Council for Innovation Promotion

C4IP

The Congressional Innovation Scorecard

First Edition

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Council for Innovation Promotion

C4IP

Who We Are

The Council for Innovation Promotion is a bipartisan coalition dedicated to promoting strong and effective intellectual property rights that are necessary for innovation, increased economic competitiveness, and improved lives everywhere.

What We Believe

- **Intellectual Property Enables Creators to Improve the Human Condition.** Copyrights, trademarks, trade secrets, and patents underpin the innovations responsible for saving and improving millions of lives. They foster the development of cutting-edge technologies like 3D bioprinting, wearable devices and sensors, and even firefighting drones.
- **IP Fosters Economic Growth.** IP-intensive sectors, from high-tech manufacturing to life sciences, employ 45 million Americans and account for over one-third of total U.S. GDP.
- **IP Protections Tackle Global Challenges.** Strong patent protections facilitate pioneering discoveries that address today's energy, climate change, and public health concerns.
- **IP Rights Drive High-Value Industries.** Strong IP rights, from copyrights and trademarks to standard essential patents and trade secrets, incentivize the development of creative works and standardized technologies that fuel the economy and benefit the general public.

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Co-Chair

David Kappos
Co-Chair

Judge Paul Michel (Ret.)
Board Member

Judge Kathleen O'Malley (Ret.)
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This report was authored by Pugatch Consilum, a boutique consultancy that provides evidence-based research, analysis, and intelligence on the fastest growing sectors of the knowledge economy.

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Executive Summary

The U.S. economy is today not only the largest economy in the world – with an estimated GDP at over USD 25 trillion – but is in size and scale the biggest source of innovation and creativity globally. This creativity and innovation is in large measure due to our advanced system of intellectual property (IP) rights and incentives. The USPTO found in 2022 that IP-intensive industries made up over 40% of the U.S. economy and supported around 63 million jobs or 44% of all national employment. The importance of IP-intensive industries to the national economy is also reflected in the value of the largest and most successful U.S. companies, namely those constituting the Standard and Poor's (S&P) 500 index. Two generations ago, in the mid-1970s, four-fifths of the value of the companies listed on the S&P 500 lay in their tangible assets. Today, the opposite is true. A study by Ocean Tomo JS Held found that, as of 2020, 90% of the value of S&P 500 companies lay in their IP assets. Indeed, IP-intensive industries have never been more important to the U.S. economy or our national security, which depends on Amerca's ability to out-create, out-invent, and out-innovate potential adversaries and national security threats. But a strong innovation-based economy cannot exist without a strong IP system – both today and for our future. In this sense, our national IP system is America's 401(K) program – the vehicle we use as a nation to invest in our country's future. Consequently, nurturing our national IP system is critical to ensuring future prosperity, peace, and security, a job that falls in great part on our nation's lawmakers.

". . . as of 2020, 90% of the value of S&P 500 companies lay in their IP assets. Indeed, IP-intensive industries have never been more important to the U.S. economy or our national security . . ."

Project rationale

The purpose of the Congressional Innovation Scorecard is to assess and rate how the U.S. Congress as a whole and its individual members (senators and representatives) through their political, legislative, and policy activities work to promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere. The Scorecard does this by assessing and rating the current U.S. Congress across three separate dimensions of political, legislative, and policy activity. The Scorecard assesses both current congressional activity and current members' relevant past activity across three congresses:

- The 118th Congress (session 1, January-December 2023);
- the 117th Congress; and
- the 116th Congress.

While the Scorecard includes past activity, it also places a greater emphasis on current activity in the 118th Congress, which in the scoring methodology receives a greater statistical weight than the relevant results from preceding congresses.

Key findings

Key finding 1: The U.S. Congress as a whole is failing to engage fully and effectively on national IP issues – it gets a Scorecard grade of "C" / "C-"

A substantial majority of Congressional membership – close to seven out of ten members – receives a Scorecard grade of "C" or "C-." In legislative terms this means that close to a supermajority of Congress shows, at best, only a passing interest in national IP policy. While IP-intensive industries made up over 40% of U.S. GDP and 90% of the value of the S&P 500, only a small percentage of bills introduced and considered – let alone voted on by the whole Congress – over the last three congresses have been pro-IP. There is a striking disconnect between most members of Congress claiming to be pro-innovation and this lack of activity in relation to pro-IP policies. To be pro-innovation one must also be pro-IP.

Key finding 2: Despite the overall lack of engagement on IP issues, there is a small group of IP champions in the Senate and pro-IP voices in the House of Representatives

Across the three congresses examined in the Scorecard there is a clear group of IP champions in the Senate – Senators Chris Coons, Thom Tillis, and Mazie Hirono. These senators consistently sponsor, cosponsor, and vote for pro-IP policies. In particular, over the time

period studied, Senators Coons and Tillis outperform the rest of the Congress by a significant margin. In the House of Representatives, members were less active on IP, and nobody rose to the level of the Senate champions. Still, a few stood out among their peers, including, for example, Representatives Ben Cline (who achieved the highest score in the House), Deborah Ross, Hakeem Jeffries, and Thomas Massie. The leaders of the Subcommittee on Courts, Intellectual Property, and the Internet – Representatives Darrell Issa and Hank Johnson – also proved to be generally pro-IP voices, with Representative Issa more on copyright-related issues and Representative Johnson more on patent-related issues. Both were also active in relation to trademark-related issues, including cosponsoring the SHOP SAFE Act.

Key finding 3: There is also a group of members that are affirmatively and consistently hostile to pro-IP policies, thereby harming America's competitiveness and national security

Across the three congresses examined in the Scorecard, a group of members in both the House of Representatives and Senate have through their political, legislative, and policy activities supported and promoted anti-IP policies. In the Senate, these Members include Senators Maggie Hassan, Amy Klobuchar, Bernie Sanders, Elizabeth Warren, and Peter Welch. In the House of Representatives these Members include Representatives Marie Gluesenkamp Perez and Lloyd Doggett.

Conclusion and take-home message

Our national IP environment has never been more important to America's future than now.

However, America's national IP environment, and the IP incentives and rights that have powered U.S. innovation and prosperity today, face many fundamental challenges. Here we note just a few examples. Since the Supreme Court decisions in *Bilski v. Kappos, Molecular Pathology v. Myriad Genetics, Mayo Collaborative Services v. Prometheus Laboratories*, and *Alice Corp. v. CLS Bank* over a decade ago, there has been a high and sustained level of uncertainty as to what constitutes patent-eligible subject matter. The USPTO has since 2014 issued and updated patent examination guidelines with significant frequency. Lower and circuit court decisions in patent infringement proceedings have been inconsistent. The net result is that inventors and creators are left without a clear sense of how decisions on patent eligibility will be made or, when granted patents are subsequently challenged, which patent claims will be upheld. In addition, since the Supreme Court's *eBay Inc. v. MercExchange, L.L.C.* decision, it has been increasingly difficult for patent owners to obtain injunctive relief once their patents are found to be valid and infringed. Similarly, despite the intentions behind the creation of post-grant opposition and inter partes review mechanisms introduced in the 2011 America Invents Act (AIA), the result has been a sustained level of uncertainty and unpredictability for many patent owners. This has especially been the case with the

inter partes review procedure (IPR), which occurs before the specialized Patent Trial and Appeals Board (PTAB) within the USPTO, often many years after patent issuance. And when it comes to the protection of copyrighted material or goods and services protected by trademarks or design rights, innovators and creators today face many critical challenges of infringement and outright theft, especially in the growing online environment. The protection of confidential business information and trade secrets also faces many new threats with the proliferation of digital technologies, information, and access points, all of which make protecting proprietary information much more difficult.

"Simply put, the U.S. Congress and its members are not as actively engaged [on IP issues] as they should be."

But as the findings of this Scorecard make clear, there is a disconnect between the need for deep and meaningful policy reform of our national IP environment and the extent to which one of our most important public institutions, the U.S. Congress, engages with IP issues. Simply put, the U.S. Congress and its members are not as actively engaged as they should be. Given the fundamental IP challenges described in the preceding paragraph, Congress remains the central institution that can most effectively address and reform our national IP system. Yet there are too few IP champions and far too many detractors working to harm America's IP position. And the vast majority of legislators fail entirely to engage meaningfully on IP. All this needs to change. When we as a nation – and the U.S. Congress – fail to adequately nurture and invest in our national IP system, we are not only failing the public today, but future generations as well. Ensuring that our nation's IP system is fit for purpose, and continues to deliver new breakthrough technologies and creations across all economic sectors and industries, is critical to ensuring America's future prosperity, peace, and security.

Introduction: Our national engine for growth, prosperity, and security – How intellectual property–intensive industries power the U.S. economy

The golden goose: Intellectual property rights and innovation

The concept of innovation enjoys wide-ranging, if not universal, support. Across the political spectrum, both in the United States and elsewhere, governments, political representatives, and policymakers recognize the importance and impact of innovation on national economic performance, global competitiveness, national security, and the public's overall socio-economic wellbeing. As part of their wider strategies for economic growth, countries that want to succeed put in place frameworks under which innovation can flourish. Innovation is, however, a complex concept, and takes place in various shapes and forms.

Peter Drucker, one of the gurus of innovation and entrepreneurship in the 20th century, considered innovation to be a social and economic phenomenon as much as it is a technological one. He found that innovation can be generated both from the supply side, via "the consistent manner of changing the yield (or maximizing the output) of existing resources," or from the demand side, by "changing the value and satisfaction obtained from resources by the consumers," or through a combination of the two.[1] Other scholars have classified innovation not only according to its technological features (be it a product, a process, or a service) but also according to other characteristics such as administrative or organizational structures (including the strategy, structure, system, and human capital of an organization), as well as the market itself (including pricing and marketing practices).[2]

"As part of their wider strategies for economic growth, countries that want to succeed put in place frameworks under which innovation can flourish."

The bottom line is that innovation is highly complex, dynamic, and time sensitive. The composition, characteristics, pace, and direction of innovation – regardless of the economic sector or industry – is influenced by a myriad of factors, external as well as internal, technological as well as social. Consequently, the manner in which innovation takes place is not

[1] Drucker, P. F. (1985) *Innovation and Entrepreneurship*, New York: Harper Business, p. 33.

[2] Popadiuka, S. and Choo, W. C. (2006) *Innovation and Knowledge Creation: How Are These Concepts Related?* International Journal of Information Management, Vol. 26, 2006, p. 302-312; *see also* Afuah, A. (2004) *Innovation Management: Strategies, Implementation, and Profits*, New York: Oxford University Press.

subject to black or white patterns, neither can it be divided into good or bad categories. On the contrary, we can identify different forms of innovation - incremental, radical, modular, and architectural – all of which have a role to play in the overall lifecycle of innovation and its interaction with society's progress.

Unfortunately, the complexity and variety in how innovation takes place has shrouded one of the most fundamental driving principles of innovation: namely, that any attempt to dictate a certain direction of innovation (or when dealing with absolutes such as which innovations are desirable and which are not), using special top-down "instruments" will most likely end in failure. Rather, it is the dynamic relationship between firms, markets, the public, and the environment as a whole that directs the manner in which innovation and the creation and commercialization of new products and technologies is conducted, as well as the nature and direction it takes. Within this context the existence of clear and strong IP rights is crucial.

An incentive to create and invent: How intellectual property rights enable innovation and advanced economic activity

"He who has no hope that he shall reap will not take the trouble to sow."

- Jeremy Bentham, 1800[3]

In the process of exploring ways of efficiently allocating scarce resources to unlimited wants, economists have come to find that private property rights are an efficient way of dealing with the problem of scarcity. Knowledge and other forms of intellectual creations, however, are a unique resource, given that they are not inherently scarce (at least not in the way economists understand the word). Theoretically speaking, the potential use of existing knowledge or any other form of intellectual creation is unlimited and may be diminished only when they become obsolete or irrelevant to society. In fact, the use of any intellectual creation or knowledge-based product by one individual does not reduce its accessibility to others but is more likely to increase it. Economically speaking, innovative products that are based on knowledge and other expressions of artistic and intellectual creations (be they a new piece of software, a medical technology, a pharmaceutical drug, or an innovative telecommunications product, to name just a few modern examples) have the characteristics of a "public good." They are "non-rival," in the sense that the use of such a product by one individual does not reduce its quantity or availability for others (i.e. there is not less of that creation to use). They are also "non excludable," in that the use of that creation by one individual does not

"[T]he use of any intellectual creation or knowledge-based product by one individual does not reduce its accessibility to others but is more likely to increase it."

[3] Bentham, J. (1800) *A Manual of Political Economy*, The Collected Works of Jeremy Bentham, Vol. 3 (Bowring, J., ed.), Edinburgh, 1842, p. 71.

prevent other people from using it at the same time.[4] For example, consider a case in which an author has produced a brilliant literary masterpiece or the case of an innovator who was able to come up with a revolutionary invention in the medical field. Once these intellectual creations are introduced to the market, there is no physical limitation on the ability of others to freely use them to their own benefit. This is what makes knowledge-based products so special – the fact that once created they are not inherently scarce.

