

THE IP COMMISSION

THE COMMISSION ON THE THEFT OF
AMERICAN INTELLECTUAL PROPERTY

The Commission on the Theft of American Intellectual Property (IP Commission) is an independent and bipartisan initiative established at the National Bureau of Asian Research (NBR) in 2012 to examine the scale, scope, and consequences of intellectual property (IP) theft.

Led by Admiral Dennis C. Blair and Governor Jon M. Huntsman Jr., the IP Commission brings together expertise from industry, defense, and politics to provide concrete policy recommendations that address the problem of IP theft. The Commission published reports in 2013 and 2017 and additional recommendations in 2018 and 2019. These documents are available at IPCommission.org.

IP COMMISSION 2021 REVIEW

Updated Recommendations

March 2021

I. The Challenge of IP Theft

- IP-intensive industries support more than 45 million U.S. jobs. IP theft costs the U.S. economy hundreds of billions of dollars annually and reduces U.S. companies' R&D investment and innovation.
- Addressing this challenge is central to resolving broader trade, security, foreign policy, and leadership issues with China, which remains the largest origin of IP theft.

II. Priority Actions for the Biden Administration

Elevate responsibility for IP protection and messaging. The scale and scope of IP theft is a high-priority issue, requiring the attention and skill of the most senior U.S. officials.

- Provide statutory responsibility and authority to the secretary of commerce to serve as the principal official to manage all aspects of IP protection.
- Designate the U.S. trade representative to develop an IP protection strategy and policy and the national security advisor to serve as the principal IP strategy and policy coordinator of the interagency process.
- Set a national goal to delegitimize Chinese indigenous innovation efforts that are dependent on the theft of foreign IP.

Change the cost-benefit calculus of IP theft. IP violations must have consequences. Costs must be sufficiently high that state and corporate support of such acts is fundamentally changed, including by denying infringing products access to the U.S. market.

- Deny the use of the U.S. banking system to foreign companies that repeatedly benefit from the misappropriation of U.S. IP.
- Ensure robust endorsement and enforcement of International Trade Commission decisions to block products containing stolen IP from being imported into the United States under Section 337.
- Instruct the Federal Trade Commission to implement meaningful sanctions against foreign companies using stolen IP.
- Further strengthen the Foreign Investment Risk Review Modernization Act process to include the evaluation of IP protection as a condition for investment in the United States.
- Require the Securities and Exchange Commission to subject companies known to engage in IP theft to executive and auditor disclosure rules.

Increase the speed and force with which IP theft is identified and remedied. Damage from IP theft can quickly decimate a business. Actions are needed to ensure that authorities respond with haste.

- Streamline and expedite the Section 337 process to provide more timely protection against infringing imports.
- Augment a streamlined Section 337 process with a quick-response capability to block imported goods with stolen or pirated materials or made with a business process using illegally procured IP.

Better inform U.S. businesses regarding threats of IP theft abroad. It is essential to identify, punish, and publicize bad actors, on both a country and company basis.

- Create a multinational registry to share information on bad actors.
- Deny bad actors access to the U.S. market if they have a record of stealing IP.

III. Additional Areas of Focus in 2021

The IP Commission will focus its research this year on the following areas:

Phase 1 U.S.-China trade deal. Evaluate the implementation of IP provisions; assess alternative approaches to protecting U.S. IP.

The evolving digital environment. Analyze the role of digital trade agreements in trade policy; recommend ways to further stigmatize digital IP theft and ensure that regulations for digital trade keep pace with emerging IP threats.

Global supply chains. Evaluate supply chain accountability issues; recommend measures to strengthen IP protection throughout global supply chains.

—— ABOUT THE IP COMMISSION ——

The IP Commission is an independent and bipartisan initiative of American leaders from the private sector, public service in national security and foreign affairs, academia, and politics. The IP Commission published reports in 2013 and 2017 documenting and assessing the causes, scale, and other major dimensions of international intellectual property theft as they affect the United States. The reports also proposed appropriate U.S. policy responses that would mitigate ongoing and future damage of intellectual property rights by China and other infringers.

—— COMMISSION MEMBERS ——

Chair

- Admiral Dennis C. Blair, Knott Professor of the Practice at the University of North Carolina, former commander of the U.S. Pacific Command, and former U.S. director of national intelligence

Co-chair Emeritus

- Jon M. Huntsman, Jr., former ambassador of the United States to Russia, China, and Singapore, governor of the State of Utah, and deputy U.S. trade representative

Other Commissioners

- Charles W. Boustany, Jr., counselor to the National Bureau of Asia Research, former six-term U.S. representative from Louisiana
- William J. Lynn III, CEO of Leonardo DRS
- Deborah Wince-Smith, president and CEO of the Council on Competitiveness
- Michael K. Young, president emeritus of Texas A&M University, professor at the Bush School of Government and Public Administration at Texas A&M University

—— COMMISSION DIRECTORS ——

Executive Director

- Roy Kamphausen, president, the National Bureau of Asian Research

Executive Director (emeritus)

- Richard J. Elling, president emeritus and counselor, the National Bureau of Asian Research