

Mr. Speaker, this year is the 65th anniversary of the liberation of the Nazi concentration camps. Sixty-five years have passed since the doors were opened and the inhumane was laid bare for human eyes.

Just as the theme this year is What You Do Matters, so it mattered what others did then. We think of those like Oskar Schindler, Dietrich Bonhoeffer, and so many others who did their part in this effort; heroic efforts, which forever mattered to the lives they saved and the truth they pursued, some to their own death.

Mr. Speaker, we too must do our part in this body and uphold the ideals upon which our Nation was founded. This ceremonial Days of Remembrance reminds us what happens when the rule of law and the commitment to ordered liberty upon which it rests are defiled. Let us also remember that this ceremony is not reflective of one event or one tragedy. We remember the entire scope of mankind's history and use it as a reminder that human life is precious, and that we must never allow a travesty like this to ever happen again.

Through this resolution and this commemoration, we remember the Night of Broken Glass, the Warsaw ghetto uprising, the methodical devouring and destruction of a whole continent, and the labor, concentration, and death camps as Auschwitz, Treblinka and Buchenwald, to name only a few. May our actions and may our remembrance honor the courage and bravery shown by the millions murdered only seven decades ago.

Mr. Speaker, just as our 34th President, General Eisenhower, made sure the things he had seen were not quickly forgotten, may this year's ceremony in the Capitol Rotunda be a solemn and fitting reminder of the victims of the Holocaust. I am pleased to support this bipartisan resolution, and encourage the support of my colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. KLEIN of Florida. Mr. Speaker, I would like to thank Mr. HARPER of Mississippi for his very supportive words and his heartfelt support of this important bipartisan resolution. I look forward to being at the event with you in the Rotunda.

Mr. Speaker, again, I just thank the Chamber for their support and look forward to the opportunity of again supporting this very important event in the Rotunda.

Mr. BRADY of Pennsylvania. Mr. Speaker, the resolution before us allows for the use of the rotunda of the Capitol for the annual commemoration of the victims of the Holocaust. The Holocaust is one of the most shameful and horrifying events of human history. As we stop to reflect on this heinous event, let it serve as a reminder that there is no room for prejudice, oppression and hatred. As Americans and world citizens, it is important that future generations be called upon to remember the atrocities of the Holocaust and the similarities in the hate crimes we see today.

Despite hatred, the human spirit is unwavering in the face of adversity. History has shown

us that in times of despair, humanity prevails and always, always looks towards a brighter future.

There is no better place than the United States Capitol rotunda to embody the reverence and dignity so deserved in honoring the victims of the Holocaust. The United States Capitol has stood as a symbol of freedom and liberty, and a symbol of hopes and dreams. It is important, Mr. Speaker, that as we recognize one of the most notable tragedies in human history, we honor the memory of those who died so senselessly and pledge anew to stop atrocities like genocide, from occurring again.

Mr. KLEIN of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. KLEIN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 236.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

#### TRADEMARK TECHNICAL AND CONFORMING AMENDMENT ACT OF 2010

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2968) to make certain technical and conforming amendments to the Lanham Act.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 2968

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Technical and Conforming Amendment Act of 2010."

#### SEC. 2. DEFINITION.

For purposes of this Act, the term "Trademark Act of 1946" means the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" approved July 5, 1946 (commonly referred to as the "Lanham Act"; 15 U.S.C. 1051 et. seq.).

#### SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTIFICATES OF REGISTRATION.—Section 7 of the Trademark Act of 1946 (15 U.S.C. 1057) is amended—

(1) by inserting "United States" before "Patent and Trademark Office" each place that term appears;

(2) in subsection (b), by striking "registrant's" each place that appears and inserting "owner's";

(3) in subsection (e)—

(A) by striking "registrant" each place that term appears and inserting "owner"; and

(B) in the third sentence, by striking "or, if said certificate is lost or destroyed, upon a certified copy thereof"; and

(4) by amending subsection (g) to read as follows:

"(g) CORRECTION OF PATENT AND TRADEMARK OFFICE MISTAKE.—Whenever a material

mistake in a registration, incurred through the fault of the United States Patent and Trademark Office, is clearly disclosed by the records of the Office a certificate stating the fact and nature of such mistake shall be issued without charge and recorded and a printed copy thereof shall be attached to each printed copy of the registration and such corrected registration shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Director a new certificate of registration may be issued without charge. All certificates of correction heretofore issued in accordance with the rules of the United States Patent and Trademark Office and the registrations to which they are attached shall have the same force and effect as if such certificates and their issue had been specifically authorized by statute."