This is what also makes such products so vulnerable. In the absence of necessary protection mechanisms there is an intrinsic temptation to use these products at the expense of the efforts and investment of their creators. The development of knowledge-based products is a very expensive, risky, and time-consuming endeavor. Yet, compared with the difficulties of creating a knowledge product, the cost of copying or downloading this product is negligible. As such, knowledge-based products are highly susceptible to the so-called free-rider problem, a philosophical as well as an economic dilemma referring to the act of using or deriving benefit from a social or economic outcome or activity without paying or contributing towards the cost or effort required to create it. Thus, economic theory suggests that in the absence of any institutional provisions that establish property rights in knowledge-based products, the tendency to free-ride will increase. Consequently, the incentive to create these products will significantly decrease. This problem is not new and was recognized and noted by British philosopher Jeremy Bentham in the 1800s who argued that "without the assistance of the law, the inventor would almost always be driven out the market by his rival, who finding himself without any expense, in possession of a discovery which has cost the inventor much time and expense."[5]

"[E]conomic theory suggests that in the absence of any institutional provisions that establish property rights in knowledge-based products, the tendency to free-ride will increase."

In order to prevent the problem of free-riding, society has designed various systems of IP rights and incentives. This includes everything from general, cross-sectoral rights such as patents, copyrights, trademarks, and design rights to more sector-specific rights and incentives such as regulatory data protection for pharmaceutical test data. Indeed, Article 1 of the U.S. Constitution explicitly outlines this incentive to create and innovate: "To promote the progress of science and useful arts, by securing for limited times to authors and Inventors the exclusive right to their respective writings and discoveries." These rights may be thought of as social contracts between society and the individual innovator (be it a person or

[4] Hindley, B.V. (1971) *The Economic Theory of Patents, Copyrights, and Registered Industrial Designs: Background Study to the Report on Intellectual and Industrial Property*, Ottawa: Economic Council of Canada, 1971; Mankiw, N.G. (1971) *Principles of Economics*, University of California: Dryden Press, 1998, p. 219-234; Hardin, G. (1968), *The Tragedy of the Commons*, Science, Vol. 162, 1968, p. 1243-1248.

[5] Bentham, *supra* note 3.

company) that develops the new knowledge product or intellectual creation. This contract stipulates that in exchange for the creator sharing his or her ideas publicly, and for society's ability to enjoy and use this new creation (which is a result of the time, money, and efforts invested by the individual), the inventor or author will be granted ownership, albeit for a limited period of time, of that creation.

In this sense, IP rights serve at least five distinct functions with regard to knowledge creation (and its uses) and innovation:

1. incentivize creation;
2. protect a creator's and inventor's investment of resources (time and capital);
3. incentivize the publication and sharing of the creation with society at large;
4. enable collaboration and commerce in such creations and intellectual assets; and
5. enable follow-on creation and innovation, resulting in exponential growth.

Critically, the empirical evidence on the effects of IP rights on rates of innovation, high-tech output, and R&D largely bears out our theoretical understanding of how IP rights work: Economies with strong national IP environments tend also to see higher levels of innovation, high-tech output, R&D, and commercialization activities.[6] There is no better example of this than the United States.

IP-intensive industries and the U.S. economy

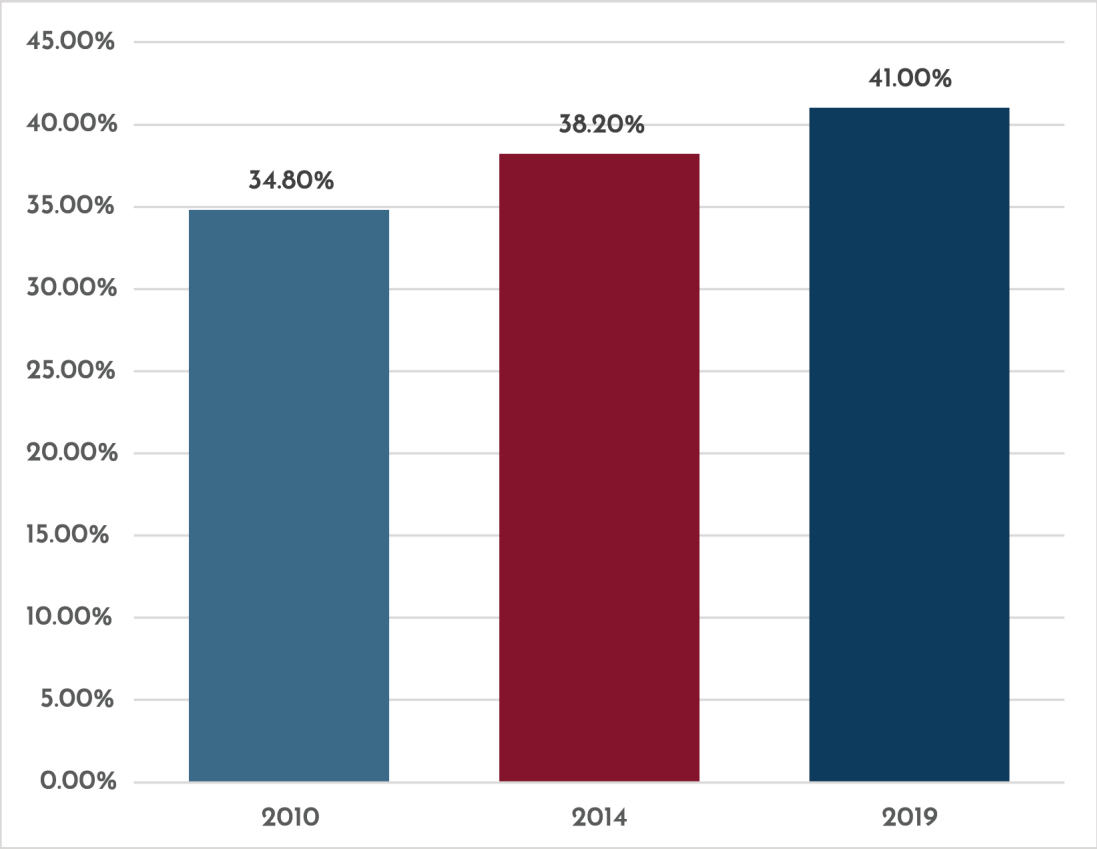
The U.S. economy is today not only the largest economy in the world – with an estimated GDP at over USD 25 trillion – but is in size and scale the biggest source of innovation and creativity globally. Since 2012, the United States Patent and Trademark Office (USPTO) has measured the economic contribution of IP-intensive industries to the U.S. economy. The latest report from 2022, *Intellectual Property and the U.S. Economy: Third Edition*,

"IP- and knowledge-intensive industries make up almost half of the U.S. economy and their economic contribution is growing rapidly."

[6] Since 2015, the U.S. Chamber of Commerce in their International IP Index has published a Statistical Annex which investigates a series of correlations, or the statistical likelihood of two variables occurring together. The correlations examine the relationship between the strength of national IP environments, as measured by the Index scores, and different types of economic activity including rates of R&D spending, innovation, technology creation, and creativity. The most recent Annex surveys the relationship between the Index scores of 55 economies and a set of 32 economic variables. As more economies and more social and economic variables have been added to the Statistical Annex, the picture becomes more vivid and sharp: IP protection is a critical instrument for economies seeking to enhance access to innovation, grow domestic innovative output, and enjoy the dynamic growth benefits of an innovative economy. Conversely, weak IP protection stymies long-term strategic aspirations around innovation and high-tech economic development. *See* Global Innovation Policy Center (2023), *International IP Index*, Washington D.C.: U.S. Chamber of Commerce, (Statistical Annex).

found that IP-intensive industries made up an estimated 41% of national economic output.[7] Adjusting for inflation the USPTO estimates suggest that between 2014 and 2019, "GDP attributable to the IP-intensive industries increased by roughly 12%, or by an annual rate of 2.3%."[8] In other words, IP and knowledge-intensive industries make up almost half of the U.S. economy and their economic contribution is growing rapidly. Below, Figure 1 shows this growth in the contribution of IP-intensive industries to the U.S. economy since 2010.

Figure 1: GDP % contribution IP-intensive industries, United States, 2010, 2014, 2019[9]



Equally impressive is how IP-intensive industries contribute to national employment. On this measure, the USPTO estimates that IP-intensive industries support around 63 million jobs, directly and indirectly, or 44% of all national employment. Critically, these employment opportunities cut across all levels of education and are not just for the proverbial PhDs and staff in lab coats. In fact, IP-intensive industries create job opportunities in the industrial and manufacturing

"[T]he USPTO estimates that IP-intensive industries support around 63 million jobs, directly and indirectly, or 44% of all national employment."

[7] U.S. Patent and Trademark Office (2022) *Intellectual Property and the U.S. Economy: Third edition*, Washington, D.C., p. iii.

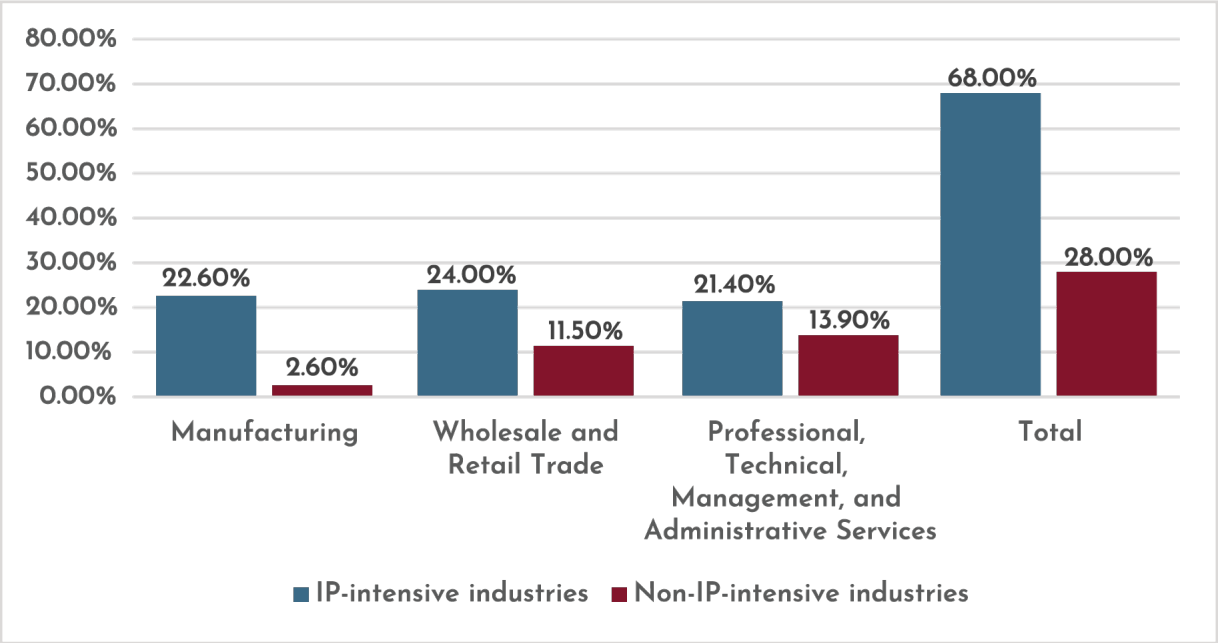
[8] *Ibid.* p. 3.

[9] *Ibid.; see also* U.S. Patent and Trademark Office (2016) *Intellectual Property and the U.S. Economy: 2016 Update*, Washington, D.C., p. ii-iii.

sectors as well as through a range of support services, such as construction, transportation, and retail. The USPTO's report includes a detailed analysis of the types of employment opportunities IP-intensive industries create. Looking at this data a few things stand out.

First, IP-intensive industries are largely concentrated in traditional industrial sectors as defined by the Bureau of Labor Statistics. This includes: manufacturing; wholesale and retail trade; and professional, technical, management, and administrative services. As Figure 2 shows below, together these industrial sectors make up over two-thirds (68%) of all employment in IP-intensive industries. This is more than double the same total for non-IP intensive industries (28%).

