INVENTORS
DEFENSE ALLIANCE

The Myth of Foreign Interference in U.S. Courts Through Third-Party Litigation Funding

Some lawmakers assert that foreign adversaries, especially China, are secretly funding lawsuits to harass American companies and obtain their trade secrets. But there's no evidence for their claims — and plenty of evidence that existing safeguards are working to prevent abuse.

National Security Protections Are Already in Place

The Committee on Foreign Investment in the United States (CFIUS) already reviews foreign investments that could pose a threat — including in the legal or financial sectors. And there is no evidence that litigation funders are circumventing CFIUS or other national security protections.

Courts Already Strike a Balance Between Transparency and Privacy

Judges routinely use their authority to privately examine litigation funding arrangements in camera (i.e., confidentially in their chambers) when needed. This allows courts to weigh relevance and fairness without disclosing sensitive information.

- In *Taction Tech v. Apple*, a California judge, after privately examining documents, limited what could be shared about litigation funding, deeming it "protected work product."
- In *Trustees of Purdue Univ. v. STMicroelectronics*, a Texas court conducted an in camera review of funding documents and found they were both irrelevant and legally protected from disclosure.

It'd Make No Sense for Foreign Adversaries to Use TPLF to Steal Secrets

There's no evidence that foreign governments are secretly funding U.S. patent lawsuits to access trade secrets or burden American firms. And it'd make no sense for foreign adversaries to do so.

That's largely because courts' protective orders already limit who can access confidential business information. The terms of these orders and the safeguards within them are generally agreed to by all parties to the litigation. If a litigant violated these orders and shared protected information with third-party funders, they'd face serious legal consequences — making it more likely that the financiers would lose their investments.

It'd make far more sense for foreign actors to continue using more direct and illegal methods — including cyberattacks, espionage, and forced technology transfers. Lawsuits are not a practical or effective vector for IP theft.

The Real Threat is the Reality of Foreign Adversaries Stealing US Companies' IP

Efforts to support US Inventors should be encouraged rather than stymied.

Conclusion

Both the judicial and executive branches already have, and use, tools to prevent any abuse of the litigation system. New regulations on third-party litigation funding would only punish the inventors and small businesses fighting to protect their ideas.

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