

# **EXHIBIT A**

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MASSACHUSETTS TECHNOLOGY  
LEADERSHIP COUNCIL, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

STATE OF HAWAI'I and ISMAIL  
ELSHIKH,

Plaintiffs,

vs.

CV. NO. 1:17-cv-00050 DKW-KJM

**BRIEF OF MASSACHUSETTS  
TECHNOLOGY LEADERSHIP  
COUNCIL, INC. AS *AMICUS  
CURIAE* IN SUPPORT OF  
PLAINTIFFS' MOTION FOR**

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; JOHN F. KELLY, in his official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF STATE; REX TILLERSON, in his official capacity as Secretary of State; and the UNITED STATES OF AMERICA,

Defendants.

**TEMPORARY RESTRAINING ORDER; CERTIFICATE OF SERVICE**

**BRIEF OF MASSACHUSETTS TECHNOLOGY LEADERSHIP COUNCIL, INC. AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER**

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### **INTEREST OF AMICUS CURIAE**

*Amicus Curiae* is the Massachusetts Technology Leadership Council, Inc. (“MassTLC”), a not-for-profit association of companies that collectively employ more than 170,000 people in the Massachusetts technology industry. MassTLC represents a vibrant and growing community of innovators in fields including software, computers, robotics, and security products. MassTLC therefore closely follows issues—including immigration policy—that may affect the ability of its members to build value, attract talent, and compete in the diverse global marketplace.

### **ARGUMENT**

MassTLC writes in support of the Plaintiffs’ motion for an order temporarily restraining the execution of President Donald Trump’s Executive Order dated March 6, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (the “Revised Travel Ban”),<sup>1</sup> on a nation-wide basis. As the Court is aware, the Revised Travel Ban was issued to voluntarily narrow an identically titled Executive Order issued January 27, 2017 (the “Original Travel Ban”).<sup>2</sup>

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<sup>1</sup> 82 Fed. Reg. 13,209 (Mar. 6, 2017).

<sup>2</sup> 82 Fed. Reg. 8,977 (Jan. 27, 2017).

The Revised Travel Ban is arbitrary, illegal, and does not serve the public interest. This is fundamentally the same discriminatory “Muslim Ban” that has been repeatedly enjoined over the last two months.<sup>3</sup> Cosmetic changes—such as the *post hoc* addition of purported security justifications—do not alter the fact that this policy still proceeds from the same irrational and unconstitutional religious animus. Indeed, the President’s own Senior Policy Advisor admits that it is intended to achieve the “same basic policy outcome” as its patently illegal predecessor.<sup>4</sup>

The public interest demands an immigration system that does not discriminate against any religion, and that is fair, orderly, and predictable. In particular, technology companies in Massachusetts require such a system to recruit innovators from around the world to build businesses here at home, and to sell their products back out into the global marketplace. President Trump’s attempt to ban the entry of entire nationalities—even when the person seeking entry clearly poses

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<sup>3</sup> See, e.g., *Washington v. Trump*, No. 17-35105, 2017 U.S. App. LEXIS 2369, at \*3-7 (9<sup>th</sup> Cir. Feb. 9, 2017); *Aziz v. Trump*, No. 17-116, 2017 U.S. Dist. LEXIS 20889, at \*9-13, 27 (E.D. Va. Feb. 13, 2017).

<sup>4</sup> See *Trump Advisor Says New Travel Ban Will Have ‘Same Basic Policy Outcome,’* FoxNews.com, Feb. 21, 2017, available at <http://www.foxnews.com/politics/2017/02/21/trump-adviser-says-new-travel-ban-will-have-same-basic-policy-outcome.html>.

no risk—is antithetical to the public interest and undermines America’s innovation economy and its fundamental values.

**I. THE NEW TRAVEL BAN IS MERELY A CONTINUATION OF THE PRESIDENT’S UNCONSTITUTIONAL ANTI-MUSLIM POLICIES.**

**A. The President Banned Muslims.**

During his recent election campaign, President Trump repeatedly promised to ban Muslims from entering the United States.<sup>5</sup> As one court has explained, “[t]he ‘Muslim ban’ was a centerpiece of the president’s campaign for months, and the press release calling for it was still available on his website as of [Feb. 13, 2017].”<sup>6</sup>

Within days of taking office, President Trump issued the Original Travel Ban. Section 3(c) of that order immediately prohibited all people from seven predominantly Muslim countries from entering the United States, even including returning permanent residents and visa-holders residing in the United States.<sup>7</sup> The President ordered that this exclusion continue for 90 days, during which time federal agencies would purportedly review their immigration security procedures.<sup>8</sup>

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<sup>5</sup> See *Aziz*, 2017 U.S. Dist. LEXIS 20889, at \*9-13.

