

### 117TH CONGRESS 1ST SESSION

# S. 1924

To direct the President to enforce the intellectual property provisions of the Economic and Trade Agreement Between the Government of the United States of America and the Government of China, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

May 27, 2021

Mr. Daines (for himself and Ms. Cortez Masto) introduced the following bill; which was read twice and referred to the Committee on Finance

# A BILL

- To direct the President to enforce the intellectual property provisions of the Economic and Trade Agreement Between the Government of the United States of America and the Government of China, 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 IP Act of
  - 5 2021".
  - 6 SEC. 2. AGREEMENT DEFINED.
  - 7 In this Act, the term "Agreement" means the Eco-
  - 8 nomic and Trade Agreement Between the Government of

- 1 the United States of America and the Government of
- 2 China, dated January 15, 2020.

#### 3 SEC. 3. SENSE OF CONGRESS.

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- 4 It is the sense of Congress that—
- (1) the Agreement includes significant mandates for the People's Republic of China related to its domestic intellectual property regime, including with respect to copyrights, trademarks, trade secrets, and patents;
  - (2) the changes included in the Agreement, if implemented effectively, should improve the domestic intellectual property framework of the People's Republic of China, which has historically proven to harm the innovation and creative communities in the United States;
  - (3) despite commitments made by the Government of the People's Republic of China under the Agreement, ongoing market access barriers, uneven enforcement, measures requiring forced technology transfer, and serious deficiencies in the rule of law continue to make the business environment in the People's Republic of China highly challenging for rights holders in the United States;
- 24 (4) as reflected in the 2021 report by the 25 United States Trade Representative required under

- 1 section 182(h) of the Trade Act of 1974 (19 U.S.C. 2 2242(h)) (commonly referred to as the "Special 301 3 Report"), the People's Republic of China has con-4 sistently been listed in that annual report since 1989 5 as a trading partner of the United States that "fails 6 to provide adequate and effective IP protection and 7 enforcement for U.S. inventors, creators, brands, 8 manufacturers, and service providers, which, in turn, 9 harm American workers"; and
  - (5) Congress encourages the United States
    Trade Representative, the Attorney General, the
    Secretary of State, the Secretary of Homeland Security, the Secretary of Commerce, and the Director of
    the United States Patent and Trademark Office—
    - (A) to use all available tools to ensure that the People's Republic of China fully implements its commitments under the Agreement; and
    - (B) to actively consider additional means to require the People's Republic of China to address unfair market access barriers, forced technology transfer requirements, and broader intellectual property theft concerns, including through future trade agreements and working with partners in multilateral organizations,

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1	such as the Group of 7 (G7), the Group of 20
2	(G20), and the World Trade Organization.
3	SEC. 4. ENFORCEMENT OF INTELLECTUAL PROPERTY PRO-
4	VISIONS OF ECONOMIC AND TRADE AGREE-
5	MENT BETWEEN THE GOVERNMENT OF THE
6	UNITED STATES OF AMERICA AND THE GOV-
7	ERNMENT OF CHINA.
8	The President, acting through the United States
9	Trade Representative, shall coordinate with the heads of
10	such Federal agencies as the President considers appro-
11	priate to enforce the actions related to intellectual prop-
12	erty laid out in the Agreement including—
13	(1) the civil, administrative, and criminal proce-
14	dures and deterrent-level civil and criminal penalties
15	provided in the Agreement; and
16	(2) by using the full enforcement authority of
17	the President, including any enforcement authority
18	in connection with the identification and reporting
19	process under section 182 of the Trade Act of 1974
20	(19 U.S.C. 2242).
21	SEC. 5. REPORT ON STATUS OF IMPLEMENTATION OF CER-
22	TAIN OBLIGATIONS.
23	(a) In General.—Not later than 180 days after the
24	date of the enactment of this Act, and every 180 days
25	thereafter, the United States Trade Representative shall

- 1 submit to the appropriate committees of Congress a report
- 2 on the status of the implementation by the People's Re-
- 3 public of China of its obligations under Chapter 1 of the
- 4 Agreement.
- 5 (b) Information in Report.—Each report required
- 6 by subsection (a) shall contain information sufficient to
- 7 enable the appropriate committees of Congress to assess
- 8 the extent of the compliance by the People's Republic of
- 9 China with the Agreement, including appropriate quan-
- 10 titative metrics.
- 11 (c) Appropriate Committees of Congress De-
- 12 FINED.—In this section, the term "appropriate commit-
- 13 tees of Congress" means the Committee on Finance of the
- 14 Senate and the Committee on Ways and Means of the
- 15 House of Representatives.

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