(b) INCONTESTABILITY OF RIGHT TO USE MARK UNDER CERTAIN CONDITIONS.—Section 15 of the Trademark Act of 1946 (15 U.S.C. 1065) is amended—

(1) by striking "right of the registrant" and inserting "right of the owner";

(2) by amending paragraph (1) to read as follows:

"(1) there has been no final decision adverse to the owner's claim of ownership of such mark for such goods or services, or to the owner's right to register the same or to keep the same on the register; and"; and

(3) in paragraph (2), by inserting "United States" before "Patent and Trademark Office".

(c) APPEAL TO COURTS.—Section 21 of the Trademark Act of 1946 (15 U.S.C. 1071) is amended—

(1) by inserting "United States" before "Patent and Trademark Office" each place that term appears;

(2) in subsection (a)(1), by inserting "or section 71" after "section 8"; and

(3) in subsection (b)(4), by striking "If there be" and inserting "If there are".

(d) CONFORMING REQUIREMENTS FOR AFFIDAVITS.—

(1) DURATION, AFFIDAVITS AND FEES.—Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

#### "SEC. 8. DURATION, AFFIDAVITS AND FEES.

"(a) TIME PERIODS FOR REQUIRED AFFIDAVITS.—Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Director unless the owner of the registration files in the United States Patent and Trademark Office affidavits that meet the requirements of subsection (b), within the following time periods:

"(1) Within the 1-year period immediately preceding the expiration of 6 years following the date of registration under this Act or the date of the publication under section 12(c).

"(2) Within the 1-year period immediately preceding the expiration of 10 years following the date of registration, and each successive 10-year period following the date of registration.

"(3) The owner may file the affidavit required under this section within the 6-month grace period immediately following the expiration of the periods established in paragraphs (1) and (2), together with the fee described in subsection (b) and the additional grace period surcharge prescribed by the Director.

"(b) REQUIREMENTS FOR AFFIDAVIT.—The affidavit referred to in subsection (a) shall—

"(1)(A) state that the mark is in use in commerce;

"(B) set forth the goods and services recited in the registration on or in connection with which the mark is in use in commerce;

"(C) be accompanied by such number of specimens or facsimiles showing current use

of the mark in commerce as may be required by the Director; and

“(D) be accompanied by the fee prescribed by the Director; or

“(2)(A) set forth the goods and services recited in the registration on or in connection with which the mark is not in use in commerce;

“(B) include a showing that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

“(C) be accompanied by the fee prescribed by the Director.

“(c) DEFICIENT AFFIDAVIT.—If any submission filed within the period set forth in subsection (a) is deficient, including that the affidavit was not filed in the name of the owner of the registration, the deficiency may be corrected after the statutory time period, within the time prescribed after notification of the deficiency. Such submission shall be accompanied by the additional deficiency surcharge prescribed by the Director.

“(d) NOTICE OF REQUIREMENT.—Special notice of the requirement for such affidavit shall be attached to each certificate of registration and notice of publication under section 12(c).

“(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL.—The Director shall notify any owner who files any affidavit required by this section of the Director's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

“(f) DESIGNATION OF RESIDENT FOR SERVICE OF PROCESS AND NOTICES.—If the owner is not domiciled in the United States, the owner may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the last designated address, or if the owner does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”.

(2) AFFIDAVITS AND FEES.—Section 71 of the Trademark Act of 1946 (15 U.S.C. 1141k) is amended to read as follows:

**“SEC. 71. DURATION, AFFIDAVITS AND FEES.**

“(a) TIME PERIODS FOR REQUIRED AFFIDAVITS.—Each extension of protection for which a certificate has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director unless the holder of the international registration files in the United States Patent and Trademark Office affidavits that meet the requirements of subsection (b), within the following time periods:

“(1) Within the 1-year period immediately preceding the expiration of 6 years following the date of issuance of the certificate of extension of protection.

“(2) Within the 1-year period immediately preceding the expiration of 10 years following the date of issuance of the certificate of extension of protection, and each successive 10-year period following the date of issuance of the certificate of extension of protection.

“(3) The holder may file the affidavit required under this section within a grace pe-

riod of 6 months after the end of the applicable time period established in paragraph (1) or (2), together with the fee described in subsection (b) and the additional grace period surcharge prescribed by the Director.

“(b) REQUIREMENTS FOR AFFIDAVIT.—The affidavit referred to in subsection (a) shall—

“(1)(A) state that the mark is in use in commerce;

“(B) set forth the goods and services recited in the extension of protection on or in connection with which the mark is in use in commerce;

“(C) be accompanied by such number of specimens or facsimiles showing current use of the mark in commerce as may be required by the Director; and

“(D) be accompanied by the fee prescribed by the Director; or

“(2)(A) set forth the goods and services recited in the extension of protection on or in connection with which the mark is not in use in commerce;

“(B) include a showing that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

“(C) be accompanied by the fee prescribed by the Director.