<sup>6</sup> See *id.*

<sup>7</sup> See *Washington*, 2017 U.S. App. LEXIS 2369, at \*3-7. Notably, the order included a safety valve to permit “religious minorities”

<sup>8</sup> 82 Fed. Reg. 8977, 8977-78.

To implement this order, the Department of State “provisionally revoke[d] all valid nonimmigrant and immigrant visas of nationals” of those seven countries without any due process or advance notice.<sup>9</sup>

Notably, the Original Travel Ban contained provisions to add additional countries to the “banned” list, and also to extend the ban indefinitely beyond the initial 90-day period.<sup>10</sup> Thus, with the stroke a pen, President Trump suddenly excluded a vast number of Muslims from the United States, stripped legal status from many already residing here, and created well-founded fear that more nationalities would find themselves banned without warning.

**B. The Federal Courts Ordered The President To Cease Implementing The Ban.**

The Original Travel Ban was rapidly enjoined by numerous federal courts. Most broadly, Judge James Robart of the U.S. District Court for the Western District of Washington issued an order that the federal government was “ENJOINED and RESTRAINED from . . . [e]nforcing Section 3(c)” of the

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<sup>9</sup> See January 27, 2016 Letter of Edward J. Ramotowski, Deputy Ass’t of State, Bureau of Consular Affairs, Department of State. This letter made a small number of exceptions for military and diplomatic visas, or case-by-case determinations “in the national interest.”

<sup>10</sup> 82 Fed. Reg. 8977, 8978.

Original Travel Ban on a nationwide basis.<sup>11</sup> The federal government appealed this order, but ultimately dismissed the appeal after the 9<sup>th</sup> Circuit construed the order as a preliminary injunction and refused to stay its operation.<sup>12</sup> Thus, the federal government was (and is) specifically enjoined from denying any person entry into the United States, or other immigration benefits, simply because the person is a national of one of the seven “banned” countries.

Notably, at least one court enjoined the Original Travel Ban based on the strong likelihood that it would be proved to be an exercise in religious discrimination. Judge Brinkema of the U.S. District Court for the Eastern District of Virginia concluded, based in large part on the President’s own statements, that the Commonwealth of Virginia had established such a strong likelihood of success on its Establishment Clause claim that the Original Travel Ban should be enjoined on that basis alone.<sup>13</sup>

**C. The Revised Travel Ban Is A Continuation Of The Original And Is Equally, If Not More, Flawed.**

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<sup>11</sup> *Washington*, No. 17-141, 2017 U.S. Dist. LEXIS 16012, at \*7-8 (W.D. Wash. Feb. 3, 2017).

<sup>12</sup> *See Washington*, 2017 U.S. App. LEXIS 2369, at \*34 (stay of preliminary injunction denied); Order, *Washington*, No. 17-35105 (9<sup>th</sup> Cir. Mar. 8, 2017) (granting federal government’s motion to voluntarily dismiss appeal of preliminary injunction, including payment of State of Washington’s costs).

<sup>13</sup> *Aziz*, 2017 U.S. Dist. LEXIS 20889, at \*28 n.11.

On March 6, 2017, President Trump signed the Revised Travel Ban, which purports to revoke and replace his earlier order. Unchanged, however, is the ban's basic function: to prohibit people from predominantly Muslim countries from entering the United States based solely on their national origin.<sup>14</sup>

The Revised Travel Ban will last at least 90 days (beginning March 16<sup>th</sup>), again purportedly to permit a review of immigration security procedures, again subject to indefinite extension, and again subject to the addition of new "banned" countries. This 90-day timeline appears to make no sense, however, given that this same 90-day review was ordered on January 27, 2017 and should be nearing completion by mid-March. In fact, MassTLC is not aware of any evidence that such a review was ever even begun, providing yet more reason to believe that the entire notion was nothing more than pretext for discrimination.

To be sure, while the Revised Travel Ban is somewhat narrower, it nevertheless still achieves (in the words of President Trump's own senior advisor) the "same basic policy outcome."<sup>15</sup> For example, although permanent residents and aliens already issued visas are exempted from the revised order, the residents

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<sup>14</sup> This is prohibited discrimination even if the ban does not restrict travel from every predominantly Muslim country. *See id.* at \*26-27 ("The major premise of that argument—that one can only demonstrate animus toward a group of people by targeting all of them at once—is flawed.").