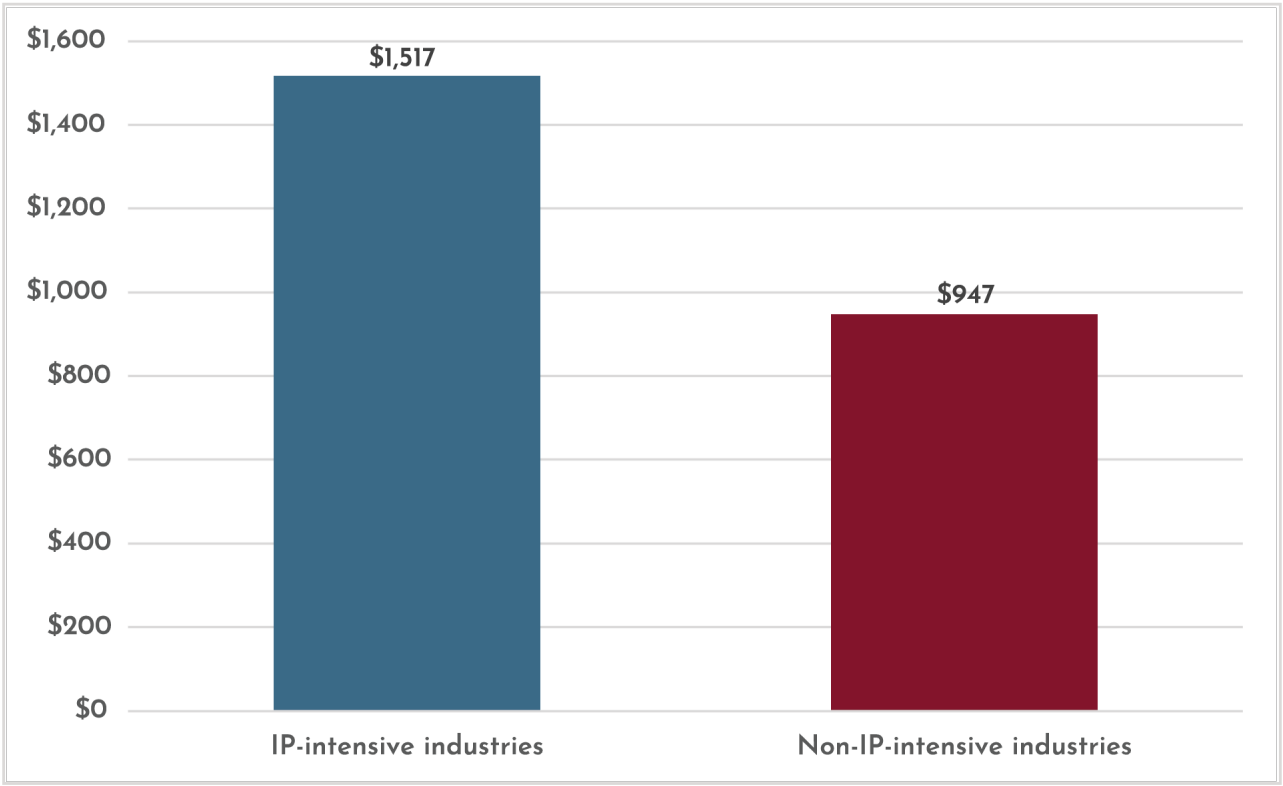
Figure 2: Distribution of employment across select industrial sectors, IP-intensive industries vs. non-IP-intensive industries, 2019[10]



[10] U.S. Patent and Trademark Office, *supra* note 7, p. 6.

Second, the USPTO's data also shows how workers in IP-intensive industries, on average, receive higher weekly earnings than in other industries. As Figure 3 shows below, this "earnings premium" was, on average, 60% for all IP-intensive industries compared to non-IP-intensive industries. (Of note is that this premium was even greater for workers in utility patent-intensive industries and copyright-intensive industries.)

Figure 3: Average weekly earnings, IP-intensive industries vs. non-IP-intensive industries, 2019[11]



Finally, the USPTO's data shows how IP-intensive employment opportunities cut across all levels of education and are not exclusively concentrated on workers with advanced graduate degrees such as a master's or PhD. As Figures 4 and 5 show below, while the majority of workers in non-IP-intensive industries (63.40%) do not hold a completed Bachelor's or Graduate degree, for IP-intensive industries this ratio is almost 1:1 with 53.60% of all workers holding a Bachelor's or Graduate degree versus 46.40% of workers who had no or limited tertiary education. This means that almost half of all workers in IP-intensive industries do not have a college or university degree. In other words, IP-intensive industries create jobs for workers across all levels of education.

"IP-intensive industries create jobs for workers across all levels of education."

[11] *Ibid.* p. 9.

Figure 4: Educational characteristics of workers in IP-intensive and non-IP-intensive industries, non-university graduates, 2019, percentage[12]

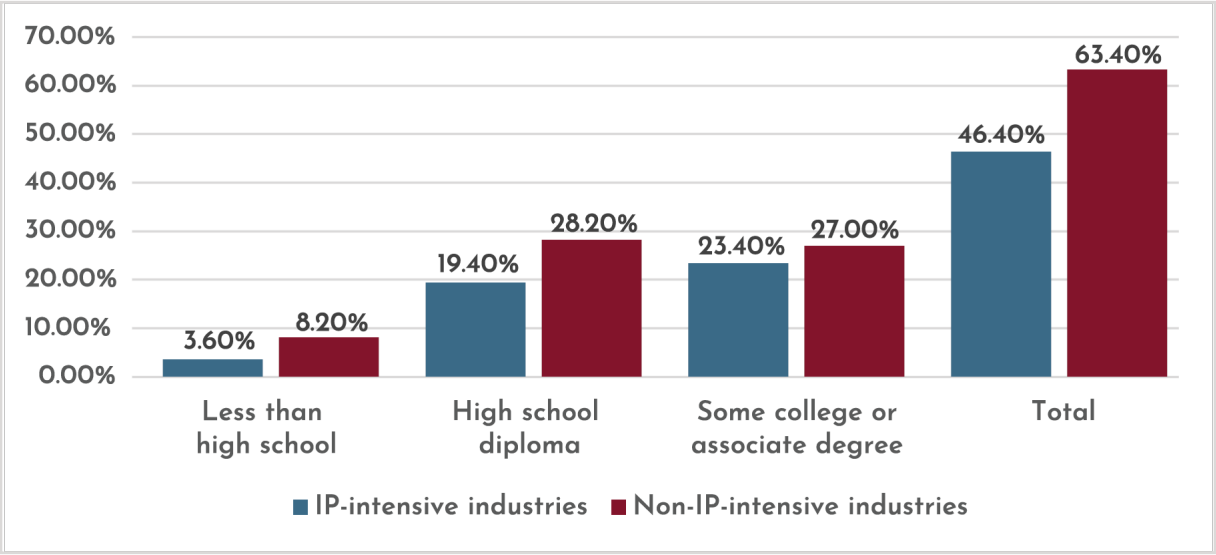
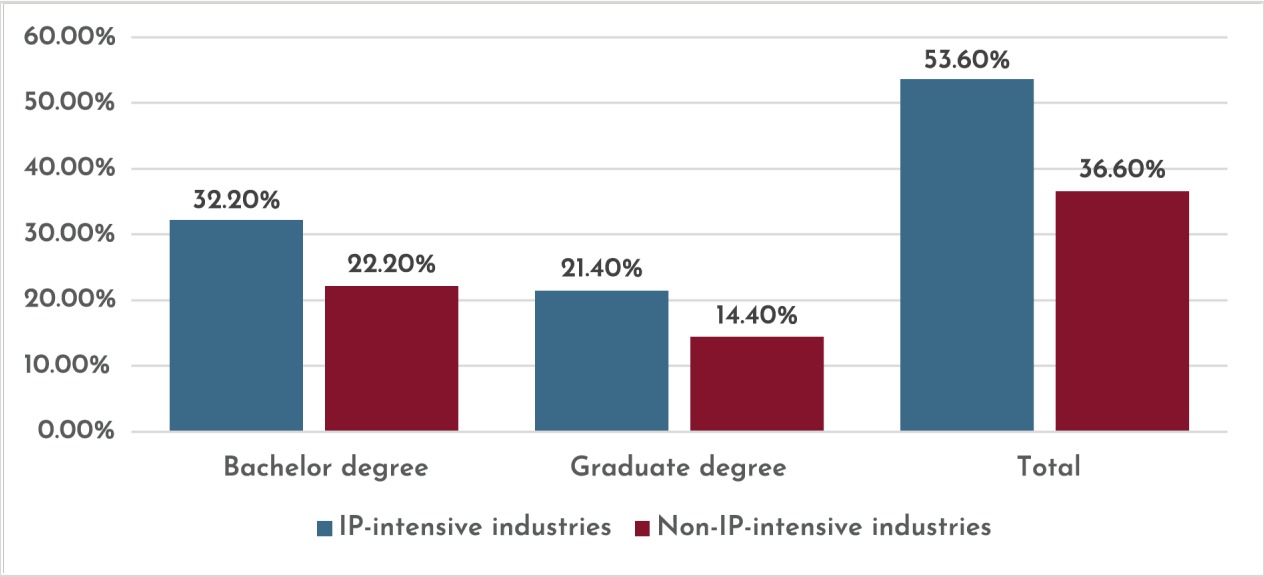


Figure 5: Educational characteristics of workers in IP-intensive and non-IP-intensive industries, university graduates, 2019, percentage[13]



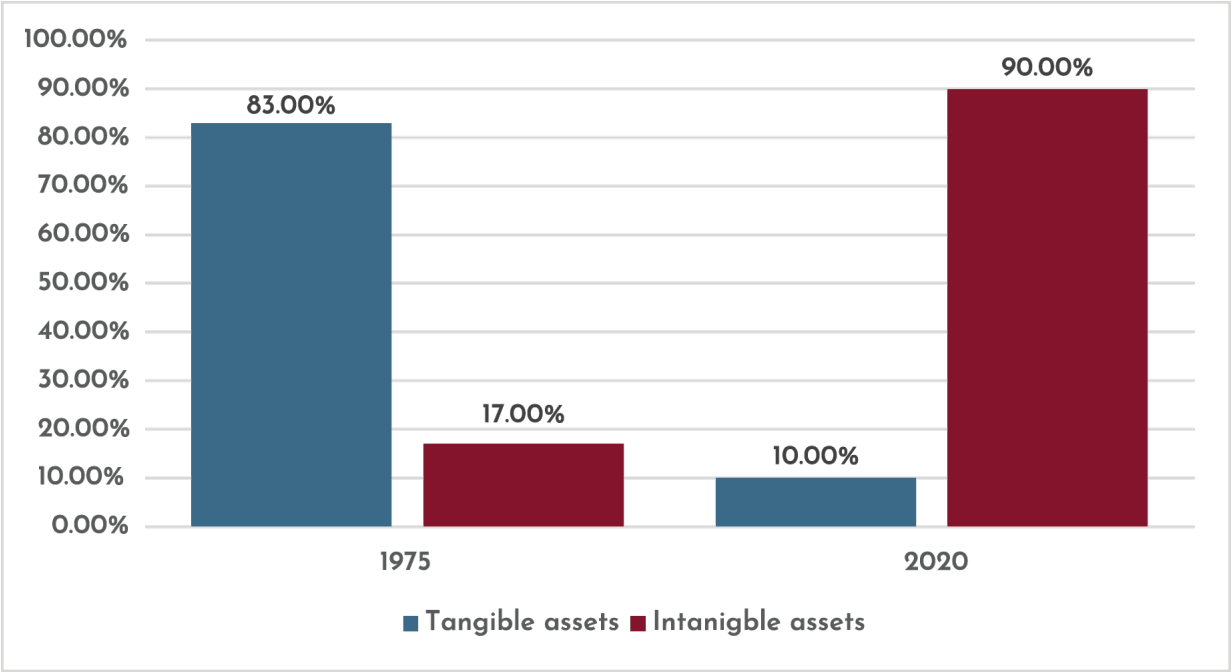
The importance of IP-intensive industries to the national economy is also reflected in the value of the largest and most successful U.S. companies, namely those constituting the Standard and Poor's (S&P) 500 index. Two generations ago, in the mid-1970s, four-fifths of the value of the companies listed on the S&P 500 lay in their tangible assets. Today, the opposite is true. As Figure 6 shows below, a study by Ocean Tomo JS Held found that, as

[12] *Ibid.* p. 12.

[13] *Ibid.*

of 2020, 90% of the value of S&P 500 companies lay not in their factories or other physical assets, but in their intangible assets.

Figure 6: Value of S&P 500, tangible vs intangible assets[14]



Project background and rationale

In 2023 the Council for Innovation Promotion (C4IP) requested that Pugatch Consilium assist the Council in the creation of a Congressional Innovation Scorecard (the "Scorecard").[15] The purpose of this Scorecard is to assess and rate how the U.S. Congress as a whole and its individual members (senators and representatives) through their political, legislative, and policy activities work to promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere.

IP-intensive industries have never been more important to the U.S. economy or our national security, which depends on America's ability to out-create, out-invent, and out-innovate any potential adversaries or future national security threats. Nurturing our national IP system is critical to this mission and to ensuring America's future prosperity, peace, and security.

[14] Ocean Tomo JS Held (2020) *Intangible Asset Market Value Study*, p. 2.

[15] For the United States to maintain its competitive edge on the global stage, we must lead in innovation. This is only achievable by committing to protect the intellectual property that underlies game-changing inventions and brings about transformative change for all of society, including patients, consumers, and businesses. A strong innovation economy is inextricably linked to a strong IP system. That is why this Scorecard is called the "Congressional Innovation Scorecard."