“(c) DEFICIENT AFFIDAVIT.—If any submission filed within the period set forth in subsection (a) is deficient, including that the affidavit was not filed in the name of the holder of the international registration, the deficiency may be corrected after the statutory time period, within the time prescribed after notification of the deficiency. Such submission shall be accompanied by the additional deficiency surcharge prescribed by the Director.

“(d) NOTICE OF REQUIREMENT.—Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

“(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL.—The Director shall notify the holder of the international registration who files any affidavit required by this section of the Director's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

“(f) DESIGNATION OF RESIDENT FOR SERVICE OF PROCESS AND NOTICES.—If the holder of the international registration of the mark is not domiciled in the United States, the holder may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the last designated address, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”.

**SEC. 4. STUDY AND REPORT.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Intellectual Property Enforcement Coordinator, shall study and report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—

(1) the extent to which small businesses may be harmed by litigation tactics by corporations attempting to enforce trademark rights beyond a reasonable interpretation of the scope of the rights granted to the trademark owner; and

(2) the best use of Federal Government services to protect trademarks and prevent counterfeiting.

(b) RECOMMENDATIONS.—The study and report required under paragraph (1) shall also include any policy recommendations the Secretary of Commerce and the Intellectual Property Enforcement Coordinator deem appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gentleman from North Carolina (Mr. COBLE) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. JOHNSON of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we seek to correct a technical and unintentional mistake in the trademark laws that could result in inadvertent abandonment for trademark owners who registered under our international agreement on trademarks, which is called the Madrid Protocol.

At the expiration of their trademark registration term, trademark owners are required to submit affidavits to the United States Patent and Trademark Office stating that they have continuously met the statutory requirements of use in commerce or, alternatively, excusable nonuse.

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Such affidavits are essential to maintain current trademark registrations and to clear the register of inactive trademarks. However, due to a technical mistake in the Lanham Act, our trademark laws unintentionally prevent trademark owners who file these affidavits for registering extensions under the Madrid Protocol from having the same rights as other U.S. trademark owners. Compliance with regulations should not reduce the rights of trademark owners. Today, we will harmonize our laws with the Madrid Protocol so that this particular injustice no longer occurs.

Additionally, this legislation gives the Director of the USPTO discretion to allow applicants to correct good-faith and harmless errors that otherwise would have severe and unreasonable intellectual property ramifications. The Intellectual Property Organization and the American Intellectual Property Law Association both support this legislation. In their letter in support of this bill, the American Intellectual Property Law Association stated that this bill is, “a highly desirable amendment to the Trademark Act,” and refers to this legislation as a

“cure” for specific technical inconsistencies for trademark owners.

However, the bill is not perfect. It includes a study provision regarding alleged trademark lawsuit abuse and small businesses. While we don’t want to delay the necessary relief to the trademark owner that this bill will provide by immediate passage of S. 2968, the ranking member and I are committed to working with Senator LEAHY to refine the text of this study provision at our soonest opportunity.

It is time to finally give our trademark owners who register under the Madrid Protocol the rights they should have had originally. This legislative update accomplishes just that, and bolsters the rights of all U.S. trademark owners.

I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I rise in support of S. 2968, and recognize myself for such time as I may consume.

This legislation, Mr. Speaker, makes technical but important revisions to the Madrid Protocol Implementation Act, which Congress passed in 2002. The Act is one of the most significant legislative accomplishments in the trademark realm in the past 15 years.

By way of background, the United States is a signatory to the Madrid Protocol, an international treaty that allows a trademark owner to seek registration in any of the countries that joined the Protocol. This means an American trademark owner pays the Patent and Trademark Office in Alexandria, Virginia, a nominal fee to expedite the necessary paperwork overseas. This process makes it easier and less expensive for U.S. trademark owners to acquire protection for their intellectual property in other countries.

The 2002 Act that implements the Protocol has functioned well through the years, but must be updated. The main purpose of the bill is to bring provisions for maintaining extensions of protection under Madrid in conformity with provisions for maintaining registrations. Maintenance filings with the PTO by the trademark owner are necessary to perpetuate protection on the trademark. This bill also authorizes the PTO Director to permit applicants to correct good-faith and harmless errors.

Finally, Mr. Speaker, the legislation includes a study provision that was inserted at the behest of the other body. It directs the Intellectual Property Enforcement Coordinator and the Department of Commerce to evaluate and report on treatment of smaller businesses involved in trademark litigation. Along with Chairman CONYERS and the chairman of the subcommittee, the distinguished gentleman from Georgia, I believe the study text could be clarified further. I’m happy to report that Senator LEAHY has agreed to work with us on making the necessary minor revisions to improve the language. We intend to move this language at a later date on a different vehicle. We just don’t want to delay fur-

ther consideration of S. 2968 by requiring the other body to pass the bill for a second time.

