

(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking “section 43(a)” and inserting “section 43 (a), (c), or (d)”.

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting “, (c), or (d)” after “section 43 (a)”.

(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

“(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than \$1,000 and not more than \$100,000 per domain name, as the court considers just. The court shall remit statutory damages in any case in which an infringer believed and had reasonable grounds to believe that use of the domain name by the infringer was a fair or otherwise lawful use.”.

SEC. 5. LIMITATION ON LIABILITY.

Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—

(1) in the matter preceding subparagraph (A) by striking “under section 43(a)” and inserting “under section 43 (a) or (d)”; and

(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

“(D)(i) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary relief to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.

“(ii) An action referred to under clause (i) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—

“(I) in compliance with a court order under section 43(d); or

“(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another’s mark registered on the Principal Register of the United States Patent and Trademark Office.

“(iii) A domain name registrar, a domain name registry, or other domain name registration authority shall not be liable for damages under this section for the registration or maintenance of a domain name for another absent a showing of bad faith intent to profit from such registration or maintenance of the domain name.

“(iv) If a registrar, registry, or other registration authority takes an action described under clause (ii) based on a knowing and material misrepresentation by any person that a domain name is identical to, confusingly similar to, or dilutive of a mark registered on the Principal Register of the United States Patent and Trademark Office, such person shall be liable for any damages, including costs and attorney’s fees, incurred by the domain name registrant as a result of such action. The court may also grant injunctive relief to the domain name registrant, including the reactivation of the domain name or the transfer of the domain name to the domain name registrant.

“(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this

Act. The court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.”.

SEC. 6. DEFINITIONS.

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the undesignated paragraph defining the term “counterfeit” the following:

“The term ‘Internet’ has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).

“The term ‘domain name’ means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.”.

SEC. 7. SAVINGS CLAUSE.

Nothing in this Act shall affect any defense available to a defendant under the Trademark Act of 1946 (including any defense under section 43(c)(4) of such Act or relating to fair use) or a person’s right of free speech or expression under the first amendment of the United States Constitution.

SEC. 8. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 9. EFFECTIVE DATE.

This Act shall apply to all domain names registered before, on, or after the date of enactment of this Act, except that statutory damages under section 35(d) of the Trademark Act of 1946 (15 U.S.C. 1117), as added by section 4 of this Act, shall not be available with respect to the registration, trafficking, or use of a domain name that occurs before the date of enactment of this Act.

MOTION OFFERED BY MR. COBLE

Mr. COBLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. COBLE moves to strike all after the enacting clause of the Senate bill, S. 1255, and to insert in lieu thereof the text of H.R. 3028 as it passed the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. 3028) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.Con.Res. 190, by the yeas and nays;

H.Con.Res. 208, by the yeas and nays;

H.Con.Res. 102, by the yeas and nays;

H.Con.Res. 188, by the yeas and nays;

and

Concurring in Senate amendments to H.R. 1175, by yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

URGING UNITED STATES TO SEEK GLOBAL CONSENSUS SUPPORTING MORATORIUM ON TARIFFS AND SPECIAL, MULTIPLE, AND DISCRIMINATORY TAXATION OF ELECTRONIC COMMERCE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H.Con.Res. 190, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and agree to the concurrent resolution, H.Con.Res. 190, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 423, nays 1, not voting 9, as follows:

[Roll No. 537]

YEAS—423

Ackerman	Carson	Ewing
Aderholt	Castle	Farr
Allen	Chabot	Fattah
Andrews	Chambliss	Filner
Archer	Chenoweth-Hage	Fletcher
Armeny	Clay	Foley
Bachus	Clayton	Forbes
Baird	Clement	Ford
Baker	Clyburn	Fossella
Baldacci	Coble	Fowler
Baldwin	Coburn	Frank (MA)
Ballenger	Collins	Franks (NJ)
Barcia	Combest	Frelinghuysen
Barr	Condit	Frost
Barrett (NE)	Conyers	Galligly
Barrett (WI)	Cook	Ganske
Bartlett	Cooksey	Gejdenson
Barton	Costello	Gekas
Bass	Cox	Gephart
Bateman	Coyne	Gibbons
Becerra	Cramer	Gilchrest
Bentsen	Crane	Gillmor
Bereuter	Crowley	Gilman
Berkley	Cubin	Gonzalez
Berman	Cummings	Goode
Berry	Cunningham	Goodlatte
Biggert	Danner	Goodling
Bilbray	Davis (FL)	Gordon
Bilirakis	Davis (IL)	Goss
Bishop	Davis (VA)	Graham
Blagojevich	Deal	Green (TX)
Biley	Defazio	Green (WI)
Blumenauer	DeGette	Greenwood
Blunt	Delahunt	Gutierrez
Boehlert	DeLauro	Gutknecht
Boehner	DeLay	Hall (OH)
Bonilla	DeMint	Hall (TX)
Bonior	Deutsch	Hansen
Bono	Diaz-Balart	Hastings (FL)
Borski	Dickey	Hastings (WA)
Boswell	Dicks	Hayes
Boucher	Dingell	Hayworth
Boyd	Dixon	Hefley
Brady (PA)	Doggett	Herger
Brady (TX)	Doolley	Hill (IN)
Brown (FL)	Doolittle	Hill (MT)
Brown (OH)	Doyle	Hilleary
Bryant	Dreier	Hilliard
Burr	Duncan	Hinchey
Burton	Dunn	Hobson
Buyer	Edwards	Hoefel
Callahan	Ehlers	Hoekstra
Calvert	Ehrlich	Holden
Camp	Emerson	Holt
Campbell	Engel	Hooley
Canady	English	Horn
Cannon	Eshoo	Hostettler
Capps	Etheridge	Houghton
Capuano	Evans	Hoyer
Cardin	Everett	Hulshof

