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(Original Signature of Member)

109TH CONGRESS
2D SESSION

H. R. _____

To amend title 17, United States Code, to provide protection for fashion design.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOODLATTE (for himself, Mr. DELAHUNT, Mr. COBLE, Mr. WEXLER, introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 17, United States Code, to provide protection for fashion design.

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

SECTION 1. PROTECTION FOR FASHION DESIGN.

(a) DESIGNS PROTECTED.—Section 1301 of title 17, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

1 "(3) FASHION DESIGN.—A fashion design is
2 subject to protection under this chapter."; and
3 (2) in subsection (b)—
4 (A) in paragraph (2), by inserting "or an
5 article of apparel," after "plug or mold," ; and
6 (B) by adding at the end the following new
7 paragraphs:
8 "(7) A 'fashion design' is the appearance as a
9 whole of an article of apparel, including its ornamen-
10 tation.
11 "(8) The term 'design' includes fashion design,
12 except to the extent expressly limited to the design
13 of a vessel.
14 "(9) The term 'apparel' means—
15 "(A) an article of men's, women's, or chil-
16 dren's clothing, including undergarments, outer-
17 wear, gloves, footwear, and headgear;
18 "(B) handbags, purses, and tote bags;
19 "(C) belts; and
20 "(D) eyeglass frames.".
21 (b) DESIGNS NOT SUBJECT TO PROTECTION.—Sec-
22 tion 1302 of title 17, United States Code, is amended in
23 paragraph (5)—
24 (1) by striking "(5)" and inserting "(5)(A) in
25 the case of a design of a vessel hull,";

1 (2) by striking the period and inserting "; or";
2 and
3 (3) by adding at the end the following:
4 "(B) in the case of a fashion design, embodied
5 in a useful article that was made public by the de-
6 signer or owner in the United States or a foreign
7 country more than 3 months before the date of the
8 application for registration under this chapter.".
9 (c) TERM OF PROTECTION.—Section 1305(a) of title
10 17, United States Code, is amended to read as follows:
11 "(a) IN GENERAL.—Subject to subsection (b), the
12 protection provided under this chapter—
13 "(1) for a design of a vessel hull shall continue
14 for a term of 10 years beginning on the date of the
15 commencement of protection under section 1304;
16 and
17 "(2) for a fashion design shall continue for a
18 term of 3 years beginning on the date of the com-
19 mencement of protection under section 1304.".
20 (d) INFRINGEMENT.—Section 1309 of title 17,
21 United States Code, is amended—
22 (1) in subsection (c), by striking "that a design
23 was protected" and inserting "or reasonable grounds
24 to know that protection for the design is claimed";

1 (2) in subsection (e), by inserting "or from an
2 image thereof," after "copied from a design pro-
3 tected under this chapter,"; and
4 (3) by adding at the end the following new sub-
5 section:
6 "(h) SECONDARY LIABILITY.—The doctrines of sec-
7 ondary infringement and secondary liability that are ap-
8 plied in actions under chapter 5 of this title apply to the
9 same extent to actions under this chapter. Any person who
10 is liable under either such doctrine under this chapter is
11 subject to all the remedies provided under this chapter,
12 including those attributable to any underlying or resulting
13 infringement.".
14 (e) APPLICATION FOR REGISTRATION.—Section 1310
15 of title 17, United States Code, is amended—
16 (1) in subsection (a), by striking the text and
17 inserting the following:
18 "(1) VESSEL HULL DESIGN.—In the case of a
19 design of a vessel hull, protection under this chapter
20 shall be lost if application for registration of the de-
21 sign is not made within 2 years after the date on
22 which the design is first made public.
23 "(2) FASHION DESIGN.—In the case of a fash-
24 ion design, protection under this chapter shall be
25 lost if application for registration of the design is

1 not made within 3 months after the date on which
2 the design is first made public."; and
3 (2) in subsection (b), by striking "for sale" and
4 inserting "for individual or public sale".
5 (f) EXAMINATION OF APPLICATION AND ISSUE OR
6 REFUSAL OF REGISTRATION.—Section 1313(a) of title
7 17, United States Code, is amended by striking "subject
8 to protection under this chapter" and inserting "within
9 the subject matter protected under this chapter".
10 (g) RECOVERY FOR INFRINGEMENT.—Section
11 1323(a) of title 17, United States Code, is amended by
12 striking "$50,000 or $1 per copy" and inserting
13 "$250,000 or $5 per copy".
14 (h) OTHER RIGHTS NOT AFFECTED.—Section 1330
15 of title 17, United States Code, is amended—
16 (1) in paragraph (1), by striking "or" after the
17 semicolon;
18 (2) in paragraph (2), by striking the period and
19 inserting "; or"; and
20 (3) by adding at the end the following:
21 "(3) any rights that may exist under provisions
22 of this title other than this chapter.".