

(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
Armey	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	Gallegly
Barrett (WI)	Cook	Ganske
Bartlett	Cooksey	Gejdenson
Barton	Costello	Gekas
Bass	Cox	Gephardt
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
Billirakis	Davis (IL)	Goss
Bishop	Davis (VA)	Graham
Blagojevich	Deal	Green (TX)
Bliley	DeFazio	Green (WI)
Blumenauer	DeGette	Greenwood
Blunt	DeLauro	Gutierrez
Boehler	DeLay	Gutknecht
Boehner	DeMint	Hall (OH)
Bonilla	Deutsch	Hall (TX)
Bonior	Diaz-Balart	Hansen
Bono	Dickey	Hastings (FL)
Borski	Dicks	Hastings (WA)
Boswell	Dingell	Hayes
Boucher	Dixon	Hayworth
Boyd	Doggett	Hefley
Brady (PA)	Dooley	Herger
Brady (TX)	Doolittle	Hill (IN)
Brown (FL)	Doyle	Hill (MT)
Brown (OH)	Dreier	Hilleary
Bryant	Duncan	Hilliard
Burr	Dunn	Hinchey
Burton	Edwards	Hobson
Buyer	Ehlers	Hoeffel
Callahan	Ehrlich	Hoekstra
Calvert	Emerson	Holden
Camp	Engel	Holt
Campbell	English	Hooley
Canady	Eshoo	Horn
Cannon	Etheridge	Hostettler
Capps	Evans	Houghton
Capuano	Everett	Hoyer
Cardin		Hulshof

Hunter Mink
Hutchinson Moakley
Hyde Mollohan
Inslee Moore
Isakson Moran (KS)
Istook Moran (VA)
Jackson (IL) Morella
Jefferson Murtha
Jenkins Myrick
John Nadler
Johnson (CT) Napolitano
Johnson, E. B. Neal
Johnson, Sam Nethercutt
Jones (NC) Ney
Jones (OH) Northup
Kanjorski Norwood
Kaptur Nussle
Kasich Oberstar
Kelly Obey
Kennedy Oliver
Kildee Ortiz
Kilpatrick Ose
Kind (WI) Owens
King (NY) Oxley
Kingston Packard
Klecza Pallone
Klink Pascarell
Knollenberg Pastor
Kulke Paul
Kucinich Payne
Kuykendall Pease
LaFalce Pelosi
LaHood Peterson (MN)
Lampson Peterson (PA)
Lantos Petri
Largent Phelps
Larson Pickering
LaTourette Pickett
Lazio Pitts
Leach Pombo
Lee Pomeroy
Levin Porter
Lewis (CA) Portman
Lewis (GA) Price (NC)
Lewis (KY) Pryce (OH)
Linder Quinn
Lipinski Radanovich
LoBiondo Rahall
Lofgren Ramstad
Lowey Rangel
Lucas (KY) Regula
Lucas (OK) Reyes
Luther Reynolds
Maloney (CT) Riley
Maloney (NY) Rivers
Manzullo Rodriguez
Markey Roemer
Martinez Walsh
Matsui Rogers
McCarthy (MO) Rohrabacher
McCarthy (NY) Ros-Lehtinen
McCollum Rothman
McCrery Roukema
McDermott Roybal-Allard
McGovern Royce
McHugh Ryan (WI)
McInnis Ryan (KS)
McIntosh Sabo
McIntyre Salmon
McKeon Sanchez
McKinney Sanders
Meehan Sandlin
Meek (FL) Sanford
Meeks (NY) Sawyer
Metcalf Saxton
Mica Schaffer
Millender- Schakowsky
McDonald Scott
Miller (FL) Sensenbrenner
Miller, Gary Serrano
Miller, George Sessions
Minge Shadegg

NAYS—1

Abercrombie

NOT VOTING—9

Granger Latham Rush
Hinojosa Mascara Scarborough
Jackson-Lee McNulty
(TX) 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
Ackerman Boswell Crane
Aderholt Boucher Crowley
Allen Boyd Cubin
Andrews Brady (TX) Cummings
Archer Brown (FL) Cunningham
Army Brown (OH) Danner
Bachus Bryant Davis (FL)
Baird Burr Davis (VA)
Baker Deal
Baldacci Buyer DeGette
Baldwin Callahan DeLauro
Ballenger Calvert DeLay
Barcia Camp DeMint
Barr Campbell Deutsch
Barrett (NE) Canady Diaz-Balart
Barrett (WI) Cannon Dickey
Bartlett Capps Dingell
Barton Cardin Doggett
Bass Carson Dooley
Bateman Castle Doolittle
Becerra Chabot Doyle
Bentsen Chambliss Dreier
Bereuter Chenoweth-Hage Duncan
Berkley Clay Dunn
Berry Clayton Edwards
Biggett Clement Ehlers
Bilbray Clyburn Ehrlich
Bilirakis Coble Emerson
Bishop Coburn Engel
Blagojevich Collins English
Bliley Combust Eshoo
Blumenauer Condit Etheridge
Blunt Conyers Evans
Boehlert Cook Everett
Boehner Cooksey Ewing
Bonilla Costello Farr
Bonior Cox Filner

Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hobson
Hoeffel
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Klecza
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-
McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge

NAYS—48

Hastings (FL)
Hinchey
Hooley
Jackson (IL)
Kanjorski
Klink
Lee
Lofgren
Markey
McDermott
McGovern

Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Tauscher
Taubin
Taylors (MS)
Taylors (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Young (AK)
Young (FL)