

NOS. 16-1436 AND 16-1540

IN THE
Supreme Court of the United States

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES, ET AL.,
Petitioners,

v.

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT, ET AL.,
Respondents.

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES, ET AL.,
Petitioners,

v.

STATE OF HAWAII, ET AL.,
Respondents.

ON WRIT CERTIORARI TO THE UNITED STATES COURTS OF
APPEALS FOR THE FOURTH AND NINTH CIRCUITS

**BRIEF OF MASSACHUSETTS TECHNOLOGY
LEADERSHIP COUNCIL, INC., AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS IN AFFIRMANCE
OF THE DECISIONS BELOW**

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INTEREST OF AMICUS CURIAE¹

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.

CORPORATE DISCLOSURE STATEMENT

Massachusetts Technology Leadership Council, Inc. is a not-for-profit organization based in Burlington, Massachusetts. It has no parent company, and no publicly traded organization owns 10% or more of its stock.

INTRODUCTION

MassTLC writes in support of the Respondents in opposing the Trump Administration’s (“Administration”) effort to overturn nationwide injunctions restraining the

¹ Pursuant to Supreme Court Rule 37.6, counsel for amicus states that no counsel for a party authored this brief in whole or in part, and that no person other than amicus, its members, or its counsel made a monetary contribution to the preparation or submission of this brief. Petitioner’s Letter of Consent to the filing of all amicus briefs in this matter was lodged with the Clerk of Court pursuant to Rule 37.3(a) on July 17, 2017. Counsel for Respondents provided written consent to the filing of this brief pursuant to Rule 37.3(a) on September 6, 2017.

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”).² 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”).³

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 seven months.⁴ 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.⁵

MassTLC writes principally to further support the Respondents’ arguments that the Revised Travel Ban does not serve the public interest. Rather, the

² 82 Fed. Reg. 13,209 (Mar. 6, 2017).

³ 82 Fed. Reg. 8,977 (Jan. 27, 2017).

⁴ See, e.g., *Washington v. Trump*, No. 17-35105, 2017 U.S. App. LEXIS 2369, at *3-7 (9th 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); *Hawai’i v. Trump*, No. 17-361, 2017 U.S. Dist. LEXIS 36935, at *33-45 (D. Haw. Mar. 15, 2017).

⁵ 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>.

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

ARGUMENT

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.⁶ 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].”⁷

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

⁶ *See Aziz*, 2017 U.S. Dist. LEXIS 20889, at *9-13.

⁷ *See id.*

residents and visa-holders residing in the United States.⁸ The President ordered that this exclusion continue for 90 days, during which time federal agencies would purportedly review their immigration security procedures.⁹ 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.¹⁰

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.¹¹ Thus, with the stroke of 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

⁸ *See Washington*, 2017 U.S. App. LEXIS 2369, at *3-7. Notably, the order included a safety valve to permit “religious minorities.”

⁹ 82 Fed. Reg. 8977, 8977-78.

¹⁰ *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.”

¹¹ 82 Fed. Reg. 8977, 8978.

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 Original Travel Ban on a nationwide basis based on the finding that the Original Travel Ban caused “significant and ongoing harm” to plaintiff States (Washington and Minnesota) and their residents.¹² The federal government appealed this order, but ultimately dismissed the appeal after the 9th Circuit construed the order as a preliminary injunction and refused to stay its operation.¹³

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.¹⁴

¹² *Washington*, No. 17-141, 2017 U.S. Dist. LEXIS 16012, at *7-8 (W.D. Wash. Feb. 3, 2017).

¹³ *See Washington*, 2017 U.S. App. LEXIS 2369, at *34 (stay of preliminary injunction denied); Order, *Washington*, No. 17-35105 (9th Cir. Mar. 8, 2017) (granting federal government’s motion to voluntarily dismiss appeal of preliminary injunction, including payment of State of Washington’s costs).

¹⁴ *Aziz*, 2017 U.S. Dist. LEXIS 20889, at *28 n.11.

