

MEDIA ADVISORY

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Obama Administration to Sanction Foreign Persons and Entities Committing Cyber Espionage

Today, April 1, 2015, the Obama Administration released a groundbreaking [executive order](#) to sanction foreign persons and entities engaged in malicious activities in cyberspace. The President's executive order, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," is a turning point in U.S. cybersecurity and intellectual property protection policy.

This executive order is grounded in the authority granted to the President by Congress late last year that passed under the radar of the media and many experts in the U.S. policy community. In December 2014, Congress granted the President the extraordinary authority to sanction foreign persons and entities engaged in economic or industrial espionage in cyberspace through the National Defense Authorization Act (NDAA), Section 1637.

Section 1637 drew in part from recommendations made by the Commission on the Theft of American Intellectual Property (IP Commission) in 2013. The IP Commission advised NDAA co-sponsor Senator Carl Levin and his staff to craft sanctions language to deny the privilege of the American banking system to foreign persons that steal American IP.

The IP Commission, co-chaired by Governor Jon Huntsman, former U.S. Ambassador to China, and Admiral Dennis Blair, former U.S. Director of National Intelligence, was a bipartisan, deep-dive study into how to reform U.S. cyber and IP policy. IP Commissioners and experts from the National Bureau of Asian Research (NBR) met with Capitol Hill staff throughout 2013 and 2014 to discuss various legislative proposals, including sanctions authority.

"IP theft costs the U.S. over \$300 billion every year. The NDAA arms the administration with a sensible tool to combat cyber espionage and protect American IP. It is critical that the Obama administration vigorously apply this sanctions tool," says Admiral Dennis Blair, co-chair of the IP Commission. "The U.S. must penalize Chinese and other foreign persons for unrelenting, unabashed economic espionage."

Section 1637 also directs the President to submit an annual report to Congress that contains a list of 1) foreign countries engaged in cyber espionage targeting American IP, 2) priority foreign countries determined to be engaged in the most egregious cyber espionage, and 3) U.S. technologies, proprietary information, articles produced using U.S. technologies or proprietary information, or services targeted by foreign persons. This report, due 180 days after December 19, 2014, the day the President signed the NDAA, is due on June 17, 2015.

“Section 1637 will fortify Senator Carl Levin’s legacy as one of his most important achievements,” says Richard Ellings, NBR President and Director of the IP Commission. “Levin, McCain, Coburn, and Rockefeller demonstrated exemplary statesmanship in addressing large-scale cybertheft of U.S. property. On April 1, 2015, the Obama administration acted on this authority. Now the question is: will the Obama administration expeditiously sanction foreign persons and entities stealing American IP?”

Section 1637 draws language from the Deter Cyber Theft Act of 2014, legislation sponsored by Senator Carl Levin (D-MI) that pragmatically addresses cyberattacks on U.S. companies. Senators Tom Coburn (R-OK), John McCain (R-AZ), and Jay Rockefeller (D-WV) also sponsored the legislation.

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