

113TH CONGRESS
1ST SESSION

H. R. 1278

To amend the Trademark Act of 1946 regarding the disparagement of Native American persons or peoples through marks that use the term “redskin”, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2013

Mr. FALEOMAVAEGA (for himself, Mr. COLE, Ms. MCCOLLUM, Ms. NORTON, Mr. GRIJALVA, Ms. BASS, Ms. MOORE, Mr. LEWIS, Mr. HONDA, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Trademark Act of 1946 regarding the disparagement of Native American persons or peoples through marks that use the term “redskin”, and for other purposes.

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 “Non-Disparagement
5 of Native American Persons or Peoples in Trademark
6 Registration Act of 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The use of the terms “redskin” and “red-
4 skins” in trademarks is widely understood to refer
5 to or imply a negative reference to Native American
6 persons or peoples, or both.

7 (2) The term “redskin” has been demonstrated
8 by overwhelming linguistic and historical evidence to
9 constitute a disparaging epithet insulting to Native
10 American persons or peoples, or both.

11 (3) Major Native American organizations, in-
12 cluding the National Congress of American Indians,
13 the National Indian Education Association, the Na-
14 tive American Journalists Association, the Native
15 American Rights Fund, the Morning Star Institute,
16 the International Indian Treaty Council, and the
17 National Indian Youth Council, have opposed the
18 continued use of the term “redskin” in trademarks
19 or as the name of sports teams.

20 (4) Recent psychological evidence has dem-
21 onstrated the general negative effects associated
22 with references in sports to Native American people.

23 (5) Trademarks containing the term “redskin”,
24 or any derivation of the term, should not continue
25 to enjoy the benefits of Federal registration.

1 **SEC. 3. REFERENCES TO TRADEMARK ACT OF 1946.**

2 In this Act, the term “Trademark Act of 1946”
3 means the Act entitled “An Act to provide for the registra-
4 tion and protection of trademarks used in commerce, to
5 carry out the provisions of certain international conven-
6 tions, and for other purposes”, approved July 5, 1946
7 (commonly referred to as the “Lanham Act”; 15 U.S.C.
8 1051 et seq.).

9 **SEC. 4. REGISTRATION OF MARKS CONTAINING CERTAIN**
10 **TERMS.**

11 Section 2(a) of the Trademark Act of 1946 (15
12 U.S.C. 1052(a)) is amended by adding at the end the fol-
13 lowing: “A mark consisting of or including the term ‘red-
14 skin’ or any derivation of the term ‘redskin’ shall be con-
15 clusively presumed to consist of matter which may dispar-
16 age persons if (1) the mark has been, is, or is intended
17 to be used in commerce in connection with references to
18 or images of one or more Native American persons or peo-
19 ples, or to Native American persons or peoples in general;
20 or (2) the Director determines that the term as included
21 in the mark is commonly understood to refer to one or
22 more Native Americans persons or peoples, or to Native
23 American persons or peoples in general.”.

24 **SEC. 5. CANCELLATION OF MARKS.**

25 Section 14 of the Trademark Act of 1946 (15 U.S.C.
26 1064) is amended—

1 (1) in the text before paragraph (1), by striking
2 “A petition to cancel” and inserting “(a) PETITIONS
3 TO CANCEL.—A petition to cancel”; and

4 (2) by adding at the end the following:

5 “(b) CANCELLATION OF MARKS CONTAINING CER-
6 TAIN TERMS.—

7 “(1) IN GENERAL.—Notwithstanding any other
8 provision of this Act, the Director shall cancel a reg-
9 istration of a mark containing the term ‘redskin’ or
10 any derivation of the term ‘redskin’ if—

11 “(A) the mark has been or is used in com-
12 merce in connection with references to or im-
13 ages of one or more Native American persons
14 or peoples, or to Native American persons or
15 peoples in general; or

16 “(B) the Director determines that the term
17 as included in the mark is commonly under-
18 stood to refer to one or more Native American
19 persons or peoples, or to Native American per-
20 sons or peoples in general.

21 “(2) RENEWAL.—A registration cancelled under
22 paragraph (1) shall not be subject to renewal pursu-
23 ant to section 9 of this Act.”.

1 **SEC. 6. CONFORMING AMENDMENTS.**

2 (a) CANCELLATION DUE TO BLURRING OR DILU-
3 TION BY TARNISHMENT.—Section 2(f) of the Trademark
4 Act of 1946 (15 U.S.C. 1052(f)) is amended in the final
5 sentence by striking “section 14” and inserting “section
6 14(a)”.

7 (b) EXCEPTION TO INCONTESTABILITY.—Section 15
8 of such Act (15 U.S.C. 1065) is amended in the text be-
9 fore paragraph (1) by striking “section 14 of this Act,”
10 and inserting “section 14(a) of this Act or for which a
11 registration is required to be cancelled under section 14(b)
12 of this Act,”.

13 **SEC. 7. EFFECTIVE DATE.**

14 This Act shall take effect on the date of the enact-
15 ment of this Act and shall apply to—

16 (1) any mark that is registered under the
17 Trademark Act of 1946 before, on, or after such
18 date; and

19 (2) any application to register a mark under
20 that Act that is pending on, or filed on or after,
21 such date.

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