<sup>15</sup> *See Trump Advisor Says New Travel Ban Will Have 'Same Basic Policy Outcome,'* n.4, *supra*.

of six Muslim-majority countries still cannot obtain new visas. Inevitably, travel from those countries will be incrementally extinguished as existing visas expire.

Further, although the Revised Travel Ban now contains purported security justifications for restricting travel from the six remaining countries, it is telling that these justifications were not proffered until after the Original Travel Ban had been enjoined.<sup>16</sup> Asserted now—in the teeth of numerous adverse rulings—these *post hoc* rationalizations are entitled to little weight.<sup>17</sup>

Lastly, it should not be forgotten that denying new visas to people based solely on their origin from one of the banned countries is exactly the conduct that is prohibited by Judge Robart's preliminary injunction. That injunction has never been revoked or modified. Nor can the government evade it by purporting to revoke and narrow the Original Travel Ban on a purely voluntary basis.<sup>18</sup> Yet it appears that the Trump Administration has every intention of executing its ban in direct violation of Judge Robart's order.

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<sup>16</sup> *Washington*, 2017 U.S. App. LEXIS 2369, at \*32 & n.8.

<sup>17</sup> *Aziz*, 2017 U.S. Dist. LEXIS 20889, at \*24 n.10 (citing *Peacock v. Duval*, 694 F.2d 644, 646 (9<sup>th</sup> Cir. 1982)).

<sup>18</sup> *See, e.g., Knox v SEIU*, 132 S. Ct. 2277, 2287 (2012) (“The voluntary cessation of challenged conduct does not ordinarily render a case moot because a dismissal for mootness would permit a resumption of the challenged conduct as soon as the case is dismissed.”).

**II. THE REVISED TRAVEL BAN IS NOT ONLY ILLEGAL, BUT IT WILL OPERATE AGAINST THE PUBLIC INTEREST, INCLUDING AGAINST THE INTERESTS OF THE TECHNOLOGY SECTOR.**

Although the Revised Travel Ban is contrary to the public interest in many ways, MassTLC writes to explain one particular facet of that harm: the ban's profoundly disruptive effect on the technology sector, including in Massachusetts.

**A. The Domestic Technology Industry Benefits From Immigration.**

The technology industry is a critical driver of the Massachusetts economy. Nearly 400,000 people in Massachusetts work in jobs that are either in the technology sector, or are in technology-related occupations in other sectors—roughly 13% of the state's total workforce.<sup>19</sup> This industry is a global enterprise, fueled in large part by immigration and international travel. According to one recent study, as of January 1, 2016, “[i]mmigrants have started more than half (44 of 87) of America's startup companies valued at \$1 billion dollars or more and are key members of management or product development teams in over 70 percent (62 of 87) of these companies.”<sup>20</sup> More than half of Silicon Valley's corporate founders are immigrants.<sup>21</sup>

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<sup>19</sup> MassTLC, *The Connected Commonwealth: How the Massachusetts Tech Ecosystem is Creating New Growth Opportunities*, at 14, available at <http://www.masstlc.org/page/2016StateofTech>.

<sup>20</sup> Stuart Anderson, *Immigrants and Billion Dollar Startups*, National Foundation for American Policy (March 2016), at 1 & app'x 5, available at



The integral role that immigrants play in the technology industry does not arise because “immigrants steal jobs” (as many nativist demagogues have claimed), but rather because the technology industry is growing too rapidly to be staffed through domestic labor alone. By 2020, for example, projections indicate that 1.4 million computer specialist positions will be open in the United States, but domestic universities will only produce enough graduates to fill 29% of those jobs.<sup>22</sup> In Massachusetts today, there are seventeen technology jobs for every person who graduates with a degree in computer science or information technology.<sup>23</sup> Immigrants are responsible for substantial economic growth. One study projects that, if half of Massachusetts’ 3,608 advanced level graduates in science, technology, engineering, and mathematics (STEM) related fields, studying

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<http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf>

<sup>21</sup> *Why These Business School Professors Oppose Trump’s Executive Order On Immigration*, Harvard Business School: Working Knowledge, Jan. 31, 2017, available at <http://hbswk.hbs.edu/item/why-these-business-school-professors-oppose-trump-s-executive-order-on-immigration>.

