

May 11, 2021

The Honorable Patrick Leahy
Chairman
United States Senate Committee on
Appropriations
Room S-146A, The Capitol
Washington, DC 20510

The Honorable Robert Menendez
Chairman
United States Senate Committee on Foreign
Relations
444 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Vice Chairman
United States Senate Committee on
Appropriations
Room S-128, The Capitol
Washington, DC 20510

The Honorable James Risch
Ranking Member
United States Senate Committee on Foreign
Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy, Chairman Menendez, Vice Chairman Shelby and Ranking Member Risch:

The undersigned associations ask you to work with the U.S. Department of State to prioritize the work of its Office of Authentication to strengthen American competitiveness and protect critical American innovation and intellectual property around the world, including in China.

The Department of State's authentication process forms the foundation for documents to be filed in foreign jurisdictions where American companies do business. Unfortunately, this vitally important function has become a chokepoint, with long delays that are preventing U.S. companies from securing market access and protecting intellectual property rights in critical markets. In practice, these delays mean that businesses cannot obtain authenticated papers for timely court, administrative and regulatory filings needed to secure such rights and access.

Before the pandemic, the Office of Authentication could authenticate documents in about one day to one week, whereas now, lag time runs approximately 15-20 weeks. With some foreign filing deadlines as short as three months (e.g., in China), the State Department delays handicap businesses seeking to protect their intellectual property and the brand value that depend on the effective enforcement of trademark and other intellectual property rights against infringement. When American businesses cannot enforce their rights abroad, bad actors receive a free pass to steal U.S. intellectual property and use it to distort competition and the global marketplace. Furthermore, such delays may interfere with U.S. companies' ability to fulfill regulatory documentation requirements in a timely fashion for their products, including innovative ones. This would include areas like product certifications and customs compliance that have implications for U.S exports and market share.

We are sympathetic to the financial and staffing constraints facing this division of the State Department, but also recognize the existence of and need for creative solutions to overcome these delays. We ask you to work with the State Department to find and implement such solutions to help ensure that no American company loses its intellectual property rights and market share overseas because of long delays in our own government.

We are happy to provide you with any additional information you might require.

Sincerely,

