



**Conservatives  
for  
Property Rights**



September 23, 2024

The Honorable Maggie Hassan  
324 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Mike Braun  
404 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senators Hassan and Braun:

We write to voice our opposition to the Medication Affordability and Patent Integrity Act (S. 2780). We are concerned that the legislation, though well-intentioned, could hinder innovation and even give America's rivals access to valuable trade secrets.

Conservatives for Property Rights is a coalition dedicated to upholding private property rights, which form the foundation of free enterprise. Particularly, we recognize the role patents and other IP protections play in advancing American economic prosperity, technological leadership, and global competitiveness. IP-intensive industries account for roughly 41 percent of U.S. domestic economic activity and 44 percent of all U.S. employment.<sup>1</sup>

S. 2780 would obligate drug developers to disclose data related to Food and Drug Administration (FDA) approval to the U.S. Patent and Trademark Office (PTO), even if such data isn't relevant to a drug's patentability. Under the bill, firms would also have to provide sweeping certifications to both agencies. A failure to comply with these burdensome requirements could result in patents being invalidated or regulatory approval being withheld or revoked, reducing incentives for future life-saving innovation.

The bill is also based on the false premise that drug companies frequently make contradictory or fraudulent statements to the FDA or PTO. However, there is no evidence that this is systematically occurring. The PTO's duty of disclosure, candor, and good faith already prohibits this and similar misconduct.<sup>2</sup>

Forcing companies to disclose potentially thousands of pages of irrelevant information to the PTO could overburden the agency, which already faces a backlog of nearly

---

<sup>1</sup> <https://patentlyo.com/patent/2022/03/intellectual-property-economy.html>

<sup>2</sup> <https://www.uspto.gov/web/offices/pac/mpep/s2001.html>

800,000 applications.<sup>3</sup> In general, PTO staff are not trained to evaluate complex clinical data relating to safety and efficacy; that is the job of the FDA.

Lastly, we worry that S. 2780 would put the United States' leadership in bioscience innovation in jeopardy. Requiring that firms share sensitive information such as trade secrets and other confidential data with the PTO would put that information at risk of disclosure. China and other hostile nations would welcome the opportunity to capitalize on U.S. innovators' valuable trade secrets, research methods, and other IP, which are often the result of billions of dollars in R&D investment.

We believe that you, the sponsors of S. 2780, have good intentions. However, this bill is unnecessary and could inadvertently hobble America's world-leading patent system by erecting new bureaucratic hurdles and weakening confidence in critical property rights.

Thank you for your attention to this important matter. Please do not hesitate to contact us with any questions you may have.

Sincerely,

James Edwards, Ph.D.  
Founder and Executive Director

cc: Chairman, Ranking Member, and Members of the Senate HELP Committee

---

<sup>3</sup> <https://www.uspto.gov/dashboard/patents/production-unexamined-filing.html>