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

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.¹⁵

The Revised Travel Ban will last through at least late September,¹⁶ 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. Such extension is highly probable, given that the President tweeted on September 15, 2017, that the "travel ban into the United States" should be "far larger" and "tougher."¹⁷

To be sure, while the Revised Travel Ban is somewhat narrower than its predecessor, it

¹⁵ 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.").

¹⁶ In fact, as the Government admits in its brief, the Administration unilaterally extended for itself the time at which the clock would begin to run on implementation of Section 2(c) of the Revised Travel Ban. During the pendency of this litigation, on June 14, 2017, the President issued a memorandum providing that the effective date would be keyed to the lifting or staying of the injunction at issue here. Br. at 37.

¹⁷ *See* September 15, 2017 Tweet from Donald J. Trump, *available at* <https://twitter.com/realDonaldTrump/status/908645126146265090>

nevertheless still achieves (in the words of President Trump’s own senior advisor) the “same basic policy outcome.”¹⁸ For example, although the revised order exempts permanent residents and aliens already issued visas, the residents 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.¹⁹ Asserted now — in the teeth of numerous adverse rulings — these *post hoc* rationalizations are entitled to little weight.²⁰

The Revised Travel Ban was also enjoined. On appeal, the Court largely declined to stay the injunction, opting only to modify it slightly to permit the Government to deny visas to a small subset of potential immigrants from the banned countries that have no business or personal relationship with the U.S.²¹ The Administration’s interpretation of the Court’s order — excluding non-nuclear family members from the injunction — prompted the

¹⁸ See *Trump Advisor Says New Travel Ban Will Have ‘Same Basic Policy Outcome,’* n.4, *supra*.

¹⁹ *Washington*, 2017 U.S. App. LEXIS 2369, at *32 & n.8.

²⁰ *Aziz*, 2017 U.S. Dist. LEXIS 20889, at *24 n.10 (citing *Peacock v. Duval*, 694 F.2d 644, 646 (9th Cir. 1982)); *Hawai‘i*, 2017 U.S. Dist. LEXIS 36935 at *39-40, n. 15 (citing *Aziz*).

²¹ *Trump v. International Refugee Assistance Project*, 137 S. Ct. 2080, 2088-2089 (2017).

Hawai'i District Court to step in to yet again prevent executive overreach.²² The Ninth Circuit affirmed.²³

The Revised Travel Ban has the purpose and effect of banning Muslims from the United States, as is evident from the overwhelming record of the President's statements targeting Muslims. The Revised Travel Ban also violates the Immigration and Nationality Act.²⁴ For all of these reasons, as well as for those set forth in Respondents' Brief, the Revised Travel Ban is illegal.

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.

²² *Hawai'i*, 2017 U.S. Dist. LEXIS 109034 (D. Haw. July 13, 2017).

²³ *Hawai'i*, 2017 U.S. App. LEXIS 17340, at *39 (9th Cir. Sep. 7, 2017).

²⁴ 8 U.S.C. §§ 1101 *et seq.*

A. The Domestic Technology Industry Benefits From Immigration.

1. Immigration Supports The Innovation Economy.

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.²⁵ 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.”²⁶ More than half of Silicon Valley’s corporate founders are immigrants.²⁷

The integral role that immigrants play in the technology industry does not arise because “immigrants steal jobs” (as some have argued), 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

²⁵ Appendix, *The Economic Impact of Immigration on the U.S.*, June 2017 (“App.”), 15-16. This Appendix is a version of a publicly-available report published by MassTLC and available on its website, <http://www.masstlc.org/immigration/>. The report cites original sources for the data relied on in this brief. MassTLC provides a version of the full report here as an Appendix for the Court’s convenience.

²⁶ App. at 30.