<sup>22</sup> Adams Nager and Robert D. Atkinson, *The Case for Improving U.S. Computer Science Education*, Information Technology & Innovation Foundation, May 2016, at 3, available at <http://www2.itif.org/2016-computer-science-education.pdf>, accessed March 11, 2017, p. 3.

<sup>23</sup> Massachusetts Department of Higher Education, *The Degree Gap* 14 (June 2016), available at [http://www.mass.edu/visionproject/\\_documents/2016%20The%20Degree%20Gap%20-%20Vision%20Project%20Annual%20Report.pdf](http://www.mass.edu/visionproject/_documents/2016%20The%20Degree%20Gap%20-%20Vision%20Project%20Annual%20Report.pdf).

on temporary visas, remained in Massachusetts upon graduation, then 4,726 new jobs would be created for U.S.-born workers by 2021.<sup>24</sup>

American companies that are household names—Microsoft, McDonald's, U.S. Steel—are led by foreign-born CEOs.<sup>25</sup> As of 2016, over 10% of Fortune 500 CEOs were born outside of the U.S.; the same was true for 14% of Fortune 100 CEOs.<sup>26</sup> In 2016, over 40% of Fortune 500 firms were founded either by an immigrant or the child of immigrants.<sup>27</sup>

The same holds true in Massachusetts. More than half of the Massachusetts-based Fortune 500 companies were founded by immigrants, or by children of immigrants.<sup>28</sup> Their impact on the Massachusetts economy has been significant, generating over \$130 billion in annual revenue, and employing nearly half a

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<sup>24</sup> The Partnership for a New American Economy, *The Contributions of New Americans in Massachusetts* 14 (2016), available at <http://www.renewoureconomy.org/wp-content/uploads/2016/10/nae-ma-report.pdf>.

<sup>25</sup> *Immigrant CEOs of the Fortune 500*, Boardroom Insiders (March 2016), available at <http://info.boardroominsiders.com/get-our-fortune-500-immigrant-ceo-list-for-free>.

<sup>26</sup> *Id.*

<sup>27</sup> The Partnership for a New American Economy, *Reason for Reform: Entrepreneurship 2* (2016) available at [http://www.renewoureconomy.org/wp-content/uploads/2016/10/NAE\\_Entrepreneurship.pdf](http://www.renewoureconomy.org/wp-content/uploads/2016/10/NAE_Entrepreneurship.pdf).

<sup>28</sup> *The Contributions of New Americans in Massachusetts*, n.24, *supra*, at 3.

million people around the world.<sup>29</sup> At the beginning of this decade, over 17 percent of all business owners in Massachusetts were foreign born.<sup>30</sup> In 2013, the same was true of nearly 19 percent of business owners in the greater Boston area.<sup>31</sup> From 2006 to 2010, Massachusetts businesses owned by new immigrants had a total net business income of \$2.8 billion.<sup>32</sup>

Medicine, in particular, has benefitted greatly from immigrants. More than 25 percent of physicians practicing in the United States are foreign born.<sup>33</sup> Importantly, foreign-born physicians are disproportionately represented in rural clinics and public safety-net hospitals treating isolated and vulnerable

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<sup>29</sup> *Id.*

<sup>30</sup> Fiscal Policy Institute, *Immigrant Small Business Owners: A Significant and Growing Part of the Economy* 24 & Fig. 24 (2012), available at <http://www.fiscalpolicy.org/immigrant-small-business-owners-FPI-20120614.pdf>.

<sup>31</sup> David Dyssegaard Kallick, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* (2015), interactive data display available at <http://www.as-coa.org/articles/interactive-impact-immigrants-main-street-business-and-population-us-metro-areas>.

<sup>32</sup> The Partnership for a New American Economy, *Open For Business: How Immigrants Are Driving Small Business Creation In The United States* 33 (2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

<sup>33</sup> Kristen McCabe, *Foreign-Born Health Care Workers in the United States*, MIGRATION POLICY INSTITUTE, June 27, 2012, <http://www.migrationpolicy.org/article/foreign-born-health-care-workers-united-states#4>.

populations.<sup>34</sup> The simple reason for this is that the United States does not produce enough physicians to keep up with demand. According to a report published by the Association of American Medical Colleges (AAMC) in 2016, a current deficit of 11,000 physicians is expected to grow as the population grows and ages.<sup>35</sup> The AAMC estimates that the U.S. will face a shortage of up to 94,700 doctors by 2025.<sup>36</sup> Almost a third of the shortage will be primary care physicians.<sup>37</sup> More than 8,400 doctors working in the U.S. are from the two countries listed in the Revised Travel Ban: Iran and Syria.<sup>38</sup> Specifically in Massachusetts, in 2016 almost 1 in 4 physicians graduated from a medical school outside of the United States (suggesting non-U.S. origin).<sup>39</sup>

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<sup>34</sup> Casey Ross & Max Blau, *US Health Care Relies Heavily on Foreign Workers. Trump's Immigration Ban Is Raising Alarms.*, STAT (Jan. 30, 2017), available at <https://www.statnews.com/2017/01/30/trump-immigration-ban-health-workers/>.