What is the Congressional Innovation Scorecard and how does it work?

Building a congressional scorecard: Rationale and methodological overview

Advocacy and interest groups across the political spectrum publish their own congressional scorecards. These scorecards rate and/or rank the extent to which individual members of Congress (depending on the scorecard and producing organization this can include both chambers or just one) support the political and policy objectives of the ranking group/organization. Methodologically, there is some variation in how these organizations compute their respective scorecards. For example, some scorecard ratings and rankings are computed based on a member of Congress's voting record on pre-identified key pieces of legislation. If a Member of Congress supports (votes in favor of) a proposed bill that the given organization also publicly supports, that Member is awarded a positive score/grade. Conversely, support for bills that the given organization opposes results in a negative score/grade or a score of 0. Different organizations use different scoring and grading systems; some use a 0-100 points scale whereas others use an "A-F" grading system. Some scorecards go beyond congressional roll call votes and take into account other factors in their methodology, such as level of bipartisanship or congressional leadership.

Scorecard methodology and scoring system

Scorecard construction

The Scorecard builds and expands on existing accepted and widely used scorecard methodologies. As stated, the objective of the Scorecard is to assess and rate how the U.S. Congress as a whole and its individual members (senators and representatives) through their political, legislative, and policy activities work to promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere. The Scorecard does this by considering three separate dimensions of political, legislative, and policy activity relating to all major IP rights and aspects of the national IP system: patents, copyrights, trademarks, trade secrets, design protection, and the like. Table 1 below defines each of these three dimensions.

Table 1: Scorecard Dimensions

Dimension 1: Congressional voting record (current and historic)	This dimension assesses the extent to which individual members of Congress voted for bills that promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere, as well as voting against bills that would weaken and diminish strong and effective intellectual property rights.
Dimension 2: Non-voting congressional and legislative activity (current and historic)	This dimension assesses the extent to which individual members of Congress have through his or her non-voting congressional and legislative activity supported policies that promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere. Such support is measured through a member's: i. bill sponsorship (including original pre-publication co-sponsorship) of relevant IP bills; and ii. bill co-sponsorship of relevant IP bills.
Dimension 3: IP and innovation national leadership and advocacy	This dimension assesses the extent to which individual members of Congress through his or her leadership and advocacy efforts supported policies that promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere. Such efforts include public speeches, media appearances, official letters to federal agencies, contributions to the Congressional Record, and so forth.

Assessing current and past congressional activity

The Scorecard assesses both current congressional activity and current members' recent past activity.[16] Specifically, current members of Congress's congressional voting record and non-voting congressional and legislative activity (dimensions 1 and 2) is assessed across three congresses:

- The 118th Congress (session 1, January-December 2023);
- the 117th Congress; and
- the 116th Congress.

[16] "Current" congressional membership is defined as those representatives and senators that were active members of Congress at the time of research and compilation of the Scorecard.

While the Scorecard includes past activity it also places a greater emphasis on current activity in the 118th Congress, which in the scoring methodology receives a greater statistical weight than the relevant results from preceding congresses.

Dimension 3: IP and innovation national leadership and advocacy is only assessed for the 118th Congress (session 1, January-December 2023).

Scoring methodology overview

The Scorecard assesses both positive and negative actions. On this basis it is possible for members of Congress to achieve negative scores of less than 0. For example, with respect to assessed actions taken under Dimension 1: Congressional Voting Record (current and historic), does a given Member vote for or against a given piece of proposed legislation? If the bill is viewed favorably by C4IP then voting for it results in a positive score; voting against it results in a negative score; and vice versa for legislation identified by C4IP as negative.

The same logic is applied to both Dimensions 2 and 3.

With respect to Dimension 2: Non-voting congressional and legislative activity (current and historic) and bill sponsorship, bills viewed favorably by C4IP receive a positive score whereas sponsorship of legislation identified by C4IP as negative results in a negative score. In a further distinction the Scorecard rates bill sponsorship higher than co-sponsorship and, consequently, attaches a more significant score (double) to bill sponsorship over co-sponsorship.

Similarly, under Dimension 3: IP and innovation national leadership and advocacy, positive leadership and advocacy efforts receive a positive score, and negative efforts receive a negative score.

Scoring methodology: Dimensions 1 and 2

The assessment and scoring under Dimensions 1 and 2 of the Scorecard are based on a member's actions (voting record and/or bill sponsorship and co-sponsorship) with respect to a set of congressional bills identified by C4IP as being of particular importance (positive and negative) to U.S. national IP policy.[17] These bills are, firstly, classified by C4IP as being either: i) Positive; ii) Neutral; or iii) Negative.

[17] The full list of bills for all three congresses used in the Scorecard and members' voting records and non-voting congressional and legislative activity with respect to these bills is included in separate stand-alone "Data Annex" accompanying this report. Unless otherwise stated, all draft bills, finalized legislation, and data relating to any congressional and/or legislative activity has been collected from the official website for U.S. federal legislative information, congress.gov. The website is maintained by the Library of Congress and contains all official information relating to congressional and legislative activity in the United States.

After this classification, each bill's relative importance and potential policy impact (positive and negative) is further refined and categorized into three groups:

- **Category 1 bills:** Viewed by C4IP as being of relatively high significance and policy impact;
- **Category 2 bills:** Viewed by C4IP as being of relatively medium significance and policy impact; and
- **Category 3 bills:** Viewed by C4IP as being of relatively lower significance and policy impact.

This classification and the relative importance and potential policy impact (positive and negative) of each bill is subsequently weighed in how members of Congress's actions relating to each bill are assessed in the Scorecard. Consequently, Category 1 bills are viewed as more important and therefore have a greater statistical weight in the Scorecard; Category 2 bills are viewed as less important than Category 1 bills but more important than Category 3 bills; and Category 3 bills have the least relative importance and weight in the Scorecard assessment.

Based on these two layers of bill classification, members' actions relating to each bill can be scored differently with double scoring applied to bill sponsorship under Dimension 2. Table 2 below shows the possible scores for each of the three bill categories.

Table 2: Scorecard scoring system Dimension 1: Congressional Voting Record (current and historic) and Dimension 2: Non-voting congressional and legislative activity (current and historic)

Category 1 bills: Viewed by C4IP as being of relatively high significance and policy impact	Full score of 1 or -1
Category 2 bills: Viewed by C4IP as being of relatively medium significance and policy impact	Partial score of 0.75 or -0.75
Category 3 bills: Viewed by C4IP as being of relatively lower significance and policy impact	Half score of 0.5 or -0.5

Scoring methodology: Dimension 3

Dimension 3: IP and innovation national leadership assesses the extent to which a given member of Congress has through his or her leadership and advocacy efforts supported policies that promote and nurture a strong national IP system that drives innovation and creative output, boosts economic competitiveness, and improves lives everywhere. As mentioned, such efforts include public speeches, media appearances, contributions to the Congressional Record, official letters to federal agencies, and so forth. Like Dimensions 1 and 2, scoring is based on a numerical system with the same scoring logic applied as in Dimensions 1 and 2: positive efforts result in a positive score; negative efforts result in a negative score. Dimension 3 distinguishes between "major" leadership and advocacy efforts and "non-major" efforts. "Major" efforts (positive or negative) include official letters to federal agencies and significant and detailed IP-related public policy speeches before a national and/or highly influential audience. "Non-major" leadership and advocacy efforts are all others. Members can achieve a full score of 1 or -1 for major efforts and a half score of 0.5 or -0.5 for non-major efforts.

Adding it all up: Translating numerical scores into a final grade

The final step in the scoring process is translating the numerical score of each current member of Congress into a final alphabetical grade. C4IP uses a simple academic "A-F" grading scale commonly used in schools and universities around the country. Each member's numerical score is evaluated individually and in relation to the performance of the entire sample of congressional membership. The final alphabetical grade is determined based on overall numerical score, level of positive versus negative activity, and relative performance vis-à-vis the rest of the sample.

C4IP's mission is to promote innovation through a robust and reliable intellectual property system for the benefit of people everywhere. With the introduction of our inaugural scorecard, we hope to bring a new level of transparency to how this issue is handled in Congress, celebrating the champions of innovation and highlighting the work that remains to be done to ensure America's continued prosperity and leadership. Going forward, we plan to release an updated version of the scorecard every year, always looking at the current and prior two congresses and adding each new year on a rolling basis. We also plan to publicize in advance how C4IP views key IP bills and their likely impact on scores in the next edition of the Congressional Innovation Scorecard. As always C4IP welcomes feedback and suggestions for improvement on this research and will take into consideration future inputs.

"[W]e hope to bring a new level of transparency to how [IP policy] is handled in Congress, celebrating the champions of innovation and highlighting the work that remains to be done to ensure America's continued prosperity and leadership."

Overall Scorecard results

Missing in action: A paucity of IP-related activity in Congress

One of the most important big-picture takeaways from the Scorecard results, and the accompanying legislative research and benchmarking of congressional activity, is the relative lack of interest from Congress as a whole in national IP policy. As explained above, while IP-intensive industries represent over 40% of U.S. GDP and 90% of the value of the S&P 500, IP is essentially not on the agenda as represented by Congress's overall legislative activity. While the number of bills relating to IP is increasing across the time period studied, as Figure 7 and Table 3 show below, only a small percentage of bills introduced and considered – let alone voted on by the whole Congress – over the last three congresses have been IP-related.

"[W]hile IP-intensive industries represent over 40% of U.S. GDP and 90% of the value of the S&P 500, IP is essentially not on the agenda as represented by Congress's overall legislative activity."

Figure 7: Total number of IP bills introduced, 116th-118th Congresses

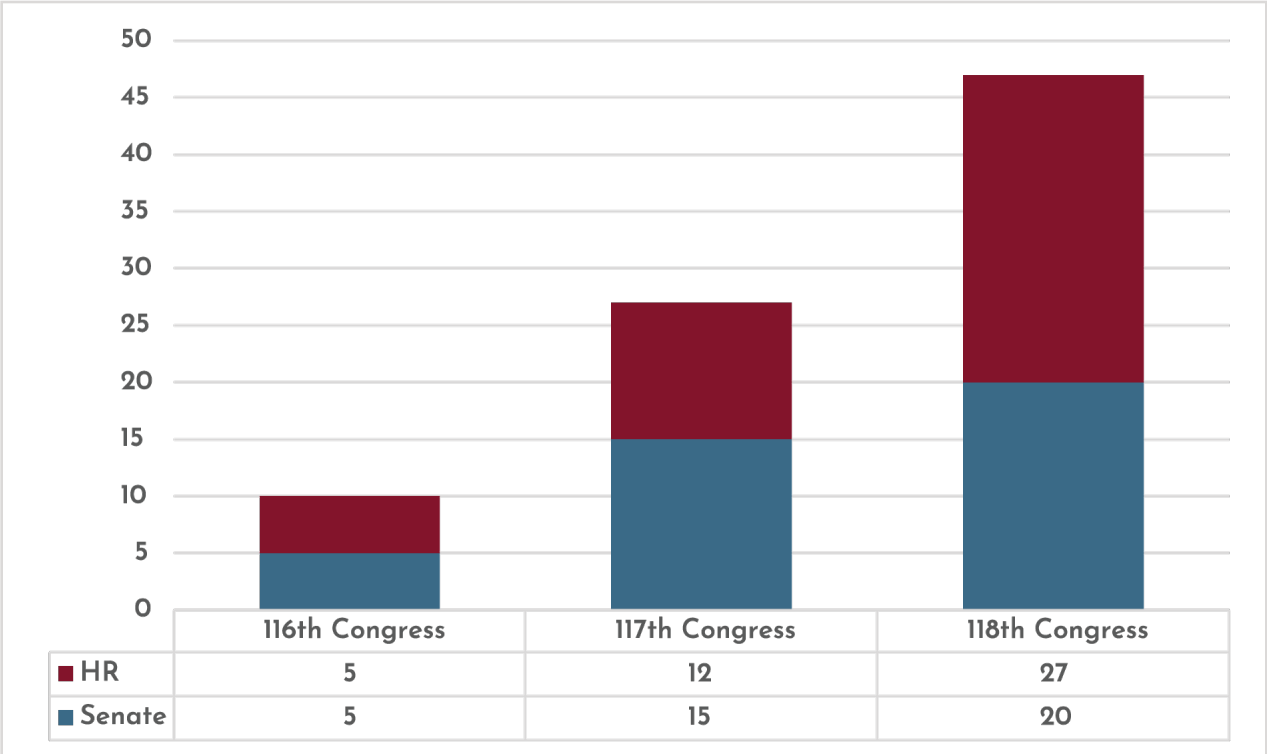


Table 3: Ratio of IP related bills to all bills introduced, 116th-118th Congresses

	IP Bills	All Bills	%
116th Congress	10	14,153	0.06%
117th Congress	27	15,066	0.17%
118th Congress	47	14,404	0.33%

A few other important facts about Congress's involvement and interest in national IP policy stand out from the legislative research.