Hunter	Mink	Shaw
Hutchinson	Moakley	Shays
Hyde	Mollohan	Sherman
Inslee	Moore	Sherwood
Isakson	Moran (KS)	Shimkus
Istook	Moran (VA)	Shows
Jackson (IL)	Morella	Shuster
Jefferson	Murtha	Simpson
Jenkins	Myrick	Sisisky
John	Nadler	Skeen
Johnson (CT)	Napolitano	Skelton
Johnson, E. B.	Neal	Slaughter
Johnson, Sam	Nethercutt	Smith (MI)
Jones (NC)	Ney	Smith (NJ)
Jones (OH)	Northup	Smith (TX)
Kanjorski	Norwood	Smith (WA)
Kaptur	Nussle	Snyder
Kasich	Oberstar	Souder
Kelly	Obey	Spence
Kennedy	Olver	Spratt
Kildee	Ortiz	Stabenow
Kilpatrick	Ose	Stark
Kind (WI)	Owens	Stearns
King (NY)	Oxley	Stenholm
Kingston	Packard	Strickland
Kleczka	Pallone	Stump
Klink	Pascall	Stupak
Knollenberg	Pastor	Sununu
Kolbe	Paul	Sweeney
Kucinich	Payne	Talent
Kuykendall	Pease	Tancredo
LaFalce	Pelosi	Tanner
LaHood	Peterson (MN)	Tauscher
Lampson	Peterson (PA)	Tauzin
Lantos	Petri	Taylor (MS)
Largent	Phelps	Taylor (NC)
Larson	Pickering	Terry
LaTourette	Pickett	Thomas
Lazio	Pitts	Thompson (CA)
Leach	Pombo	Thompson (MS)
Lee	Pomeroy	Thornberry
Levin	Porter	Thune
Lewis (CA)	Portman	Thurman
Lewis (GA)	Price (NC)	Tiahrt
Lewis (KY)	Pryce (OH)	Tierney
Linder	Quinn	Toomey
Lipinski	Radanovich	Towns
LoBiondo	Rahall	Traficant
Lofgren	Ramstad	Turner
Lowey	Rangel	Udall (CO)
Lucas (KY)	Regula	Udall (NM)
Lucas (OK)	Reyes	Upton
Luther	Reynolds	Velazquez
Maloney (CT)	Riley	Vento
Maloney (NY)	Rivers	Visclosky
Manzullo	Rodriguez	Vitter
Markey	Roemer	Walden
Martinez	Rogan	Walsh
Matsui	Rogers	Wamp
McCarthy (MO)	Rohrabacher	Waters
McCarthy (NY)	Ros-Lehtinen	Watkins
McCullum	Rothman	Watt (NC)
McCryer	Roukema	Watts (OK)
McDermott	Royal-Allard	Waxman
McGovern	Royce	Weiner
McHugh	Ryan (WI)	Weldon (FL)
McInnis	Ryun (KS)	Weldon (PA)
McIntosh	Sabo	Weller
McIntyre	Salmon	Wexler
McKeon	Sanchez	Weygand
McKinney	Sanders	Whitfield
Meehan	Sandlin	Wicker
Meek (FL)	Sanford	Wilson
Meeks (NY)	Sawyer	Wise
Metcalf	Saxton	Wolf
Mica	Schaffer	Woolsey
Millender-McDonald	Schakowsky	Wu
Miller (FL)	Scott	Wynn
Sensenbrenner	Young (AK)	Young (FL)

NAYS—1

Abercrombie

NOT VOTING—9

Granger	Latham	Rush
Hinojosa	Mascara	Scarborough
Jackson-Lee (TX)	McNulty	Menendez

□ 1636

Mr. DICKEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and

the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GIBBONS). Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SENSE OF CONGRESS THERE BE NO INCREASE IN FEDERAL TAXES TO FUND ADDITIONAL GOVERNMENT SPENDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 208.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 208, on which the yeas and nays were ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 371, nays 48, answered "present" 3, not voting 11, as follows:

[Roll No. 538]

