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San Francisco

STATEMENT FOR THE RECORD

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and  
ENGINE ADVOCACY

BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS

Chairman Rice and Ranking Member Chu, Members of the Committee, on behalf of Engine Advocacy, I want to thank you for the opportunity to speak to you today about the importance of startups to the American economy.

Engine's mission is to create an environment where technological innovation and entrepreneurship thrive by educating and working with startups and lawmakers to construct smarter public policy. Our Advisory Board consists of leading venture capitalists and entrepreneurs. And our members -- more than 500 and growing daily -- are entrepreneurial high-growth businesses, pioneers, innovators, investors, and technologists committed to taking action on policy issues in Washington -- from young companies making products ranging from semantic search tools to heart scanning technologies, to MIT physicists building satellites and thriving businesses such as Yelp. Across the country, Engine members are driving our economy.

New and young firms are responsible for all new net job growth over the past few decades, according to research from the Kauffman Foundation. Our own research has found that employment in science, technology, engineering, and mathematics, or STEM, occupations has been continually robust, gaining 27 jobs for every 1 job gain in all other occupations between 2002 and 2011. These jobs have boosted local communities as well; for every job created in the high-tech sector, 4.3 additional jobs are projected to be created in the local goods and services economy, including barbers, lawyers, and health care professionals. Startups are small by definition, but their impact across the U.S. economy is enormous.



While startups have different growth paths than conventional small businesses, like hardware stores and restaurants, they face many of the same challenges. They must find funding, employ the right talent, and constantly work to develop better products in increasingly competitive markets. While we need to understand that startups are akin in some respects to brick and mortar small businesses, we should also acknowledge that they overcome unique challenges to growth and prosperity. In addition, government should acknowledge the importance of startups to the national economy, and to communities around the country when crafting policy.

As risky investments, startups are unlikely to receive conventional bank loans. Instead, our members rely on angel investors and venture capitalists, who are willing to take the financial risk in exchange for equity. To ensure that these fledgling businesses can prosper, angels and VCs will often offer advice and mentoring in addition to a financial investment. That's why hubs like San Francisco and New York, but also Austin, Kansas City, Boulder, and Des Moines have grown as centers of new business formation. Investors steer companies toward success by quite literally being present as the startup grows. These interactions, together with hard work and late nights, grow truly innovative companies.

It would follow logically that in one of these hubs, finding a co-founder, funding and talent should be easier. But for some of our members, the opposite is true. Take Fabien Beckers, for example. Fabien created a 3D heart imaging system that could revolutionize how we diagnose and treat heart disease. He has a PhD from Cambridge and an MBA from Stanford. Despite having funding -- contingent on his ability to stay in the country -- Fabien was not technically employed and so did not fit the requirements for an H class visa. Instead of working on his product, Fabien had to spend months being rejected by visa category after visa category. Finally, he proved he was "exceptional" enough in his ability (as defined by the visa class) to receive an O visa that allowed him to stay in the country.

In the long term, we need to continue working to evolve our American education system to help power growth and give young people the skills they need to compete in a global marketplace. But in the short term, we must realize that our most valuable resource, talent, is already on our shores. Unfortunately, in many cases we seem to be looking for ways to send smart, talented, entrepreneurial individuals either back to their countries of origin, or to places like Canada, Chile, and South Korea where they have hung out the welcome sign to these promising minds, as we did so long ago at Ellis Island and Angel Island. It is imperative that we find a way to keep knowledge here, working and building business in America, so that our economy can continue to grow and our businesses continue to thrive.



Startup founders must be included in any comprehensive immigration reform effort. There are a number of proposals that have been introduced both in the House and the Senate -- some create a new visa category for startup founders and others expand the current visa categories. For Engine, the outcomes are more important than the mechanism.

Once funding is secured, startup founders need a path to come to America -- and that path should lead them to permanent residency, or even citizenship. We believe that the requirements in Startup Act 3.0 are reasonable: \$100,000 in investment and a promise to employ two American citizens in the first year are goals that a promising startup can meet. However, requiring startup founders to already be in the country on an H-1B or F-1 visa will prohibit innovative entrepreneurs in other nations from founding their companies here.

As startups grow, it is also important to ensure they are able to hire the right people. That is why we also support the Immigration Innovation Act, which creates a flexible market-based supply and demand system for the H-1B visa cap. In addition, we suggest tying the H-1B approval system to the needs of the economy; because they do not have a masters degree or PhD, startup employees are often pushed to the back of the line, despite being some of the most economically productive immigrants joining our workforce.

Like any small business, startups also need protection from bad actors in the marketplace. Patent trolls, or "non-practicing entities," are companies that operate by collecting fees on the patents they own instead of actually developing products. The financial consequences to a startup are so dire that patent trolling potentially impedes some inventors from even bringing an early product to market. In 2011, U.S. companies were subjected to \$29 billion in direct costs from patent infringement claims filed by patent trolls. These non-practicing entities are perfectly content settling matters out of court for a five- or six-figure "nuisance" payout from a startup. 40 percent of startups who have received threat letters from patent trolls said that the matter had caused at least one "significant operational impact" to their businesses.

PureDiscovery, a startup based in Dallas, TX, is building an innovative platform for information sharing. Since their first customer was the U.S. Patent and Trademark Office, they are well aware of the threat of patent trolls. To be prepared, they have reserved \$10,000 per employee they hire per year, just to ensure that a lawsuit will not destroy their small business. They plan on hiring 50 employees this year.



We ask that Congress continue to reform the patent system. A good first step is the SHIELD Act, which introduces fee-shifting that moves incentives away from filing lawsuits and toward keeping companies building great products. According to recent findings by the Electronic Frontier Foundation “Non-Practicing Entities” account for 56 percent of all lawsuits filed against innovators. We need to find a way to prevent the abuse of overbroad software patents.

Startups can power the next generation of growth in the American economy if we let them. Entrepreneurs and innovators need the support of Congress to continue to build the businesses of the future. We hope that you will consider these measures that will allow for that future, our future, to be prosperous.

Thank you.