²⁷ App. at 61.

open in the United States, but domestic universities will only produce enough graduates to fill 29% of those jobs.²⁸ In Massachusetts today, there are seventeen technology jobs for every person who graduates with a degree in computer science or information technology.²⁹ Immigrants are responsible for substantial economic growth. This is true as a general matter of the country as a whole: in 2015, immigrants contributed \$2 trillion to the U.S. GDP, which represents 11% of the country's total GDP.³⁰ Zooming in on the Massachusetts technology sector, one study projects that, if half of Massachusetts' 3,608 advanced level graduates in science, technology, engineering, and mathematics (STEM) related fields, studying on temporary visas, remained in Massachusetts upon graduation, then 4,726 new jobs would be created for U.S.-born workers by 2021.³¹

As it stands, immigrant students are disproportionately more likely to get their degrees in a STEM field, and international students make up over 30% of the post-baccalaureate degrees in STEM fields.³² Individuals from the six banned countries, moreover, are more likely to have a bachelor's degree, approximately twice as likely to have a graduate degree, and four times as likely to have a doctoral degree relative to the native-born population.³³ Quite apart from this population being

²⁸ App. at 13.

²⁹ App. at 16.

³⁰ App. at 52.

³¹ App. at 17.

³² App. at 159-60.

³³ App. at 150.

a disproportionately educated and skilled one, they are also part of a population making immediate positive impacts on the U.S. economy: During the 2015-16 academic year, international students contributed \$32.8 billion to the U.S. economy and supported more than 400,000 jobs.³⁴

2. Immigrants Are Inventors.

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 who was foreign-born.³⁵ In recent years, foreign nationals contributed to more than three quarters of patents in the fields of information technology, molecular and microbiology, and pharmaceuticals.³⁶

The amount of invention originating from immigrants can have dramatic effects on innovation, with discernable spillover effects. One academic study noted that a 1.3 percentage point increase in the share of the overall U.S. population composed of immigrant college graduates, and a 0.7 percentage point increase in that same share composed of post-graduate immigrants, led to an increase in patenting by approximately 12 to 21%.³⁷ Similarly, as little as a 0.45 percentage point increase in immigrant scientists and engineers in the overall U.S. population increases patenting per capita by approximately 13 to 32%.³⁸ High-skilled

³⁴ App. at 163-64.

³⁵ App. at 37.

³⁶ App. at 38-39.

³⁷ App. at 41.

³⁸ App. at 41.

immigration has an important and discernable impact on the innovation economy. Limiting such immigration clearly threatens future innovation.

3. Immigrants Are Technology Leaders.

The highly-educated foreign-born scientists, mathematicians, and engineers also represent some of the best in the field. Forty percent of the Nobel Prizes won by Americans in Chemistry, Medicine, and Physics since 2000 were awarded to immigrants.³⁹ In 2016, all six American winners of the Nobel Prize in economics and scientific fields were foreign-born.⁴⁰ From 2010 to 2015, four out of eight U.S. Turing Award (for computing) recipients were first or second generation immigrants.⁴¹ Since 1936, 63% of Fields Medal (for mathematics) recipients affiliated with a U.S. research institution have been foreign born (and *all* such recipients have been foreign-born since 2002).⁴² Forty-one percent of National Medal of Science recipients in math or computer science are foreign-born.⁴³ In Massachusetts, 37% of Nobel Prize winners associated with MIT are foreign-born;⁴⁴ 32% of Nobel prize winners who are current faculty or alumni of Harvard University are foreign-born;⁴⁵ and 75% of Nobel Prize winners who have been affiliated with

³⁹ App. at 166.

⁴⁰ App. at 166.

⁴¹ App. at 178.

⁴² App. at 176.

⁴³ App. at 180.

⁴⁴ App. at 168.

⁴⁵ App. at 169.

Boston University are foreign-born.⁴⁶ There is little question as to the importance of the contributions that immigrants make to STEM fields, in both the U.S. and Massachusetts.

4. Immigrants Are Business Leaders.

American companies that are household names — Microsoft, McDonald’s, U.S. Steel — are led by foreign-born CEOs.⁴⁷ 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.⁴⁸ In 2016, over 40% of Fortune 500 firms were founded either by an immigrant or the child of immigrants.⁴⁹

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.⁵⁰ Their impact on the Massachusetts economy has been significant, generating over \$130 billion in annual revenue, and employing nearly half a million people around the world.⁵¹ At the beginning of this decade, over 17 percent of all business owners in Massachusetts were foreign-born.⁵² In 2013, the same was true of nearly 19 percent of business owners in the greater

⁴⁶ App. at 169.

