

(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)(I) 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
Bilirakis	Davis (IL)	Goss
Bishop	Davis (VA)	Graham
Blagojevich	Deal	Green (TX)
Bliley	DeFazio	Green (WI)
Blumenuauer	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)	Dooley	Hill (IN)
Brown (FL)	Doolittle	Hill (MT)
Brown (OH)	Doyle	Hilleary
Bryant	Dreier	Hilliard
Burr	Duncan	Hinchesy
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