YEAS—371

Abercrombie	Bono	Cramer	Jones (NC)
Ackerman	Boswell	Crane	Jones (OH)
Aderholt	Boucher	Crowley	Kaptur
Allen	Boyd	Cubin	Kasich
Andrews	Brady (TX)	Cummings	Kelly
Archer	Brown (FL)	Cunningham	Kennedy
Armey	Brown (OH)	Danner	Kildey
Bachus	Bryant	Davis (FL)	Kilpatrick
Baird	Burr	Davis (VA)	Kind (WI)
Baker	Burton	Deal	King (NY)
Baldacci	Buyer	DeGette	Kingston
Baldwin	Callahan	DeLauro	Kleczka
Ballenger	Calvert	DeLay	Knollenberg
Barcia	Camp	DeMint	Kolbe
Barr	Campbell	Deutsch	Reynolds
Barrett (NE)	Canady	Diaz-Balart	Riley
Barrett (WI)	Cannon	Dickey	LaFalce
Bartlett	Capps	Dingell	Rodriguez
Barton	Cardin	Doggett	Roemer
Bass	Carson	Dooley	Lampson
Bateman	Castle	Doolittle	Lantos
Becerra	Chabot	Doyle	Largent
Bentsen	Chambliss	Dreier	Larson
Bereuter	Chenoweth-Hage	Duncan	LaTourette
Berkley	Clay	Dunn	Lazio
Berry	Clayton	Edwards	Hastings (FL)
Biggert	Clement	Ehlers	Hinchey
Bilbray	Clyburn	Ehrlich	Borski
Bilirakis	Coble	Emerson	Brady (PA)
Bishop	Coburn	Engel	Coyne
Blagojevich	Collins	English	Jackson (IL)
Biley	Combest	Eshoo	Davis (IL)
Blumenauer	Condit	Etheridge	DeFazio
Blunt	Conyers	Evans	Kanjorski
Boehlert	Cook	Everett	Klink
Boehner	Cooksey	Ewing	Murtha
Bonilla	Costello	Farr	Lee
Bonior	Cox	Filner	Nadler
			Neal
			Oberstar
			Olver
			Payne

NAYS—48

Fletcher	Leach	Royal-Allard
Foley	Levin	Royce
Forbes	Lewis (CA)	Ryan (WI)
Ford	Lewis (GA)	Ryun (KS)
Fossella	Lewis (KY)	Salmon
Fowler	Linder	Sanchez
Franks (NJ)	Lipinski	Sandlin
Frelinghuysen	LoBiondo	Sanford
Frost	Lowey	Sawyer
Gallagly	Lucas (KY)	Saxton
Gejdenson	Lucas (OK)	Schaffer
Gekas	Luther	Sensenbrenner
Gephardt	Maloney (CT)	Sessions
Gibbons	Maloney (NY)	Shadegg
Gilchrest	Manzullo	Shaw
Gillmor	Martinez	Shays
Gilman	Matsui	Sherman
Gonzalez	McCarthy (MO)	Sherwood
Goode	McCarthy (NY)	Shimkus
Goodlatte	McCollum	Shows
Goodling	McCrery	Shuster
Gordon	McHugh	Simpson
Goss	McInnis	Sisisky
Graham	McIntosh	Skeen
Green (TX)	McIntyre	Skelton
Green (WI)	McKeon	Slaughter
Greenwood	McKinney	Smith (MI)
Gutierrez	Meeks (NY)	Smith (NJ)
Gutknecht	Metcalf	Smith (TX)
Hall (OH)	Mica	Smith (WA)
Hall (TX)	Millender-Hall	Snyder
Hansen	McDonald	Souder
Hastings (WA)	Miller (FL)	Spence
Hayes	Miller, Gary	Spratt
Hayworth	Miller, George	Stabenow
Hefley	Minge	Stearns
Herger	Mink	Stenholm
Hill (IN)	Moore	Strickland
Hill (MT)	Moran (KS)	Stump
Hilleary	Morella	Stupak
Hilliard	Myrick	Sununu
Hobson	Napolitano	Sweeney
Hoeffel	Nethercutt	Talent
Hoekstra	Ney	Tancredo
Holden	Northup	Tanner
Holt	Norwood	Tauscher
Horn	Nussle	Tauzin
Hostettler	Ortiz	Taylor (MS)
Houghton	Ose	Taylor (NC)
Hoyer	Oxley	Terry
Hulshof	Packard	Thomas
Hunter	Pallone	Thompson (CA)
Hutchinson	Pascall	Thompson (MS)
Inslee	Reyes	Thornberry
Isakson	Pease	Thurman
Istook	Peterson (MN)	Tiahrt
Jefferson	Peterson (PA)	Toomey
Jenkins	Petri	Towns
John	Phelps	Traficant
Johnson (CT)	Pickering	Turner
Johnson, Sam	Pickett	Udall (CO)
Jones (NC)	Pitts	Udall (NM)
Pombo	Upton	Visclosky
Pomeroy	Velazquez	Walden
Porter	Wamp	Walsh
Portman	Watts	Walsh
Rangel	Wexler	Wexler
Reyes	Weygand	Weygand
Rivers	Witfield	Witfield
Rogers	Witt	Wilson
Roman (AK)	Young	Young (FL)