⁴⁷ App. at 29.

⁴⁸ App. at 29.

⁴⁹ App. at 29.

⁵⁰ App. at 26.

⁵¹ App. at 26.

⁵² App. at 27.

Boston area.⁵³ From 2006 to 2010, Massachusetts businesses owned by recent immigrants had a total net business income of \$2.8 billion.⁵⁴

Prominent American innovators, past and present, hail from countries directly targeted by the Revised Travel Ban, including Steve Jobs (the late co-founder of Apple, whose father is from Syria), Ali Hajimiri (an academic and entrepreneur who holds over 85 U.S. and European patents, who is from Iran), and Joe Kiani (founder, chairman, and CEO of Masimo, and also from Iran).⁵⁵ Iranian-Americans either founded or lead mainstays of the technology sector like Twitter, Dropbox, Oracle, and eBay.⁵⁶ Similarly, several of the top venture capitalists who fund new technology companies were born in Tehran.⁵⁷

5. Immigrants Contribute To The Field Of Medicine.

Medicine, in particular, has benefitted greatly from immigrants. More than 25 percent of physicians practicing in the United States are foreign-born.⁵⁸ Importantly, foreign-born physicians are disproportionately represented in rural clinics and public safety-net hospitals treating isolated and vulnerable populations.⁵⁹ The simple reason for this is that the United States does not produce enough

⁵³ App. at 27.

⁵⁴ App. at 27.

⁵⁵ App. at 32-34.

⁵⁶ App. at 32-34.

⁵⁷ App. at 14.

⁵⁸ App. at 17-18.

⁵⁹ App. at 17-18.

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.⁶⁰ The AAMC estimates that the U.S. will face a shortage of up to 94,700 doctors by 2025.⁶¹ Almost a third of the shortage will be primary care physicians.⁶² More than 8,400 doctors working in the U.S. are from two of the countries listed in the Revised Travel Ban: Iran and Syria.⁶³ 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).⁶⁴

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

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. Indeed, Massachusetts has one of the highest numbers of applications for temporary non-agricultural work permits in the United States.⁶⁵ The impact is expected to destabilize the workforce and reduce the competitiveness of U.S. technology firms. For

⁶⁰ App. at 18.

⁶¹ App. at 18.

⁶² App. at 18.

⁶³ App. at 19.

⁶⁴ App. at 21.

⁶⁵ App. at 128.

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.”⁶⁶ 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, and force companies based abroad to put off opening offices in the United States.⁶⁷ 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.

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.”⁶⁸ Paul English, founder of the travel booking site Kayak and startup Lola, expressed

⁶⁶ App. at 21.

⁶⁷ App. at 22.

⁶⁸ 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>.

concern about a Mexican national hired to develop an app who was worried about traveling out of the country to visit his family.⁶⁹ 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.⁷⁰ This anecdotal evidence is strongly supported by the empirical data noted above: a high percentage of founders, managers, and employees of 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.

⁶⁹ *Id.*

⁷⁰ *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/bostonomix/2017/02/07/boston-business-travel-ban>.

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 will be unexpectedly expanded to include additional nationalities. Indeed, this is not a theoretical concern. Flight bookings to the United States from January 28, 2017 to February 4, 2017 dropped by 6.5% overall in comparison to the previous year.⁷¹ Bookings to the United States from the seven targeted countries in the Original Travel Ban have dropped by 80%.⁷²

The Revised Travel Ban may also 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

⁷¹ App. at 271.

⁷² App. at 271.

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.⁷³ 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 “fundamental to freedom.”⁷⁴ “Freedom of thought, which includes freedom of religious belief, is basic in a society of free men [and women].”⁷⁵

⁷³ *Aziz*, 2017 U.S. Dist. LEXIS 20889, at *9-13, 27.

⁷⁴ *Epperson v. Arkansas*, 393 U.S. 97, 103-09 (1968).

⁷⁵ *United States v. Ballard*, 322 U.S. 78, 86 (1944).

CONCLUSION

For all the foregoing reasons, MassTLC respectfully requests that this Court affirm the decisions below.

Respectfully submitted,

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