First, of the bills analyzed as part of the Scorecard research, less than a handful became public law: H.R.5796 / S. 4210, *Patents for Humanity Act*; H.R.7259 / S. 2814, *Patents for Humanity Program Improvement Act*; H.R.133, *2021 Appropriations Act* (which included the *Trademark Modernization Act*); and S. 169, *Artistic Recognition for Talented Students Act*. Furthermore, there were relatively few votes held over the time period studied – eleven in total in both chambers. But over half of these – six – were not floor votes per se but unanimous consent agreements in the Senate and voice votes in the House. Of the total number of bills analyzed a significant portion introduced would undermine our national IP system. As detailed in the next section, members who voted for, sponsored or cosponsored such bills have received a negative score.

Second, with respect to congressional activity carried out at the committee and sub-committee level, there were no recorded committee votes regarding the bills examined.

Finally, the number of sponsors and cosponsors for the bills examined varies substantially. On average it comprises no more than half a dozen to a dozen members in both chambers but can be as high as 150+ in some instances. Indeed, the biggest takeaway from the underlying legislative analysis – and as the Scorecard Member results show – in both chambers IP policy is centered around a fairly small number of active members.

"[I]n both chambers IP policy is centered around a fairly small number of active members."

Good or bad? Evaluating Congress's overall performance on the Scorecard

Figures 8 and 9 below show the overall distribution of Scorecard grades for the current Congress, both as a percentage of the sample and the gross number of members per grade.

Figure 8: Overall Scorecard grades, current Congress, percentage of members per grade

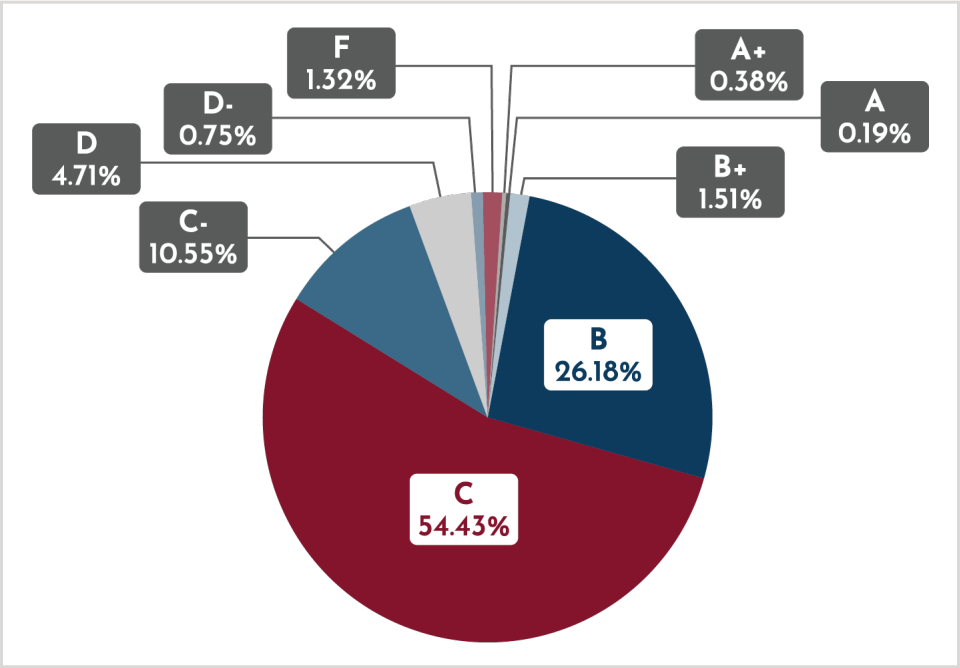
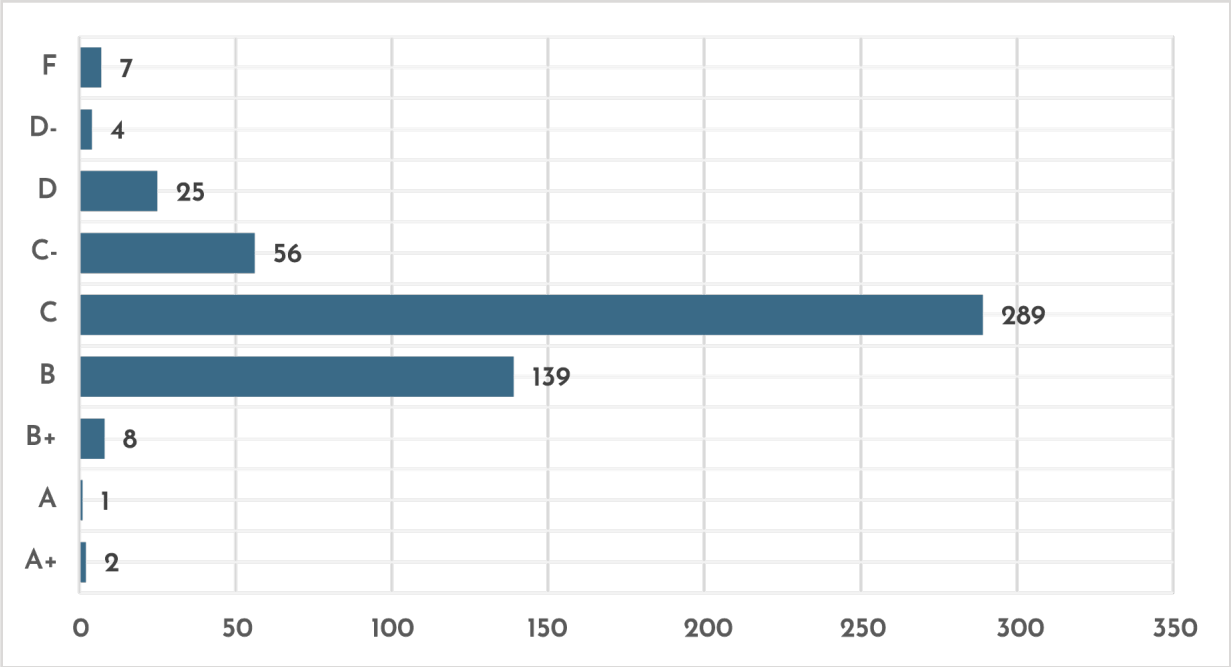


Figure 9: Overall Scorecard grades, current Congress, number of members per grade



As Figures 8 and 9 show, an overwhelming majority of Congressional membership – close to seven out of ten members – receives a Scorecard grade of "C" or "C-." Similarly, seven members received a grade of "F," more than double the number that receive an "A" or "A+." On the other hand, the number of members receiving a grade of "B" or higher was significantly higher than those receiving a grade of "F" or "D."

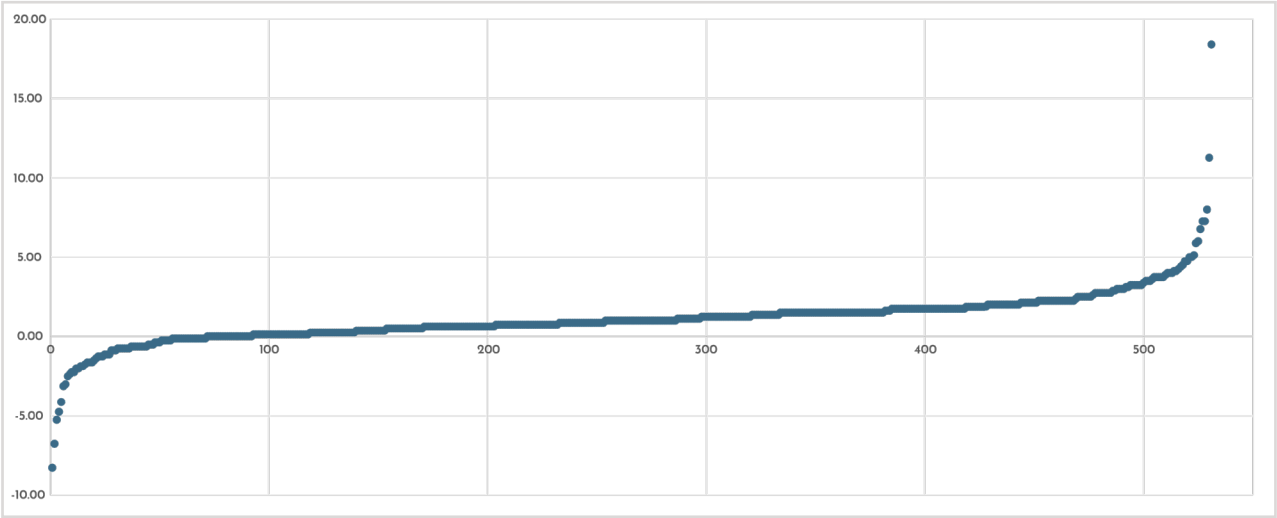
What does this result mean?

As the ultimate objective of the Scorecard is to measure congressional activity relating to national IP policy (positive and negative), in practical terms it means that most members of Congress show only a limited interest in IP policy. In legislative terms this result means that a supermajority of Congress shows, at best, only a passing interest in national IP policy. (As discussed in more detail in the following section on the policy implications that come from this relative inactivity, these findings have important national ramifications.)

"[A] supermajority of Congress shows, at best, only a passing interest in national IP policy."

A different way of visualizing these findings and Congress's relative inactivity on IP issues is to examine the numerical results upon which the above grading system is based on. Below Figure 10 shows the numerical results for all members of Congress (both House and Senate) in a scatter diagram. As explained in the preceding section, a higher score represents a higher level of positive congressional activity in relation to national IP policy. In other words, the higher a member's numerical score is, the more active that Representative or Senator has been.

Figure 10: Overall Scorecard results, current Congress, numerical results



As Figure 10 shows, the vast majority of Congress – over 300 members – achieve a numerical score of between 0-1.5 over the time period examined and all dimensions of the Scorecard. Given that the Scorecard scoring system awards points (positive and negative) for each individual form of defined Dimension activity – that is, roll call votes, bill sponsorship, and relevant public statements and interventions – ranging from a minimum score of 0.5 to a maximum score of 2 points per relevant member action, these results mean that over the three congresses studied the vast majority of members have taken minimum action on IP-related policy issues. In fact, almost 20% of the sample – 99 members – achieve a score between 0-0.5, suggesting almost no relevant Scorecard activity in the period studied.

Different chambers, different results? Comparing the results for the Senate with those of the House of Representatives

Scorecard results: U.S. Senate

Separating the Scorecard results for each of the two chambers of Congress shows both the similarities in Member activity level, but also some noteworthy differences.

Beginning with the U.S. Senate:

First, unlike the results for the House of Representatives, the Senate has a core group of what can be described as national "IP champions" – Senators Chris Coons, Thom Tillis, and Mazie Hirono. These senators consistently sponsor, cosponsor, and vote for pro-IP policies. In particular, over the time period studied Senators Coons and Tillis outscore the rest of the Senate by a significant magnitude and multiple. There are also other active pro-IP members of the U.S. Senate, including Senators Rick Scott, Chuck Schumer, Mark Warner, Todd Young, Marsha Blackburn, Tommy Tuberville, and Marco Rubio. Many of these senators are active with respect to making meaningful public statements and interventions on behalf of pro-IP policies, but are significantly less active compared to Senators Coons, Tillis, and Hirono with respect to legislative leadership.

"[T]he Senate has a core group of what can be described as national 'IP champions' – Senators Chris Coons, Thom Tillis, and Mazie Hirono."

Second, across the three congresses examined in the Scorecard a small group of senators through their political, legislative, and policy activities supported and promoted anti-IP policies and received a grade of "F." These are Senators Maggie Hassan, Amy Klobuchar, Bernie Sanders, Elizabeth Warren, and Peter Welch. These senators often sponsor, cosponsor, and vote for anti-IP policies. A few also engage in negative public interventions, often issuing damaging and misleading public statements and letters on IP policy.

Finally, and similar to the results for the House, over half of all senators have shown limited public interest in IP bills. Fifty-nine senators score between 0-2.50; a score which is almost entirely made up of unanimous consent votes in the 116th and 117th congresses. This means that across three consecutive congresses over half of the U.S. Senate has taken legislative action on less than a handful of bills and made almost no meaningful public statements/interventions (positive or negative) on IP issues in the 118th Congress.

Table 4 and Figure 11 on pages 28-31 show the results for all senators included in the Scorecard.