<sup>35</sup> Association of American Medical Colleges, *The Complexities of Physician Supply and Demand: Projections from 2014 to 2015*, at 27, 36 (2016), available at [https://www.aamc.org/download/458082/data/2016\\_complexities\\_of\\_supply\\_and\\_demand\\_projections.pdf](https://www.aamc.org/download/458082/data/2016_complexities_of_supply_and_demand_projections.pdf).

<sup>36</sup> *Id.* at 27.

<sup>37</sup> *Id.*

<sup>38</sup> Seema Yasmin, *Trump Immigration Ban Can Worsen U.S. Doctor Shortage, Hurt Hospitals*, Scientific American (Feb. 1, 2017), available at <https://www.scientificamerican.com/article/trump-immigration-ban-can-worsen-u-s-doctor-shortage-hurt-hospitals/>.

<sup>39</sup> *The Contributions of New Americans in Massachusetts*, n.24, *supra*, at 15.

So too do immigrants drive the development of inventions and other useful arts. For example, in 2011, 76% of patents awarded to the Top 10 patent-producing U.S. universities had an inventor that was foreign-born.<sup>40</sup> In recent years, foreign nationals contributed to more than three quarters of patents in the fields of information technology, molecular and microbiology, and pharmaceuticals.<sup>41</sup>

Notably, many of the immigrants who fuel the technology industry come from the countries banned by President Trump's orders. For example, Iranian-Americans either founded or lead mainstays of the technology sector like Twitter, Dropbox, Oracle, and eBay.<sup>42</sup> Similarly, several of the top venture capitalists who fund new technology companies were born in Tehran.<sup>43</sup>

**B. Unless It Is Enjoined, The Revised Travel Ban Will Harm The Technology Industry.**

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<sup>40</sup> The Partnership for a New American Economy, *Patent Pending: How Immigrants Are Reinventing the American Economy* 1 (2012), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/07/patent-pending.pdf>.

<sup>41</sup> *Id.* at 11.

<sup>42</sup> Kaveh Waddell, *How Trump's Immigration Rules Will Hurt the U.S. Tech Sector*, THE ATLANTIC (Feb. 1, 2017), available at <https://www.theatlantic.com/technology/archive/2017/02/how-trumps-immigration-rules-will-hurt-the-us-tech-sector/515202/>.

<sup>43</sup> *Id.*

Implementation of irrational and discriminatory immigration policies, including the Revised Travel Ban, would severely harm the technology industry in the U.S. generally, and Massachusetts specifically. The impact is expected to destabilize the workforce and reduce the competitiveness of U.S. technology firms. For example, Microsoft's public securities filings explain that "[c]hanges to U.S. immigration policies that restrain the flow of technical and professional talent may inhibit our ability to adequately staff our research and development efforts."<sup>44</sup> In addition to stifling recruiting from the "banned" countries, the Revised Travel Ban could accelerate the rise of technology hubs abroad, making such locales as Vancouver, London, and Singapore more "attractive alternatives to existing hubs" of technology in the United States,<sup>45</sup> and force companies based abroad to put off opening offices in the United States.<sup>46</sup> It will also likely result in the relocation of foreign born employees from the United States to other countries where they can reside without fear of a sudden revocation of their rights to access their families and homes.

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<sup>44</sup> Form 10-Q for Quarter Ended Dec. 31, 2016, Microsoft Corp., at 58, *available at* <https://www.microsoft.com/en-us/Investor/sec-filings.aspx>.

<sup>45</sup> *How Trump's Immigration Rules Will Hurt the U.S. Tech Sector*, n.42, *supra*.

<sup>46</sup> *How Would Curbs on Immigration Affect U.S. Tech Firms?*, KNOWLEDGE @WHARTON (Feb. 7, 2017), *available at* <http://knowledge.wharton.upenn.edu/article/immigration-ban-impact-u-s-tech-firms/>.

