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March 23, 2015

The Honorable Chuck Grassley
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
United States House Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
United States House Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Leahy:

We the undersigned coalition of original equipment manufacturers (OEMs), labor unions and trade associations respectfully request your opposition to S. 560, the Promoting Automotive Repair, Trade and Sales (PARTS) Act. This recently introduced legislation would exempt the creation, sales and/or importation of certain replicated automobile repair parts from infringing U.S. design patents.

As you know, intellectual property rights are the backbone of innovation and job creation. Design patents complement the use of utility patents to protect automotive companies against unfair competition from people or companies who copy their innovations without investing in the process or making an effort to innovate. Removing design protection promotes unfair competition to the detriment of U.S.-based designers, manufacturers, workers, and dealers. It is a license for “free riders” to deprive innovators of any reward for the commercial risk that has been taken to bring a product to market.

Automotive companies competing in the three major markets of Europe, Asia and the Americas maintain design centers in the U.S. that employ highly skilled workers who create attractive and innovative vehicles that appeal to American consumers. It is that appeal that makes each vehicle distinct, increasing competition to benefit consumers, and supports jobs throughout the industry. Not only does the PARTS Act deny businesses the ability to rightfully protect their intellectual property, it legalizes activity that would otherwise be considered piracy.

Proponents of the legislation, which include both the aftermarket parts and insurance industries, have argued that due to the bill’s narrow scope not only will it lower repair and insurance costs but that the legislation is consumer friendly and provides a greater benefit than it does harm. The fact is that narrowing the focus of the legislation to "exterior component parts" singles out one industry for discriminatory treatment and misstates the value these features contribute to the overall product. Automotive companies invest billions each year to develop and patent these designs, so to retroactively reduce patent protection to just a few years upends the business decisions supporting this important segment of the U.S. economy. Additionally, at the latest hearing held on this issue/bill, when asked directly if insurance premiums would be lowered as a result of this legislation, the insurance industry representative replied, “I would not expect premiums to go down as a result”.

Manufacturers of unlicensed automobile parts have to meet only one basic threshold: to produce a copy that can be passed off as an original part. Those who produce such parts incur no costs attributable to original design, research and development and most importantly, product safety testing. Automobile companies must ensure that all automotive components perform as a cohesive system during crash testing to provide the safest possible product for their customers. Accordingly, the manufacturer of the original product for whom such unlicensed replacement parts are made does not know how these parts will perform with the rest of the vehicle or how their use will impact the quality and integrity of the original product. Automotive collision repairers are also very concerned about the quality of replacement crash parts. Permitting infringement of this intellectual property also exposes consumers to significant safety, performance and durability risks without their knowledge.

The underlying premise for the PARTS Act is that competition requires copying. This premise is false. Many aftermarket companies are successful in producing interchangeable parts that do not copy the exterior appearance of the OEM component. In fact, the U.S. aftermarket is replete with headlights, taillights, grilles, and bumpers that do not copy OEM designs but are interchangeable with the original components. This type of activity by aftermarket companies is a form of fair competition that respects and comports with existing patent protections. These companies employ designers that create original designs, provide consumers with greater repair choices, encourage innovation and protect the public from mistakenly buying a generic part when they intended to purchase an OEM replacement. Seen in this light, the PARTS Act is a solution in search of a problem.

Finally, the U.S. Supreme Court has repeatedly denied attempts to overturn the important IP rights associated with design patents. Legislatively denying these rights would not only overturn decades of judicial precedent, it would also violate IP rights that are protected under the U.S. Constitution, and the World Trade Organization agreement on Trade-Related Aspects of Intellectual Property Rights.

For all of these reasons, we strongly oppose the PARTS Act and urge you to do so as well.

Thank you for your consideration of our views. Please do not hesitate to reach out to us for additional information or to answer any questions you may have.

Sincerely,

Alliance of Automobile Manufacturers
American Automotive Policy Council
American International Automobile Dealers
Association of Equipment Manufacturers
Association of Global Automakers
Automotive Service Association
Intellectual Property Owners Association
Motorcycle Industry Council
National Association of Manufacturers
National Association of Minority Automobile Dealers
National Automobile Dealers Association
Specialty Equipment Market Association
Truck and Engine Manufacturers Association
United Auto Workers

CC: Members of the United States Senate