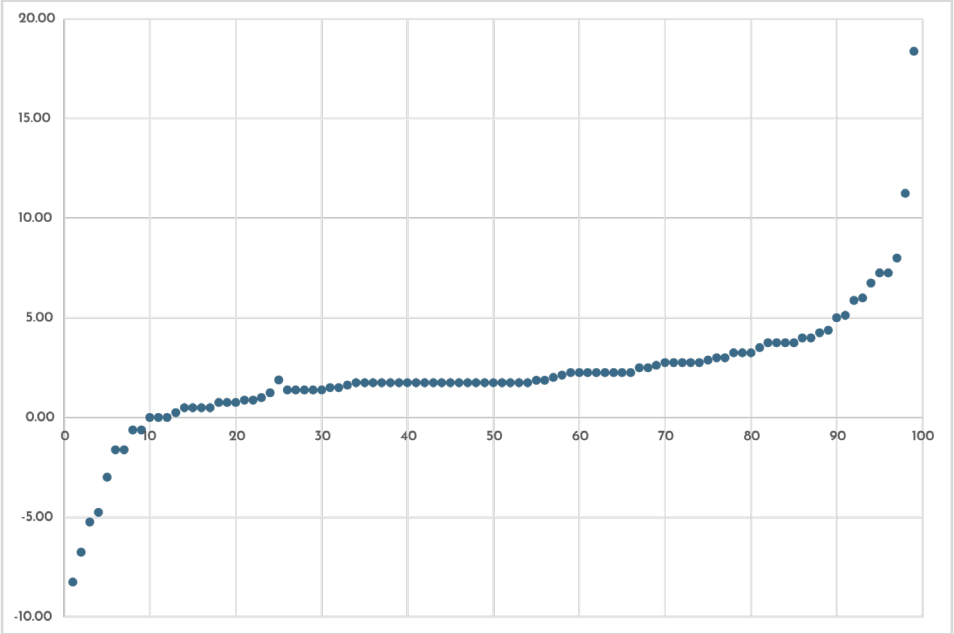
Table 4: Overall Scorecard grades, U.S. Senate

Senator		State	Party	Alphabetical Grade
Tammy	Baldwin	WI	Democrat	B
John	Barrasso	WY	Republican	B
Michael	Bennet	CO	Democrat	C
Marsha	Blackburn	TN	Republican	B+
Richard	Blumenthal	CT	Democrat	D
Cory	Booker	NJ	Democrat	C-
John	Boozman	AR	Republican	B
Mike	Braun	IN	Republican	D
Katie	Britt	AL	Republican	C
Sherrod	Brown	OH	Democrat	C
Ted	Budd	NC	Republican	B
Maria	Cantwell	WA	Democrat	B
Shelley	Capito	WV	Republican	B
Benjamin	Cardin	MD	Democrat	B
Thomas	Carper	DE	Democrat	B
Robert	Casey	PA	Democrat	B
Bill	Cassidy	LA	Republican	B
Susan	Collins	ME	Republican	B
Christopher	Coons	DE	Democrat	A+
John	Cornyn	TX	Republican	C
Catherine	Cortez Masto	NV	Democrat	B
Tom	Cotton	AR	Republican	B
Kevin	Cramer	ND	Republican	B
Michael	Crapo	ID	Republican	B
Ted	Cruz	TX	Republican	B
Steve	Daines	MT	Republican	B
Tammy	Duckworth	IL	Democrat	B
Richard	Durbin	IL	Democrat	B

Senator		State	Party	Alphabetical Grade
Joni	Ernst	IA	Republican	C
John	Fetterman	PA	Democrat	C-
Deb	Fischer	NE	Republican	B
Kirsten	Gillibrand	NY	Democrat	B
Lindsey	Graham	SC	Republican	B
Charles	Grassley	IA	Republican	C
Bill	Hagerty	TN	Republican	B
Margaret	Hassan	NH	Democrat	F
Joshua	Hawley	MO	Republican	C
Martin	Heinrich	NM	Democrat	B
John	Hickenlooper	CO	Democrat	B
Mazie	Hirono	HI	Democrat	A
John	Hoeven	ND	Republican	B
Cindy	Hyde-Smith	MS	Republican	B
Ron	Johnson	WI	Republican	B
Timothy	Kaine	VA	Democrat	B
Mark	Kelly	AZ	Democrat	C-
John	Kennedy	LA	Republican	B
Angus	King	ME	Independent	C
Amy	Klobuchar	MN	Democrat	F
James	Lankford	OK	Republican	B
Mike	Lee	UT	Republican	B
Ben	Lujan	NM	Democrat	B
Cynthia	Lummis	WY	Republican	B
Joe	Manchin	WV	Democrat	B
Edward	Markey	MA	Democrat	B
Roger	Marshall	KS	Republican	B
Mitch	McConnell	KY	Republican	B
Robert	Menendez	NJ	Democrat	B
Jeff	Merkley	OR	Democrat	B
Jerry	Moran	KS	Republican	B
Markwayne	Mullin	OK	Republican	C
Lisa	Murkowski	AK	Republican	B
Christopher	Murphy	CT	Democrat	B
Patty	Murray	WA	Democrat	C
Jon	Ossoff	GA	Democrat	C-
Alejandro	Padilla	CA	Democrat	B
Rand	Paul	KY	Republican	C
Gary	Peters	MI	Democrat	B

Senator		State	Party	Alphabetical Grade
John	Reed	RI	Democrat	B
Pete	Ricketts	NE	Republican	C
James	Risch	ID	Republican	B
Mitt	Romney	UT	Republican	B
Jacky	Rosen	NV	Democrat	C
Mike	Rounds	SD	Republican	C
Marco	Rubio	FL	Republican	B+
Bernard	Sanders	VT	Independent	F
Brian	Schatz	HI	Democrat	B
Eric	Schmitt	MO	Republican	C
Charles	Schumer	NY	Democrat	B+
Tim	Scott	SC	Republican	B
Rick	Scott	FL	Republican	B+
Jeanne	Shaheen	NH	Democrat	C
Kyrsten	Sinema	AZ	Independent	B
Tina	Smith	MN	Democrat	C
Debbie	Stabenow	MI	Democrat	B
Dan	Sullivan	AK	Republican	B
Jon	Tester	MT	Democrat	B
John	Thune	SD	Republican	B
Thom	Tillis	NC	Republican	A+
Tommy	Tuberville	AL	Republican	B+
Chris	Van Hollen	MD	Democrat	C
J.D. (James)	Vance	OH	Republican	C
Mark	Warner	VA	Democrat	B+
Raphael	Warnock	GA	Democrat	C-
Elizabeth	Warren	MA	Democrat	F
Peter	Welch	VT	Democrat	F
Sheldon	Whitehouse	RI	Democrat	B
Roger	Wicker	MS	Republican	B
Ron	Wyden	OR	Democrat	B
Todd	Young	IN	Republican	B+

Figure 11: Overall Scorecard results, U.S. Senate



Scorecard results: U.S. House of Representatives

The results for the House of Representatives are markedly different from the Senate.

First, overall activity levels in relation to IP issues in the House are significantly less pronounced than in the Senate. The overall maximum scores and score range achieved by members of the House of Representatives is less than 50% of the scores achieved in the Senate. In the House of Representatives, the overall Scorecard score range was between -4.13-5 points. Conversely, in the Senate this range was -8.25-18.38 points. Score range is an excellent proxy for activity levels as more activity equates to higher scores.

Second, and following from the above, a very large majority of House members show a limited interest in IP related policy issues. Across the three congresses examined, 346 members achieved a score between 0-2.50; most of this score is made up of a handful of roll call votes where IP bills were included. In the 118th Congress alone 213 members achieved a score of 0, suggesting no IP-related activity for the relevant time period.

Third, and unlike the results for the Senate, the House of Representatives does not have a core group of what can be termed national "IP champions." Across the three congresses examined, no Member of the House of

"Across the three congresses examined, no Member of the House of Representatives achieved an 'A' score. Still, a few stood out among their peers . . ."

Representatives achieved an "A" score. Still, a few stood out among their peers, with Representative Ben Cline receiving the highest score of "B+." In addition, 81 members received a "B" score, including, for example, Representatives Deborah Ross, Hakeem Jeffries, and Thomas Massie. The leaders of the Subcommittee on Courts, Intellectual Property, and the Internet – Representatives Darrell Issa and Hank Johnson – also proved to be generally pro-IP voices, with Representative Issa more on copyright-related issues and Representative Johnson more on patent-related issues. Both were also active on trademark-related issues, including cosponsoring the SHOP SAFE Act.

Finally, like in the Senate, across the three congresses examined in the Scorecard a small group of representatives through their political, legislative, and policy activities supported and promoted anti-IP policies and received a grade of "F" or "D-." These include Representatives Marie Gluesenkamp Perez, Lloyd Doggett, Joe Neguse, Valerie Hoyle, Andy Biggs, and David Schweikert.

Table 5 and Figure 12 on pages 32-43 show the results for all representatives included in the Scorecard.

Table 5: Overall Scorecard grades, U.S. House of Representatives

Representative		State	District	Party	Alphabetical Grade
Alma	Adams	NC	12	Democrat	C
Robert	Aderholt	AL	4	Republican	C
Pete	Aguilar	CA	33	Democrat	B
Mark	Alford	MO	4	Republican	C-
Rick	Allen	GA	12	Republican	B
Colin	Allred	TX	32	Democrat	B
Mark	Amodei	NV	2	Republican	C
Kelly	Armstrong	ND	0	Republican	C
Jodey	Arrington	TX	19	Republican	D
Jake	Auchincloss	MA	4	Democrat	C
Brian	Babin	TX	36	Republican	B
Don	Bacon	NE	2	Republican	B
James	Baird	IN	4	Republican	C
Troy	Balderson	OH	12	Republican	B
Becca	Balint	VT	0	Democrat	D
Jim	Banks	IN	3	Republican	C
Garland	Barr	KY	6	Republican	B
Nanette	Barragan	CA	44	Democrat	C
Aaron	Bean	FL	4	Republican	B

Representative		State	District	Party	Alphabetical Grade
Joyce	Beatty	OH	3	Democrat	C
Cliff	Bentz	OR	2	Republican	C
Ami	Bera	CA	6	Democrat	C
Jack	Bergman	MI	1	Republican	C
Donald	Beyer	VA	8	Democrat	C-
Stephanie	Bice	OK	5	Republican	B
Andy	Biggs	AZ	5	Republican	D-
Gus	Bilirakis	FL	12	Republican	C
Sanford	Bishop	GA	2	Democrat	C
Dan	Bishop	NC	8	Republican	C
Earl	Blumenauer	OR	3	Democrat	C
Lisa	Blunt Rochester	DE	0	Democrat	B
Lauren	Boebert	CO	3	Republican	C
Suzanne	Bonamici	OR	1	Democrat	B
Mike	Bost	IL	12	Republican	C
Jamaal	Bowman	NY	16	Democrat	C-
Brendan	Boyle	PA	2	Democrat	C
Josh	Brecheen	OK	2	Republican	C-
Shontel	Brown	OH	11	Democrat	C
Julia	Brownley	CA	26	Democrat	C
Vern	Buchanan	FL	16	Republican	B
Ken	Buck	CO	4	Republican	B
Larry	Bucshon	IN	8	Republican	C
Nicole (Nikki)	Budzinski	IL	13	Democrat	C
Tim	Burchett	TN	2	Republican	C
Michael	Burgess	TX	26	Republican	C
Eric	Burlison	MO	7	Republican	C
Cori	Bush	MO	1	Democrat	D
Tony	Cardenas	CA	29	Democrat	C
Ken	Calvert	CA	41	Republican	C
Katherine	Cammack	FL	3	Republican	C-
Yadira	Caraveo	CO	8	Democrat	C
Salud	Carbajal	CA	24	Democrat	C
Mike	Carey	OH	15	Republican	C
Jerry	Carl	AL	1	Republican	C
Andre	Carson	IN	7	Democrat	C
John	Carter	TX	31	Republican	C
Earl	Carter	GA	1	Republican	B
Troy	Carter	LA	2	Democrat	C-

Representative		State	District	Party	Alphabetical Grade
Matthew	Cartwright	PA	8	Democrat	C-
Gregorio	Casar	TX	35	Democrat	D
Ed	Case	HI	1	Democrat	B
Sean	Casten	IL	6	Democrat	C
Kathy	Castor	FL	14	Democrat	C
Joaquin	Castro	TX	20	Democrat	C
Lori	Chavez-DeRemer	OR	5	Republican	C
Sheila	Cherfilus-McCormick	FL	20	Democrat	C
Judy	Chu	CA	28	Democrat	C
Juan	Ciscomani	AZ	6	Republican	C
Katherine	Clark	MA	5	Democrat	B
Yvette	Clarke	NY	9	Democrat	C
Emanuel	Cleaver	MO	5	Democrat	C
Ben	Cline	VA	6	Republican	B+
Michael	Cloud	TX	27	Republican	C
James	Clyburn	SC	6	Democrat	C
Andrew	Clyde	GA	9	Republican	C
Steve	Cohen	TN	9	Democrat	C
Tom	Cole	OK	4	Republican	B
Mike	Collins	GA	10	Republican	C
James	Comer	KY	1	Republican	C
Gerald	Connolly	VA	11	Democrat	C-
J. Luis	Correa	CA	46	Democrat	B
Jim	Costa	CA	21	Democrat	B
Joe	Courtney	CT	2	Democrat	C
Angie	Craig	MN	2	Democrat	C
Eli	Crane	AZ	2	Republican	D
Eric	Crawford	AR	1	Republican	B
Dan	Crenshaw	TX	2	Republican	C
Jasmine	Crockett	TX	30	Democrat	C-
Jason	Crow	CO	6	Democrat	B
Henry	Cuellar	TX	28	Democrat	C
John	Curtis	UT	3	Republican	C
Sharice	Davids	KS	3	Democrat	C-
Warren	Davidson	OH	8	Republican	C
Danny	Davis	IL	7	Democrat	C
Donald	Davis	NC	1	Democrat	C
Monica	De La Cruz	TX	15	Republican	C
Madeleine	Dean	PA	4	Democrat	B

