GENERAL.—The Secretary shall
21 publish in the Federal Register a subsequent
22 notice with respect to a foreign adversary entity
23 identified in the Federal Register under the
24 process described in this section if the Sec-
25 retary, in consultation with the other members

1 of the End-User Review Committee, determines
2 that there is prima facie evidence that the for-
3 eign adversary entity—

4 “(i) is no longer using a patented in-
5 vention or covered trade secret without a
6 license; or

7 “(ii) is using a patented invention or
8 covered trade secret without a license,
9 but—

10 “(I) has entered into an agree-
11 ment for such use with the owner of
12 the patented invention or covered
13 trade secret; or

14 “(II) has entered into binding ar-
15 bitration with the owner of the pat-
16 ented invention or covered trade se-
17 cret to set the terms for such use.

18 “(B) REMOVAL BY PETITION.—If a foreign
19 adversary entity identified in the Federal Reg-
20 ister under the process described in this section
21 for using a patented invention or covered trade
22 secret without a license, or the owner of the
23 patented invention or covered trade secret, be-
24 lieves that the foreign adversary entity meets
25 the conditions described in clause (i) or (ii) of

1 subparagraph (A), the foreign adversary entity
2 or the owner of the patented invention or cov-
3 ered secret may petition the Secretary to have
4 the Secretary publish in the Federal Register a
5 subsequent notice with respect to the foreign
6 adversary entity.

7 “(b) REPORT REQUIRED.—Upon request from any of
8 the appropriate congressional committees, the Secretary
9 shall submit to the appropriate congressional committees
10 a report that includes a list of all foreign adversary enti-
11 ties identified in the Federal Register under the process
12 described in this section, including a written explanation
13 of the reasons therefor.

14 “(c) DEFINITION OF CRITICAL OR EMERGING TECH-
15 NOLOGY.—In this section, the term ‘critical or emerging
16 technology’ includes any technology defined by the Under
17 Secretary of Defense for Research and Engineering as a
18 ‘critical technology area’ as soon as practicable on or after
19 the date of the enactment of this section.

20 “(d) OTHER DEFINITIONS.—In this section:

21 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
22 TEES.—The term ‘appropriate congressional com-
23 mittees’ means—

24 “(A) the Committee on Banking, Housing,
25 and Urban Affairs of the Senate; and

1 “(B) the Committee on Foreign Affairs
2 and the Select Committee on the Strategic
3 Competition Between the United States and the
4 Chinese Communist Party of the House of Rep-
5 resentatives.

6 “(2) END-USER REVIEW COMMITTEE.—The
7 term ‘End-User Review Committee’ means the End-
8 User Review Committee described in Supplement
9 No. 9 to part 748(1) of the Export Administration
10 Regulations, or any successor regulation, as making
11 decisions related to export controls.

12 “(3) FOREIGN ADVERSARY.—The term ‘foreign
13 adversary’ means—

14 “(A) the People’s Republic of China (in-
15 cluding the Special Administrative Regions of
16 China, including Hong Kong and Macau);

17 “(B) the Russian Federation;

18 “(C) the Republic of Cuba;

19 “(D) the Democratic People’s Republic of
20 Korea;

21 “(E) the Islamic Republic of Iran; and

22 “(F) the Venezuelan regime under the
23 leadership of Nicolas Maduro.

24 “(4) FOREIGN ADVERSARY ENTITY.—The term
25 ‘foreign adversary entity’—

1 “(A) means—

2 “(i) an individual who is a citizen or
3 national (as defined in section 101(a) of
4 the Immigration and Nationality Act (8
5 U.S.C. 1101(a))) of a foreign adversary;

6 “(ii) an entity that is headquartered
7 in, or organized under the laws of, or has
8 its principal place of business in a foreign
9 adversary;

10 “(iii) an entity subject to the control
11 (as that term is defined in section 800.208
12 of subpart B of chapter VIII of title 31,
13 Code of Federal Regulations, or any suc-
14 cesssor regulations) of any entity or com-
15 bination of entities described in clause (i)
16 or (ii); or

17 “(iv) any successor, subsidiary, or af-
18 filiate of any entity described in clause (i),
19 (ii), or (iii); but

20 “(B) does not include any entity with re-
21 spect to which—

22 “(i) a majority of the equity interest
23 in the entity is owned by nationals of the
24 United States and nationals of such coun-
25 tries (other than a foreign adversary) as

1 are identified for purposes of this subpara-
2 graph pursuant to regulations prescribed
3 by the Secretary; or

4 “(ii) its ultimate parent entity is an
5 entity organized under the laws of, and
6 headquartered in, the United States or its
7 States, territories, or subdivisions.

8 “(5) OWNER OF THE PATENTED INVENTION OR
9 COVERED TRADE SECRET.—The term ‘owner of the
10 patented invention or covered trade secret’ means—

11 “(A) in the case of a patented invention,
12 the person or entity in whom or in which right-
13 ful legal or equitable title to, or license in, the
14 applicable patent is reposed; and

15 “(B) in the case of a covered trade secret,
16 the person or entity in whom or in which right-
17 ful legal or equitable title to, or license in, the
18 applicable trade secret is reposed.

19 “(6) PATENTED INVENTION.—The term ‘pat-
20 ented invention’ means an invention—

21 “(A) related to critical or emerging tech-
22 nology; and

23 “(B) protected by a patent—

24 “(i) issued under title 35, United
25 States Code; and

1 “(ii) with respect to which the rightful
2 legal or equitable title to, or license in such
3 patent is reposed in a United States per-
4 son.

5 “(7) COVERED TRADE SECRET.—The term ‘cov-
6 ered trade secret’ means a trade secret (as such
7 term is defined in section 1839 of title 18, United
8 States Code)—

9 “(A) related to critical or emerging tech-
10 nology; and

11 “(B) with respect to which the rightful
12 legal or equitable title to, or license in, the
13 trade secret is reposed in a United States per-
14 son.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 2(b) of the John S. McCain National Defense
17 Authorization Act for Fiscal Year 2019 and the table of
18 contents at the beginning of title XVII of division A of
19 such Act are each amended by inserting after the item
20 relating to section 1758 the following new item:

“Sec. 1758A. Public transparency regarding foreign adversary entities using in-
tellectual property related to critical or emerging technology
without a license.”.

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