



November 18, 2009

The Honorable Patrick Leahy  
 Chairman  
 Committee on the Judiciary  
 224 Dirksen Senate Office Building  
 United States Senate  
 Washington, DC 20510

The Honorable Jeff Sessions  
 Ranking Member  
 Committee on the Judiciary  
 152 Dirksen House Office Building  
 United States Senate  
 Washington, DC 20510

Dear Chairman Leahy and Ranking Member Sessions:

The undersigned coalition of original equipment manufacturers (OEMs), intellectual property organizations and broad-based business associations respectfully write to register our strong opposition to S. 1368, which would exempt copies of certain component parts from infringing U.S. design patents.

This legislation would promote unfair competition through the theft of original concepts and ideas. Not only does this bill deny businesses the ability to rightfully protect their intellectual property (IP) but it promotes piracy among all global industries. As a result, this legislation would put American consumers, dealers, distributors, manufacturers, and suppliers at risk.

Manufacturers of unlicensed automobile parts have to meet only one basic threshold, to produce a copy that looks similar to an original part. Those who produce such parts incur no costs attributable to original design, research and development and most importantly, product safety testing. Accordingly, the manufacturer of the original product for whom such unlicensed replacement parts are made does not know how these parts will perform and how their use will impact the quality and integrity of the original product. Automotive collision repairers are very concerned about the quality of replacement crash parts. Permitting this intellectual property infringement also exposes consumers to significant safety, performance or durability risks.

For these reasons, the U.S. Supreme Court repeatedly has denied attempts to overturn these important IP rights. Legislatively denying these rights would not only overturn decades of

judicial precedent, it would also violate IP rights that are protected under the World Trade Organization agreement on Trade-Related Aspects of Intellectual Property Rights. At a time when the U.S. should be seeking enhanced consumer safety through stronger enforcement of our IP laws, Congress should not enact legislation that would eliminate or weaken IP protections.

IP rights are explicitly recognized in the U.S. Constitution, by the U.S. Supreme Court, in our international trade agreements, and by our trading partners. The legislation, as currently drafted, would overturn U.S. legal precedent, endangering American consumers, and threatening U.S. jobs and investment.

We strongly oppose S. 1368 and urge you to do so as well.

Sincerely,

**Alliance of Automobile Manufacturers (Alliance)**

**American Automotive Policy Council (AAPC)**

**American International Automobile Dealers Association (AIADA)**

**Association of Equipment Manufacturers (AEM)**

**Association of International Automobile Manufacturers (AIAM)**

**Automotive Service Association (ASA)**

**Global Intellectual Property Center (GIPC)**

**Intellectual Property Owners Association (IPO)**

**Michigan Intellectual Property Law Association (MIPLA)**

**National Association of Manufacturers (NAM)**

**National Association of Minority Automobile Dealers (NAMAD)**

**National Automobile Dealers Association (NADA)**

**United Automobile Workers of America (UAW)**

**United States Hispanic Chamber of Commerce (USHCC)**