Representative		State	District	Party	Alphabetical Grade
Diana	DeGette	CO	1	Democrat	C
Rosa	DeLauro	CT	3	Democrat	C
Suzan	DelBene	WA	1	Democrat	C
Chris	Deluzio	PA	17	Democrat	C
Mark	DeSaulnier	CA	10	Democrat	C
Scott	DesJarlais	TN	4	Republican	C
Anthony	D'Esposito	NY	4	Republican	C
Mario	Diaz-Balart	FL	26	Republican	B
Debbie	Dingell	MI	6	Democrat	C
Lloyd	Doggett	TX	37	Democrat	F
Byron	Donalds	FL	19	Republican	C
John	Duarte	CA	13	Republican	C
Jeff	Duncan	SC	3	Republican	C
Neal	Dunn	FL	2	Republican	C
Charles (Chuck)	Edwards	NC	11	Republican	C
Jake	Ellzey	TX	6	Republican	C
Tom	Emmer	MN	6	Republican	C
Veronica	Escobar	TX	16	Democrat	C
Anna	Eshoo	CA	16	Democrat	C
Adriano	Espaillat	NY	13	Democrat	C
Ron	Estes	KS	4	Republican	B
Dwight	Evans	PA	3	Democrat	B
Mike	Ezell	MS	4	Republican	C
Patrick	Fallon	TX	4	Republican	C
Randy	Feenstra	IA	4	Republican	C
Drew	Ferguson	GA	3	Republican	B
Brad	Finstad	MN	1	Republican	C
Michelle	Fischbach	MN	7	Republican	C
Scott	Fitzgerald	WI	5	Republican	B
Brian	Fitzpatrick	PA	1	Republican	B
Charles	Fleischmann	TN	3	Republican	C
Lizzie	Fletcher	TX	7	Democrat	C
Mike	Flood	NE	1	Republican	C
Bill	Foster	IL	11	Democrat	B
Valerie	Foushee	NC	4	Democrat	C-
Virginia	Foxx	NC	5	Republican	C
Lois	Frankel	FL	22	Democrat	C
C. Scott	Franklin	FL	18	Republican	C-
Maxwell	Frost	FL	10	Democrat	D

Representative		State	District	Party	Alphabetical Grade
Russell	Fry	SC	7	Republican	D
Russ	Fulcher	ID	1	Republican	C
Matt	Gaetz	FL	1	Republican	D
Mike	Gallagher	WI	8	Republican	B
Ruben	Gallego	AZ	3	Democrat	C
John	Garamendi	CA	8	Democrat	C
Andrew	Garbarino	NY	2	Republican	C
Jesus	Garcia	IL	4	Democrat	C-
Sylvia	Garcia	TX	29	Democrat	C
Mike	Garcia	CA	27	Republican	C
Robert	Garcia	CA	42	Democrat	C-
Carlos	Gimenez	FL	28	Republican	C
Marie	Gluesenkamp Perez	WA	3	Democrat	F
Jared	Golden	ME	2	Democrat	C
Dan	Goldman	NY	10	Democrat	C-
Jimmy	Gomez	CA	34	Democrat	C
Ernest Tony	Gonzales	TX	23	Republican	C
Vicente	Gonzalez	TX	34	Democrat	C
Robert	Good	VA	5	Republican	D
Lance	Gooden	TX	5	Republican	B
Paul	Gosar	AZ	9	Republican	C
Josh	Gottheimer	NJ	5	Democrat	B
Kay	Granger	TX	12	Republican	C
Sam	Graves	MO	6	Republican	C
Garret	Graves	LA	6	Republican	C
Al	Green	TX	9	Democrat	C
Mark	Green	TN	7	Republican	C
Marjorie	Greene	GA	14	Republican	C-
H. Morgan	Griffith	VA	9	Republican	C
Raul	Grijalva	AZ	7	Democrat	D
Glenn	Grothman	WI	6	Republican	C
Michael	Guest	MS	3	Republican	C
Brett	Guthrie	KY	2	Republican	C
Harriet	Hageman	WY	0	Republican	C
Josh	Harder	CA	9	Democrat	C-
Andy	Harris	MD	1	Republican	C
Diana	Harshbarger	TN	1	Republican	C-
Jahana	Hayes	CT	5	Democrat	C
Kevin	Hern	OK	1	Republican	B

Representative		State	District	Party	Alphabetical Grade
Brian	Higgins	NY	26	Democrat	C-
Clay	Higgins	LA	3	Republican	C
J. French	Hill	AR	2	Republican	B
James	Himes	CT	4	Democrat	C
Ashley	Hinson	IA	2	Republican	B
Steven	Horsford	NV	4	Democrat	C
Erin	Houchin	IN	9	Republican	C
Chrissy	Houlahan	PA	6	Democrat	B
Steny	Hoyer	MD	5	Democrat	C
Valerie	Hoyle	OR	4	Democrat	D-
Richard	Hudson	NC	9	Republican	B
Jared	Huffman	CA	2	Democrat	C
Bill	Huizenga	MI	4	Republican	C
Wesley	Hunt	TX	38	Republican	C
Darrell	Issa	CA	48	Republican	B
Glenn	Ivey	MD	4	Democrat	C-
Ronny	Jackson	TX	13	Republican	D
Jonathan	Jackson	IL	1	Democrat	C-
Jeffrey	Jackson	NC	14	Democrat	C
Sheila	Jackson Lee	TX	18	Democrat	C
Sara	Jacobs	CA	51	Democrat	C-
John	James	MI	10	Republican	C
Pramila	Jayapal	WA	7	Democrat	D
Hakeem	Jeffries	NY	8	Democrat	B
Bill	Johnson	OH	6	Republican	C
Henry	Johnson	GA	4	Democrat	B
Mike	Johnson	LA	4	Republican	C
Dusty	Johnson	SD	0	Republican	C
Jim	Jordan	OH	4	Republican	C
David	Joyce	OH	14	Republican	C
John	Joyce	PA	13	Republican	B
Sydney	Kamlager-Dove	CA	37	Democrat	C-
Marcy	Kaptur	OH	9	Democrat	C-
Thomas	Kean	NJ	7	Republican	C
William	Keating	MA	9	Democrat	C
Mike	Kelly	PA	16	Republican	C-
Robin	Kelly	IL	2	Democrat	C
Trent	Kelly	MS	1	Republican	C
Ro	Khanna	CA	17	Democrat	C

Representative		State	District	Party	Alphabetical Grade
Jennifer	Kiggans	VA	2	Republican	C
Daniel	Kildee	MI	8	Democrat	C
Kevin	Kiley	CA	3	Republican	B
Derek	Kilmer	WA	6	Democrat	C
Andy	Kim	NJ	3	Democrat	C
Young	Kim	CA	40	Republican	B
Raja	Krishnamoorthi	IL	8	Democrat	B
Ann	Kuster	NH	2	Democrat	D
David	Kustoff	TN	8	Republican	C
Darin	LaHood	IL	16	Republican	C
Nick	LaLota	NY	1	Republican	C
Doug	LaMalfa	CA	1	Republican	C
Doug	Lamborn	CO	5	Republican	C-
Greg	Landsman	OH	1	Democrat	C-
Nicholas	Langworthy	NY	23	Republican	C-
Rick	Larsen	WA	2	Democrat	C
John	Larson	CT	1	Democrat	C
Robert	Latta	OH	5	Republican	C
Jacob	LaTurner	KS	2	Republican	C
Michael	Lawler	NY	17	Republican	C
Laurel	Lee	CA	12	Democrat	D
Summer	Lee	NV	3	Democrat	C-
Barbara	Lee	FL	15	Republican	C
Susie	Lee	PA	12	Democrat	C
Teresa	Leger Fernandez	NM	3	Democrat	C-
Debbie	Lesko	AZ	8	Republican	B
Julia	Letlow	LA	5	Republican	C
Mike	Levin	CA	49	Democrat	C
Ted	Lieu	CA	36	Democrat	B
Zoe	Lofgren	CA	18	Democrat	C-
Barry	Loudermilk	GA	11	Republican	C
Frank	Lucas	OK	3	Republican	C
Blaine	Luetkemeyer	MO	3	Republican	C
Morgan	Luttrell	TX	8	Republican	C
Stephen	Lynch	MA	8	Democrat	C
Nancy	Mace	SC	1	Republican	C-
Seth	Magaziner	RI	2	Democrat	D
Nicole	Malliotakis	NY	11	Republican	C
Tracey	Mann	KS	1	Republican	C

Representative		State	District	Party	Alphabetical Grade
Kathy	Manning	NC	6	Democrat	C
Thomas	Massie	KY	4	Republican	B
Brian	Mast	FL	21	Republican	C
Doris	Matsui	CA	7	Democrat	B
Lucy	McBath	GA	7	Democrat	C
Michael	McCaul	TX	10	Republican	C
Lisa	McClain	MI	9	Republican	C-
Jennifer	McClellan	VA	4	Democrat	C-
Tom	McClintock	CA	5	Republican	B
Betty	McCollum	MN	4	Democrat	C
Rich	McCormick	GA	6	Republican	C-
Morgan	McGarvey	KY	3	Democrat	C-
James	McGovern	MA	2	Democrat	C
Patrick	McHenry	NC	10	Republican	C
Cathy	McMorris Rodgers	WA	5	Republican	C
Gregory	Meeks	NY	5	Democrat	C
Robert	Menendez	NJ	8	Democrat	C
Grace	Meng	NY	6	Democrat	C
Daniel	Meuser	PA	9	Republican	C
Kweisi	Mfume	MD	7	Democrat	C-
Carol	Miller	WV	1	Republican	C
Mary	Miller	IL	15	Republican	C
Max	Miller	OH	7	Republican	C
Mariannette	Miller-Meeks	IA	1	Republican	C-
Cory	Mills	FL	7	Republican	C
Marcus	Molinaro	NY	19	Republican	C
John	Moolenaar	MI	2	Republican	C
Alexander	Mooney	WV	2	Republican	C
Blake	Moore	WI	4	Democrat	C-
Gwen	Moore	AL	2	Republican	C
Barry	Moore	UT	1	Republican	C
Nathaniel	Moran	TX	1	Republican	B
Joseph	Morelle	NY	25	Democrat	C
Jared	Moskowitz	FL	23	Democrat	C
Seth	Moulton	MA	6	Democrat	B
Frank	Mrvan	IN	1	Democrat	C
Kevin	Mullin	CA	15	Democrat	C-
Gregory	Murphy	NC	3	Republican	B
Jerrold	Nadler	NY	12	Democrat	B

