

108TH CONGRESS  
2D SESSION

# H. R. 3754

To provide additional civil and criminal remedies for domain name fraud.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2004

Mr. SMITH of Texas (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide additional civil and criminal remedies for domain name fraud.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fraudulent Online  
5 Identity Sanctions Act”.

6 **SEC. 2. AMENDMENT TO TRADEMARK ACT OF 1946.**

7 Section 35 of the Act entitled “An Act to provide for  
8 the registration and protection of trademarks used in com-  
9 merce, to carry out the provisions of certain international  
10 conventions, and for other purposes”, approved July 5,  
11 1946 (commonly referred to as the “Trademark Act of

1 1946”; 15 U.S.C. 1117), is amended by adding at the end  
2 the following new subsection:

3 “(e) In a case of a violation referred to in this section,  
4 occurring at or in connection with an online location, the  
5 violation shall be considered to be willful for purposes of  
6 this section if the violator, or a person acting in concert  
7 with the violator, knowingly provided material and mis-  
8 leading false contact information to a domain name reg-  
9 istrar, domain name registry, or other domain name reg-  
10 istration authority in registering a domain name used in  
11 connection with the online location, or in maintaining or  
12 renewing such registration.”.

13 **SEC. 3. AMENDMENT TO TITLE 17, UNITED STATES CODE.**

14 Section 504(c)(2) of title 17, United States Code, is  
15 amended by adding at the end the following new sentence:  
16 “In a case of infringement occurring at or in connection  
17 with an online location, the infringement shall be consid-  
18 ered to be willful for purposes of this paragraph where  
19 the copyright owner sustains the burden of proving, and  
20 the court finds, that the infringer or a person acting in  
21 concert with the infringer knowingly provided material  
22 and misleading false contact information to a domain  
23 name registrar, domain name registry, or other domain  
24 name registration authority in registering a domain name  
25 used in connection with the online location, or in maintain-

1 ing or renewing such registration. For purposes of the pre-  
2 ceding sentence, the term ‘domain name’ has the meaning  
3 given that term in section 45 of the Act entitled ‘An Act  
4 to provide for the registration and protection of trade-  
5 marks used in commerce, to carry out the provisions of  
6 certain international conventions, and for other purposes’  
7 approved July 5, 1946 (commonly referred to as the  
8 ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

9 **SEC. 4. AMENDMENT TO TITLE 18, UNITED STATES CODE.**

10 Section 3559 of title 18, United States Code, is  
11 amended by adding at the end the following:

12 “(f) SENTENCING ENHANCEMENT FOR FALSIFICA-  
13 TION RELATING TO DOMAIN NAMES IN CONNECTION  
14 WITH OFFENSES.—The maximum imprisonment other-  
15 wise provided by law for a felony offense shall be increased  
16 by 7 years if, in furtherance of that offense, the defendant  
17 knowingly provided material and misleading false contact  
18 information to a domain name registrar, domain name  
19 registry, or other domain name registration authority in  
20 connection with a domain name registration. For purposes  
21 of this subsection, the term ‘domain name’ has the mean-  
22 ing given that term in section 45 of the Act entitled ‘An  
23 Act to provide for the registration and protection of trade-  
24 marks used in commerce, to carry out the provisions of  
25 certain international conventions, and for other purposes’,

1 approved July 5, 1946 (commonly referred to as the  
2 ‘Trademark Act of 1946’; 15 U.S.C. 1127).”

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