

January 26, 2017

President Donald J. Trump
The White House
Washington, DC 20500

Dear Mr. President:

We write to express our deep disappointment with the recent decision of the Federal Trade Commission ("FTC") to issue a flurry of last-minute complaints against U.S. companies days before your administration took office, and urge you to effect swift changes in FTC policies and leadership by appointing Maureen Ohlhausen as permanent Chair of the FTC. Commissioner Ohlhausen has pledged to uphold intellectual property rights and undertake only evidence-based antitrust investigations, in contra-distinction to the politically motivated actions taken by the outgoing FTC that harm U.S. companies relative to Asian competitors. We acknowledge and appreciate her being named acting FTC chair.

We are particularly concerned with the decision by outgoing FTC leadership to bring a rushed and reckless complaint against Qualcomm only three days before you took office. The FTC's complaint against Qualcomm is midnight regulation at its worst -- a misuse of antitrust litigation to promote a destructive policy agenda that aims to undercut patent property rights and conservative free market principles. Throughout her tenure as Democratic chair of the FTC, Edith Ramirez has repeatedly used indefensible Section 5 enforcement theories to advance antitrust policies that weaken U.S. patent rights to the detriment of America's technology leadership, competitiveness and jobs. The FTC's complaint against Qualcomm is the latest example of this destructive agenda.

As Commission Ohlhausen stated in her strongly worded dissent, the FTC's complaint against Qualcomm is legally baseless, lacking in economic and evidentiary support and sets a precedent that will cause real harm to our economy and U.S. intellectual property rights worldwide. Specifically, the complaint signals to foreign antitrust authorities that U.S. companies are fair game for similarly damaging, and equally frivolous, enforcement actions overseas -- often in naked attempts to steal U.S. patented technology or eliminate U.S. competition from their domestic markets.

Asian countries such as China, South Korea, and Taiwan have been targeting innovative U.S. companies with specific goals: to steal U.S. technology. This foreign technology grab threatens U.S. leadership in the development of innovative technologies. If Asian companies can access our best technology through nefarious government enforcement actions, both U.S. competitiveness and national security are at stake. We cannot allow our Asian trading partners to interpret the Obama administration's lame-duck FTC action as a precedent to justify antitrust attacks against American firms and their patent rights.

As a result, we urge your administration to take immediate steps to terminate the FTC's midnight complaint against Qualcomm. We also urge you to install Commissioner Maureen Ohlhausen as permanent chair of the FTC and new Republican commissioners

to make sure the agency does its job: to protect American consumers, rather than invite foreign competitors to attack our innovators.

Sincerely,

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