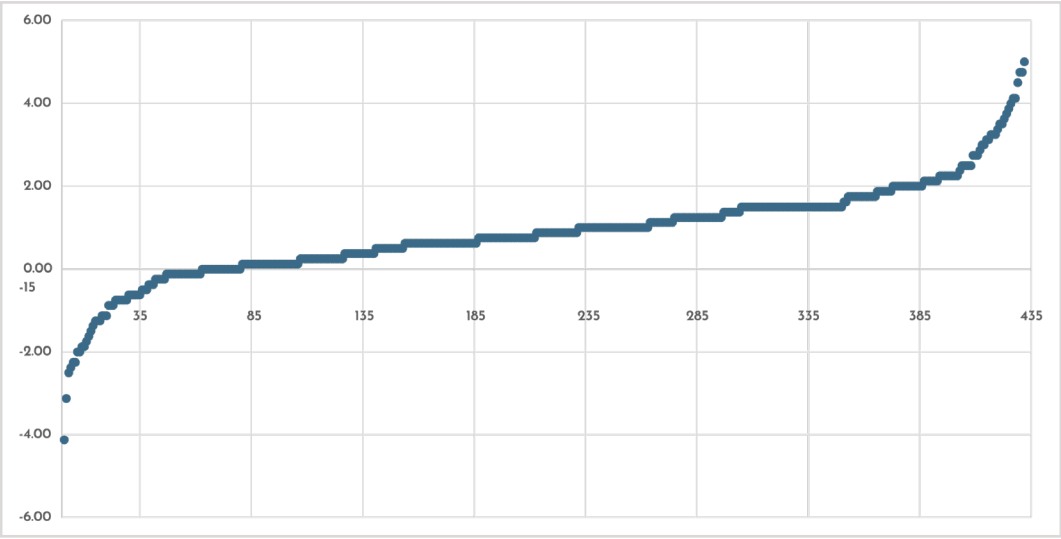
Representative		State	District	Party	Alphabetical Grade
Grace	Napolitano	CA	31	Democrat	C
Richard	Neal	MA	1	Democrat	C
Joe	Neguse	CO	2	Democrat	D-
Troy	Nehls	TX	22	Republican	B
Dan	Newhouse	WA	4	Republican	B
Wiley	Nickel	NC	13	Democrat	C
Donald	Norcross	NJ	1	Democrat	C
Ralph	Norman	SC	5	Republican	C
Zachary (Zach)	Nunn	IA	3	Republican	B
Jay	Obernolte	CA	23	Republican	B
Alexandria	Ocasio-Cortez	NY	14	Democrat	C
Andrew	Ogles	TN	5	Republican	C
Ilhan	Omar	MN	5	Democrat	C-
Clarence	Owens	UT	4	Republican	C
Frank	Pallone	NJ	6	Democrat	C
Gary	Palmer	AL	6	Republican	B
Jimmy	Panetta	CA	19	Democrat	C
Chris	Pappas	NH	1	Democrat	C
Bill	Pascrell	NJ	9	Democrat	C
Anna	Paulina Luna	FL	13	Republican	C
Donald	Payne	NJ	10	Democrat	C
Nancy	Pelosi	CA	11	Democrat	C
Mary	Peltola	AK	0	Democrat	C
Greg	Pence	IN	6	Republican	C
Scott	Perry	PA	10	Republican	C
Scott	Peters	CA	50	Democrat	C
Brittany	Pettersen	CO	7	Democrat	C
August	Pfluger	TX	11	Republican	B
Dean	Phillips	MN	3	Democrat	C
Chellie	Pingree	ME	1	Democrat	C-
Mark	Pocan	WI	2	Democrat	C-
Katie	Porter	CA	47	Democrat	C-
Bill	Posey	FL	8	Republican	B
Ayanna	Pressley	MA	7	Democrat	C
Mike	Quigley	IL	5	Democrat	C
Delia	Ramirez	IL	3	Democrat	C-
Jamie	Raskin	MD	8	Democrat	C
Guy	Reschenthaler	PA	14	Republican	B
Harold	Rogers	KY	5	Republican	C

Representative		State	District	Party	Alphabetical Grade
Mike	Rogers	AL	3	Republican	C
John	Rose	TN	6	Republican	C-
Matthew	Rosendale	MT	2	Republican	D
Deborah	Ross	NC	2	Democrat	B
David	Rouzer	NC	7	Republican	C
Chip	Roy	TX	21	Republican	C
Raul	Ruiz	CA	25	Democrat	C
C.A. Dutch	Ruppersberger	MD	2	Democrat	C
John	Rutherford	FL	5	Republican	B
Patrick	Ryan	NY	18	Democrat	C
Maria	Salazar	CA	38	Democrat	C-
Andrea	Salinas	FL	27	Republican	D
Linda	Sanchez	OR	6	Democrat	C
John	Sarbanes	MD	3	Democrat	C
Steve	Scalise	LA	1	Republican	C
Mary	Scanlon	PA	5	Democrat	B
Janice	Schakowsky	IL	9	Democrat	C-
Adam	Schiff	CA	30	Democrat	C
Bradley	Schneider	IL	10	Democrat	B
Hillary	Scholten	MI	3	Democrat	C
Kim	Schrier	WA	8	Democrat	C
David	Schweikert	AZ	1	Republican	D-
Robert	Scott	GA	8	Republican	C
Austin	Scott	GA	13	Democrat	B
David	Scott	VA	3	Democrat	B
Keith	Self	TX	3	Republican	C
Pete	Sessions	TX	17	Republican	C
Terri	Sewell	AL	7	Democrat	B
Brad	Sherman	CA	32	Democrat	C
Mikie	Sherrill	NJ	11	Democrat	B
Michael	Simpson	ID	2	Republican	C
Elissa	Slotkin	MI	7	Democrat	D
Adam	Smith	WA	9	Democrat	C
Jason	Smith	NE	3	Republican	C
Adrian	Smith	NJ	4	Republican	C
Christopher	Smith	MO	8	Republican	C
Lloyd	Smucker	PA	11	Republican	C
Eric	Sorensen	IL	17	Democrat	C
Darren	Soto	FL	9	Democrat	B

Representative		State	District	Party	Alphabetical Grade
Abigail	Spanberger	VA	7	Democrat	B
Victoria	Spartz	IN	5	Republican	C
Melanie	Stansbury	NM	1	Democrat	D
Greg	Stanton	AZ	4	Democrat	C
Pete	Stauber	MN	8	Republican	C
Michelle	Steel	CA	45	Republican	B
Elise	Stefanik	NY	21	Republican	B
Bryan	Steil	WI	1	Republican	C
Gregory	Steube	FL	17	Republican	C
Haley	Stevens	MI	11	Democrat	C
Chris	Stewart	UT	2	Republican	C
Marilyn	Strickland	WA	10	Democrat	C-
Dale	Strong	AL	5	Republican	C
Eric	Swalwell	CA	14	Democrat	C
Emilia	Sykes	OH	13	Democrat	C
Mark	Takano	CA	39	Democrat	D
Claudia	Tenney	NY	24	Republican	C
Shri	Thanedar	MI	13	Democrat	C-
Mike	Thompson	MS	2	Democrat	C
Glenn	Thompson	CA	4	Democrat	C
Bennie	Thompson	PA	15	Republican	C
Thomas	Tiffany	WI	7	Republican	B
William	Timmons	SC	4	Republican	C
Dina	Titus	NV	1	Democrat	B
Rashida	Tlaib	MI	12	Democrat	D
Jill	Tokuda	HI	2	Democrat	D
Paul	Tonko	NY	20	Democrat	C
Ritchie	Torres	CA	35	Democrat	C
Norma	Torres	NY	15	Democrat	C
Lori	Trahan	MA	3	Democrat	C
David	Trone	MD	6	Democrat	C
Michael	Turner	OH	10	Republican	C
Lauren	Underwood	IL	14	Democrat	C
David	Valadao	CA	22	Republican	C
Jefferson	Van Drew	NJ	2	Republican	C
Beth	Van Duyne	TX	24	Republican	C-
Derrick	Van Orden	WI	3	Republican	C
Juan	Vargas	CA	52	Democrat	C
Gabriel (Gabe)	Vasquez	NM	2	Democrat	C

Representative		State	District	Party	Alphabetical Grade
Marc	Veasey	TX	33	Democrat	B
Nydia	Velazquez	NY	7	Democrat	B
Ann	Wagner	MO	2	Republican	C
Tim	Walberg	MI	5	Republican	C
Michael	Waltz	FL	6	Republican	B
Debbie	Wasserman Schultz	FL	25	Democrat	C
Maxine	Waters	CA	43	Democrat	C
Bonnie	Watson Coleman	NJ	12	Democrat	C
Randy	Weber	TX	14	Republican	C
Daniel	Webster	FL	11	Republican	C
Brad	Wenstrup	OH	2	Republican	C
Bruce	Westerman	AR	4	Republican	C
Jennifer	Wexton	VA	10	Democrat	B
Susan	Wild	PA	7	Democrat	C
Nikema	Williams	TX	25	Republican	D
Brandon	Williams	GA	5	Democrat	C
Roger	Williams	NY	22	Republican	C
Frederica	Wilson	SC	2	Republican	C
Joe	Wilson	FL	24	Democrat	B
Robert	Wittman	VA	1	Republican	B
Steve	Womack	AR	3	Republican	C
Rudy	Yakym	IN	2	Republican	C
Ryan	Zinke	MT	1	Republican	C

Figure 12: Overall Scorecard results, U.S. House of Representatives



Is Congress's inactivity putting our national 401k plan and engine for growth at risk? Discussion and policy implications of the Congressional Innovation Scorecard findings

Our national economy, our future prosperity, and the strength of our military and security apparatus rely on the continued innovation and technological revolutions that the U.S. economy provides. The right to create, invent, and protect that innovation through IP rights is enshrined in our constitution and is one of the major reasons why the U.S. economy continues to provide new and revolutionary forms of innovation and prosperity to generations of Americans and people around the world. Innovating and creating is literally in our DNA because of it.

However, America's national IP environment and those IP incentives and rights that have powered that innovation and prosperity today face many fundamental challenges.

Most notably, since the Supreme Court decisions in *Bilski v. Kappos, Molecular Pathology v. Myriad Genetics, Mayo Collaborative Services v. Prometheus Laboratories*, and *Alice Corp. v. CLS Bank* over a decade ago, there has been a high and sustained level of uncertainty as to what constitutes patentable subject matter. The USPTO has since 2014 issued and updated patent examination guidelines with significant frequency. Lower and circuit court decisions in patent infringement proceedings have been inconsistent. The net result is that inventors and creators are left without a clear sense of how decisions on patent eligibility will be made or, when granted patents are subsequently challenged, which patent claims will be upheld. In addition, since the Supreme Court's *eBay Inc. v. MercExchange, L.L.C.* decision, it has been increasingly difficult for patent owners to obtain injunctive relief if their patents are found to be valid and infringed. Similarly, in an effort to provide a more cost-effective, efficient alternative to judicial proceedings the 2011 America Invents Act (AIA) introduced new post-grant opposition and inter partes review. Despite the intentions of these new AIA mechanisms the result has been a sustained level of uncertainty and unpredictability for many patent owners. This

"The right to create, invent, and protect that innovation through IP rights is enshrined in our constitution and is one of the major reasons why the U.S. economy continues to provide new and revolutionary forms of innovation and prosperity to generations of Americans and people around the world."

has been especially the case with the IPR, which occurs before the specialized Patent Trial and Appeals Board (PTAB) within the USPTO, often many years after issuance. Equally, when it comes to the protection of copyrighted material or goods and services protected by trademarks or design rights, innovators and creators today face many critical challenges of infringement and outright theft, especially in the growing online environment. The protection of confidential business information and trade secrets also faces many new threats with the proliferation of digital technologies, information, and access points, all of which make protecting proprietary information much more difficult.

These challenges to our national IP system are not confined to the homeland. More broadly, this is also an issue about our international economic competitiveness and strategic interests. Economies around the world are growing their capacity to innovate. China is the most obvious example. A generation ago the Chinese economy consisted largely of basic manufacturing and industry. Today, China is leading the way in the research and development of many of the technologies of the future. For, instance, a 2023 study by the Australian Strategic Policy Institute and funded by the U.S. State Department found that China has become the "world's leading science and technology superpower" across a "a range of crucial technology fields spanning defence, space, robotics, energy, the environment, biotechnology, artificial intelligence (AI), advanced materials, and key quantum technology areas."[18]

But as the findings of this Scorecard make clear, there is a disconnect between the need for deep and meaningful policy reform of our national IP environment and the extent to which one of our most important public institutions, the U.S. Congress, engages with IP issues. Simply put, the U.S. Congress and its members are not as actively engaged on IP issues as they should be. If the Scorecard results could be distilled into one over-arching takeaway, it is this: While IP-intensive industries represent over 40% of U.S. GDP and 90% of the value of the S&P 500, only a small percentage of bills introduced and considered – let alone voted on by the whole Congress – over the last three congresses have been IP-related. There are also too few IP champions and too many detractors working to harm America's IP position. And the vast majority of legislators fail entirely to engage meaningfully on IP. All this needs to change.

"When we as a nation - and our political representatives - fail to adequately nurture and invest in our national IP system, we are not only failing the public today, but future generations too."

When we as a nation – and our political representatives – fail to adequately nurture and invest in our national IP system, we are not only failing the public today, but future generations

[18] Gaida, J. et al. (2023), *ASPI's Critical Technology Tracker: The global race for future power*, Canberra: Australian Strategic Policy Institute Limited, February 2023, p. 1.

too. A strong innovation-based economy cannot exist without a strong IP system – both today and for our future. Our national IP system is America's 401(K) program – the vehicle we use as a nation to invest in our country's future. Ensuring that this system is fit for purpose and continues to deliver new breakthrough technologies and creations across all economic sectors and industries is critical to ensuring America's future prosperity, peace, and security.

C4IP hopes that the findings of this inaugural edition of the Scorecard act as a call to greater Congressional action, engagement, and education on IP issues. The good news is that many of the solutions to the fundamental challenges we as a country face with respect to our IP environment have already been identified by members of Congress. As the Scorecard rightly points out, Senators Coons, Tillis, Hirono, and a handful of other members have provided extraordinary leadership in not only identifying where policy reform is needed, but they have also sponsored and cosponsored many of the relevant legislative solutions.

It is vital that in 2024 and beyond, members of both chambers come together in a constructive and bipartisan manner and prioritize solving some of these long-standing fundamental IP challenges. Our future security and prosperity depend on it.