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June 12, 2024

The Honorable Kathi Vidal  
Under Secretary  
U.S. Department of Commerce  
600 Dulany Street  
Alexandria, VA 22314

Dear Under Secretary Vidal,

The U.S. Department of State is currently renegotiating the U.S.-PRC Science and Technology Agreement (STA) which had been set to expire in August 2023 but has since been the subject of two extensions by the Biden Administration.<sup>1</sup> We believe the U.S.-PRC STA is a vector to give the PRC access to U.S. dual-use research and presents a clear national security risk. In June of last year, the Select Committee wrote to Secretary Blinken urging him to suspend the arrangement, citing how the STA is directly contributing to the PRC's military-civil fusion goals to advance the modernization of the PLA and undermine U.S. national security.<sup>2</sup> Additionally, the House Foreign Affairs Committee overwhelmingly passed Representative Andy Barr's *Science and Technology Agreement Enhanced Congressional Notification Act of 2024*, requiring the State Department to ensure any future STA has clear protections for human rights and ends diversion of U.S. research to the PRC's military. The Biden Administration must stop fueling our own destruction and allow the STA to expire.

The U.S. Patent and Trademark Office (USPTO), under 35 U.S.C. Section 2 and related regulations and practices, has both the resources and a statutory obligation to help the United States determine the extent to which the PRC has sought to leverage U.S. government-funded

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<sup>1</sup> Nike Ching. March 7, 2024. VOA. "US-China Science, Tech Pact is Renewed for Another Six Months." <https://www.voanews.com/a/us-china-science-tech-pact-is-renewed-for-another-six-months/7518409.html>

<sup>2</sup> House of Representatives. June 24, 2023. "House Select Committee: Letter to Secretary Blinken on Science and Technology Agreement." <https://selectcommitteeontheccp.house.gov/media/letters/letter-secretary-blinken-science-and-technology-agreement>

science and technology projects for its own gain. In particular, 35 U.S.C. provides that USPTO “shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries...and shall provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.”<sup>3</sup> 35 USC Section 207 underscores the role of the Commerce Department generally in science and technology collaboration: “For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to assist Federal agencies in seeking protection and maintaining inventions in foreign countries, and consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization.”<sup>4</sup>

In light of those USPTO and Commerce Department authorities and responsibilities, Congress and the American people deserve a full understanding of the extent to which a renewal of a U.S.-PRC Science and Technology Agreement is threatening our intellectual property and national security.

We therefore request the following information:

1. The number of patents filed annually at the USPTO from 2010 to the current time which were (a) funded by the US government, and (b) included a Chinese resident inventor or co-inventor.
2. The technology classes for these inventions, which US government agency funding these inventions, and the name of the Chinese entity that employed the Chinese inventor or coinventor of the inventions.
3. Any affiliation of the inventors or their employer with the Chinese military or with any proscribed entity under US export control laws.
4. Whether you are aware of any patents filed in China by the US inventor or the Chinese inventor on the same subject matter of the inventions applied for in the United States, including any improvements thereto.

We request that USPTO respond to these specific requests no later than 30 days after receiving this letter. We believe that USPTO undertook a similar effort when the STA was last renewed.<sup>5</sup> A similar effort here would provide policy makers with valuable information as they reconsider the dangers of this agreement. If the Biden Administration continues its pursuit of a

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<sup>3</sup> 35 U.S. Code § 2. “Powers and duties.”

<sup>4</sup> 35 U.S. Code § 207. “Domestic and foreign protection of federally owned inventions.”

<sup>5</sup> United States Government Accountability Office. July 2016. “U.S.-China Cooperation: Bilateral Clean Energy Programs Show Some Results but Should Enhance Their Performance Monitoring.” <https://www.gao.gov/assets/680/678321.pdf>

U.S.-PRC STA, Congress and the American people should at least have insight into the extent of U.S. research that is advancing the PRC's military-civil fusion goals through this arrangement.

Thank you for your attention to this important matter and we look forward to hearing your reply.

Sincerely,



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John Moolenaar  
Chairman



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Blaine Luetkemeyer  
Congressman



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Michelle Steel  
Congressman



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Elise Stefanik  
Congresswoman



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Andy Barr  
Congressman



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Carlos Gimenez  
Congressman

Cc: The Honorable Antony Blinken, U.S. Secretary of State