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"A Message to Congress: Keep Your Hands Off the Patent Office"

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*Paul Ryan:  
Hands off the  
patent office.*

It is axiomatic that the struggling U.S. economy is slowly climbing out of its hole. President Obama and our elected representatives regularly wax eloquent about job growth, innovation and the opportunity and future for the once-great United States. But the recovery, critics say, given the depths of the worldwide economic melt-down of 2008, is far too anemic, and job growth too stunted, all because of cumbersome, growth-stifling laws and policies. It is also axiomatic that most, if not all, net job creation in the U.S. today comes from small, entrepreneurial companies less than five years old. As Kauffman Foundation economist Tim Kane, has said, "When it comes to U.S. job growth, start-up companies aren't everything. They're the only thing."

Receiving a disproportionate and unfair share of the blame for this economic malaise is the United States Patent and Trademark Office. Led since 2009 by Obama appointee and long time IBM veteran David Kappos, the PTO, depending on whom you ask, is credited with granting too many patents, granting too few patents and granting inferior patents. The overwhelming consensus seems to be that the office is severely underfunded and dysfunctional, has too few examiners, has inferior outdated technology and is helplessly backlogged with over 800,000 unprocessed patent applications. The result, according to the critics, is that the U.S. is perpetually losing ground amidst the onslaught of foreign competition.

So, assuming small entrepreneurial companies are ground zero for new ideas, innovation and job growth, and ultimately instrumental in the recovery and competitiveness of the U.S. economy on the global stage, why must Congress habitually steal the PTO's resources and divert them for other purposes? In the last fifteen years Congress has diverted for its own reasons nearly \$1,000,000,000 in PTO fees, \$100,000,000 in the last budgetary cycle alone. This from a job creating engine that receives no taxpayer dollars and is the sole self-funded government agency, supported 100 percent by the patent fees of individual inventors, universities and creative companies.

Because the critics believe the patent system hopelessly broken, 15 large American technology companies have spearheaded a completely self-serving initiative to rewrite the patent laws, all in an effort to insulate themselves from the competitive threat posed by the very job engines upon which our economy and our standard of living are so dependent. The initiative is so self-serving, in fact that representatives for entrepreneurs and small business were not invited to participate at the March 30 Congressional hearings on patent reform.



America's founders studied European patent laws when creating our government and intentionally implemented a patent system they believed enhanced society's welfare. British patent laws were heavily skewed to the benefit of the wealthy, with patent fees levied at 10 times the annual income of the average British citizen. America's first patent law, in 1790, levied a fee only 5% of Britain's. The result: America, with half the population, surpassed Britain in patented inventions within 13 years. Less than 100 years later, the United States was the invention capital of the world, patenting inventions at three times the rate of Britain on a per capita basis. America's innovation leadership is no accident. It is directly tied to a patent system specifically geared to creative and business minded inventors. The result is the most powerful economy in the world.

The competition is not sitting still. The U.S. PTO receives 500,000 patent applications annually. By contrast, China has developed a National Intellectual Property Strategy, aggressively targeting 2 million Chinese patent applications annually by 2015, spurring initiative and innovation with cash rewards, houses and tax breaks. The government has issued 250 specific measures for its various governmental agencies in areas including legislation, enforcement, trials and education, and it promises infrastructure for quicker patent filing, examining and granting of patents. This initiative is believed to be the only one of its kind. By 2020, China intends to quadruple patent applications domestically and in foreign countries, a staggering number.

The U.S. Federal Trade Commission recently released a report called "[The Evolving IP Marketplace](#)," which concluded that intellectual property, including patents, comprises 80 percent of corporate net worth in the U.S. today. This is not lost on David Kappos, who has consistently and forcefully lobbied for increased funding for his department. He candidly acknowledges the challenges of working through his department's backlog with limited resources. He admits that every patent application his department fails to process is an American job that is not created and could ultimately cost the U.S. economy "billions of dollars annually in foregone innovation." London Economics, a British research group, conservatively puts the annual tab of "foregone innovation" created by the current patent backlog at \$6.4 billion each year.

The problem is not our patent system. The problem is a meddlesome Congress which starves and diverts resources from our economy's best hope at regaining America's worldwide competitiveness, not to mention American Exceptionalism.

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