The Massachusetts technology sector expects to feel this impact acutely. As reported in the press, numerous Boston-based businesses have expressed grave concern regarding the Administration's travel ban and its potential expansion. As Jeff Bussgang, a general partner at the venture capital firm Flybridge and professor at Harvard Business School stated, the travel ban is "the innovation economy's worst nightmare."<sup>47</sup> Paul English, founder of the travel booking site Kayak and startup Lola, expressed concern about a Mexican national hired to develop an app who was worried about traveling out of the country to visit his family.<sup>48</sup> Leaders of Massachusetts-headquartered technology companies, from large to small—including GE, TripAdvisor, Carbonite, Brightcove, and Fuze—have expressed concern over the direct impact that implementation of the travel ban had on their businesses.<sup>49</sup> This anecdotal evidence is strongly supported by the empirical data noted above: a high percentage of founders, managers, and employees of

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<sup>47</sup> Adam Vaccaro, *Boston Business Leaders Oppose Trump Immigration Order*, The Boston Globe (Jan. 29, 2017), available at <https://www.bostonglobe.com/business/2017/01/29/chief-says-company-will-stand-with-employees-from-banned-countries/5v00oFyvZZpGPd5CxPDjfN/story.html>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*; Zeninor Enwemeka, *Local Tech Companies Say Trump's Immigration Order Is Bad For Business*, WBUR (Feb. 7, 2017), available at <http://www.wbur.org/bostonmix/2017/02/07/boston-business-travel-ban>.

Massachusetts technology companies are immigrants and potentially impacted by the Revised Travel Ban, either directly or indirectly.

It is thus clearly in the public interest—including in the interests of the Massachusetts technology industry—for the Court to restrain the operation of the Revised Travel Ban. The United States deserves fair, rational, and predictable rules to govern immigration and international travel. Such a system permits individuals and companies to reliably arrange employment and commercial relationships, without fear that those relationships will be abruptly disrupted by irrational or discriminatory policies.

**C. Unless It Is Enjoined, the Revised Travel Ban Will Undermine the Competitive Strength of the Domestic Technology Industry and Will Chill the Culture of Innovation.**

The Revised Travel Ban is also contrary to the public interest because it substantially undermines the ability of the Massachusetts technology industry to compete in the international marketplace. It discourages travel to the U.S. by potential customers and investors, either because they are directly impacted by the ban, or because they are worried that the ban would be unexpectedly expanded to exclude additional nationalities. It may force companies to move jobs outside of the U.S., locating businesses where employees live rather than enticing them to come to the U.S. Similarly, the Revised Travel Ban discourages talented foreign students from attending local educational institutions, from which the technology



industry hires many engineers and scientists to drive innovation in the United States. Foreign-born students already in the U.S. will be less likely to remain, as they may be unable to receive or renew a visa, or may be fearful of that possibility. The Revised Travel Ban will inevitably reduce the relative strength of domestic industry in global markets, which does nothing to make the United States more safe, prosperous, or secure.

The technology industry, in Massachusetts as elsewhere, thrives on a culture of diversity, inclusivity, and equal opportunity. The Revised Travel Ban is antithetical to these values. It is a patently illegal and discriminatory attempt to inflict harm upon a religious minority.<sup>50</sup> This animus was both proven and magnified by the manner of the Original Travel Ban's implementation, which—without any notice—barred the re-entry of Muslims who have made their home in our country, separating them from their homes, families, and careers. A government that acts to hurt people based on their religion (or non-religion) undermines not only the inclusive principles of the modern technology industry, but also legal principles “rooted in the foundation soil of our Nation” and

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<sup>50</sup> *Aziz*, 2017 U.S. Dist. LEXIS 20889, at \*9-13, 27.

“fundamental to freedom.”<sup>51</sup> “Freedom of thought, which includes freedom of religious belief, is basic in a society of free men [and women].”<sup>52</sup>

### CONCLUSION

For all the foregoing reasons, MassTLC respectfully submits that this Court should allow the Plaintiffs’ motion for an order temporarily restraining the execution of the Revised Travel Ban on a nation-wide basis.

Dated: Honolulu, Hawai‘i, March 13, 2017.

/s/ Brett R. Tobin

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<sup>51</sup> *Epperson v. Arkansas*, 393 U.S. 97, 103-09 (1968).

<sup>52</sup> *United States v. Ballard*, 322 U.S. 78, 86 (1944).