

Good afternoon. Senator Sessions, members of the committee, thank you for the opportunity to address you today.

My name is Mark O'Neill. I am currently employed as the Chief Technology Officer for Jackthreads, an online ecommerce retailer selling clothing to men. I've worked at startups in the tech sector since 1999, as a developer, and in management roles. In that time I've been able to observe opportunities and challenges of our immigration system first hand.

Some background: For eight years, I was CTO of Thrillist Media Group, a New York-based media startup, growing that company from 12 to over 300 full time employees in the United States. My current employer, Jackthreads, was acquired by Thrillist in 2010. The two companies grew together for 5 years, taking Jackthreads from \$5M to almost \$100M in annual revenue. As the result of a recent fundraise, Jackthreads is again an independent company, and I have left my position at Thrillist to follow Jackthreads as its CTO.

Over the past 8 and a half years, Thrillist and Jackthreads faced many technical challenges. As CTO, a significant part of my role is "scaling the team" as we grow, to meet those challenges -- recruiting new talent to the company, in a very competitive marketplace. Competition is so fierce that my developer starting salaries have risen by over 50% in the last eight years, and senior positions command compensation that meets or exceeds even that of United States Senators.

One of the challenges of the tech sector today is the extreme difficulty of attracting qualified candidates to fill open roles. Put simply, there seem not to be enough capable developers to keep up with the pace of innovation. Companies must compete globally for the best talent, finding it wherever they can. CTOs like me must spend a huge amount of their time recruiting talent, and a large industry of recruiters has sprung up to (for a hefty price) find and poach talent. Coding schools like General Assembly and Flatiron School, to name just two in New York alone, crank out new developers every six weeks and still roles go unfilled.

In my role, I try to shake every tree to find developer talent. I have traveled the country to college career fairs, accepted speaking engagements, attended meetups, I have used online job boards, I have engaged outside recruiters, and my company has brought on full-time recruiting staff to help us fill open positions. I have engaged US- and internationally-located remote contractors. I have relocated developers to New York from other locations in the United States, and I have employed foreign-born workers in the United States via the H1-B visa program.

In my personal experience, the use of foreign workers has directly contributed to the health of my company, and to our ability to offer additional jobs to Americans. One example:

As with all online businesses today, Jackthreads' consumers are increasingly not at their desks, but interacting on their phones and tablets. Creating a quality experience that allows a user to easily shop or read on a 4-inch screen is incredibly difficult and requires deep technical expertise and constant refinement.

Over two years ago, though, we could not find developers to keep our iPhone app up to date. Finally, a posting through a recruiting service connected us with a developer in Spain. After he succeeded in our interviews, we began the visa process and months later he started work with us in New York. We continued recruiting through an expensive 3rd party recruiter who showed us a number of candidates in the US. The best qualified was a Chinese citizen, Meng, whom we also hired.

Jackthreads is proud that today 53% of our revenue comes from mobile devices. This is exceptional in our industry, as many companies still see lots of mobile traffic but are unable to get those mobile users to purchase. Eduardo and Meng's work in this way has directly contributed to the growth of our revenue, which has allowed us to grow faster and hire more. Because of their contributions, we employ more American workers, than we otherwise would have.

Yet the system treats these workers unfairly. They live under the constant threat that their lives could be uprooted. Because their visa is tied to their employer, if they lose their jobs (even through no fault of their own) they have 30 days to find a new one or leave the country. This makes it harder for them to leave bad jobs and gives them less leverage in salary negotiations. And even if things are going great, every two years they might just be unlucky and lose the visa lottery and be tossed out of the country. A far fairer system would allow a worker to stay until the end of his visa, even if his employment is terminated. This would give him or her more stability and flexibility, and therefore more leverage in salary negotiations. And a fairer system would provide automatic visa renewal for employed workers in good standing, benefitting both the worker and the employer that has invested so much in this employee.

That said, despite the H1-B's disadvantages, foreign workers demand competitive wages. I have heard fears that immigrant workers drive down wages by accepting the same jobs at a lower wage. This has not been my experience. Information workers can get competitive pay working remotely from anywhere on the planet. If I want to attract a developer from abroad, I must pay him fairly for his work or he'll go to the competition. Indeed, I have poached H1-B workers from other employers, and seen sponsored employees hired away from my company for employment elsewhere. As I have stated, I have one team, and I pay them fairly. The suggestion that I would have these people sit together and pay someone differently because of where he's born bespeaks a misunderstanding of how the modern information economy functions. It's just not how we operate. Creating second-tier pay for certain workers would be counter-productive. Neither US- nor foreign-born workers would stand for it.

Now let me address how the system appears to small business employers. F1, J1, H1-B, OPT, visa lotteries -- I'd heard of none of this alphabet soup when I started at Thrillist. My company has been fortunate in that we have had enough success to grow to the point where we can afford the lawyers to help us navigate the H1-B process. It's expensive and it takes too long, but it is a lifeline for American companies that allows employers to augment the pool of labor

available in the US, filling jobs that would otherwise linger unfilled. Still, every dollar paid to the visa process is a dollar I can't spend on more workers to build the software that powers our growth.

But the smallest companies can't afford lawyers, and can't wait the months for an employee's visa to be worked out. For a small startup, filling a role can mean the difference between surviving and failing. So the expense, complexities and delays effectively lock small businesses out of this visa program. This amounts to a regressive tax on small enterprises and hurts small businesses that are creating jobs through innovation. It also puts American companies at a disadvantage with their global competitors.

And not only is the program complex, it's also antiquated and its requirements too rigid. I once interviewed a foreign-born candidate who had just graduated from the University of Pennsylvania with a PhD in chemistry. I asked him why, with a doctorate in chemistry, he wanted to work for us writing code. He answered that changing the world through a career in hard sciences would take twenty years -- he wanted to change the world today. Good answer! Who *wouldn't* want to hire that guy? But because his degree was in chemistry and not computer science, we had to file additional paperwork to justify why a man with a PhD was qualified to take our position.

In addition to my experience as an employer, I have also known foreign born entrepreneurs who have completed their studies here, started companies here, but had to leave the country because the current visa regime does not allow an entrepreneur's visa to be sponsored by a company he or she owns. In the case of my friend Madhav Krishna, whose startup Vahan was providing work for five Americans, he was forced to relocate to India and those jobs went with him. He is now hiring workers in India instead of here.

I can say with confidence that, for each of the foreign born immigrant developers I have had the good fortune to work alongside during my career, the United States economy is stronger and better off *with* these workers than *without* them. Far better for the United States to employ these talented, ambitious people than to compete against them. Let them stay, build lives here, build companies here, create jobs here.

Thank you.