In closing, I urge the Members to support S. 2968.

I yield back the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, S. 2968.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### COMMENDING CALIFORNIA STATE UNIVERSITY SYSTEM

Ms. WOOLSEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1117) commending and congratulating the California State University system on the occasion of its 50th anniversary.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1117

Whereas the California State University system will be celebrating its 50th anniversary during 2010 and 2011;

Whereas the individual California State Colleges were brought together as a system by the Donahoe Higher Education Act of 1960 of the State of California;

Whereas, in 1972, the system became the California State University and Colleges, in 1982, the system became the California State University (CSU), and today the 23 campuses of the CSU include comprehensive and polytechnic universities and, since July 1995, the California Maritime Academy, a specialized campus;

Whereas the system’s oldest campus—San Jose State University—was founded in 1857 and became the first institution of public higher education in California, while the system’s newest campus—California State University, Channel Islands—opened in the fall of 2002;

Whereas today the CSU is the Nation’s largest and most diverse university system, with 23 campuses and 7 off-campus centers, almost 433,000 students, and 44,000 faculty and staff;

Whereas the CSU draws its students from the top third of California’s high school graduates and is the State’s primary undergraduate teaching institution;

Whereas each CSU campus—California State University Bakersfield, California State University Channel Islands, California State University Chico, California State University Dominguez Hills, California State University East Bay, California State University Fresno, California State University Fullerton, Humboldt State University, California State University Long Beach, California State University Los Angeles, California Maritime Academy, California State University Monterey Bay, California State University Northridge, California State Polytechnic University, Pomona, California State University Sacramento, California State University San Bernardino, San Diego State University, San Francisco State University, San Jose State University, Cali-

fornia Polytechnic State University, San Luis Obispo, California State University San Marcos, Sonoma State University, California State University Stanislaus—has its own identity, but all share the same mission—to provide high-quality, affordable higher education to meet the changing workforce needs of California;

Whereas with 91,000 annual graduates, the CSU is California’s greatest producer of bachelor’s degrees and drives California’s economy in information technology, life sciences, agriculture, business, education, international trade, public administration, hospitality, engineering, entertainment, and multimedia industries;

Whereas the CSU reaches out to California’s growing, underserved communities, providing more than half of all undergraduate degrees granted to California’s Latino, African-American, and Native American students, and offering affordable opportunities to pursue and attain a college degree;

Whereas the CSU is noted for pioneering outreach efforts, including starting the Early Assessment Program (which enables 11th graders to assess their college readiness in English and math) and the Educational Opportunity Program (an access and retention program that supports low-income, educationally disadvantaged students, many of whom are first-generation college students), distributing millions of “How To Get to College Posters” in multiple languages, hosting Super Sunday events at churches throughout the State as part of its African-American initiative, partnering with the Parent Institute for Quality Education (PIQE), which helps strengthen parent involvement in elementary and middle school students’ education, and actively engaging in the State’s Troops to College efforts on behalf of veterans;

Whereas the CSU offers more than 1,800 bachelor’s and master’s degree programs in some 357 subject areas, as well as teaching credential programs and its own independent education doctorate program;

Whereas the CSU has awarded nearly 2,500,000 bachelor’s, master’s and joint doctoral degrees since 1961;

Whereas the CSU’s renowned faculty members are well known for their teaching skills as well as their significant contributions to research, CSU staff and administrators provide the vital infrastructure to fulfill the CSU mission, and faculty and staff together have made the CSU a leader in high-quality, accessible, student-focused higher education;

Whereas CSU students participate in 32,000,000 hours of community service annually at more than 3,560 community sites, including tutoring children and adults in English as a second language, working in hospitals and community health clinics, teaching computer literacy, cleaning up rivers and beaches, serving meals to the homeless, and building houses;

Whereas the CSU returns \$4.41 for every \$1 the State invests, the CSU sustains more than 200,000 jobs in the State, and CSU-related expenditures create \$13,600,000,000 in economic activity;

Whereas the CSU has more than 2,000,000 alumni, representing one in 10 members of California’s workforce and the majority of the State’s teachers;

Whereas the California State University has dedicated itself to helping foster improvement in the educational, economic, and cultural life of California;

Whereas the Chancellor and the Board of Trustees have led the CSU during extremely difficult economic times that have caused the CSU to cut admission rates and raise costs, as they have launched initiatives to increase the system’s graduation rates and