

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5055

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2006

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

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PROTECTION FOR FASHION DESIGN.**

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

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

8               “(3) **FASHION DESIGN.**—A fashion design is  
9       subject to protection under this chapter.”; and

10              (2) in subsection (b)—

1 (A) in paragraph (2), by inserting “or an  
2 article of apparel,” after “plug or mold,”; and

3 (B) by adding at the end the following new  
4 paragraphs:

5 “(7) A ‘fashion design’ is the appearance as a  
6 whole of an article of apparel, including its ornamen-  
7 tation.

8 “(8) The term ‘design’ includes fashion design,  
9 except to the extent expressly limited to the design  
10 of a vessel.

11 “(9) The term ‘apparel’ means—

12 “(A) an article of men’s, women’s, or chil-  
13 dren’s clothing, including undergarments, outer-  
14 wear, gloves, footwear, and headgear;

15 “(B) handbags, purses, and tote bags;

16 “(C) belts; and

17 “(D) eyeglass frames.”.

18 (b) DESIGNS NOT SUBJECT TO PROTECTION.—Sec-  
19 tion 1302 of title 17, United States Code, is amended in  
20 paragraph (5)—

21 (1) by striking “(5)” and inserting “(5)(A) in  
22 the case of a design of a vessel hull,”;

23 (2) by striking the period and inserting “; or”;  
24 and

25 (3) by adding at the end the following:

1           “(B) in the case of a fashion design, embodied  
2           in a useful article that was made public by the de-  
3           signer or owner in the United States or a foreign  
4           country more than 3 months before the date of the  
5           application for registration under this chapter.”.

6           (c) TERM OF PROTECTION.—Section 1305(a) of title  
7 17, United States Code, is amended to read as follows:

8           “(a) IN GENERAL.—Subject to subsection (b), the  
9           protection provided under this chapter—

10           “(1) for a design of a vessel hull shall continue  
11           for a term of 10 years beginning on the date of the  
12           commencement of protection under section 1304;  
13           and

14           “(2) for a fashion design shall continue for a  
15           term of 3 years beginning on the date of the com-  
16           mencement of protection under section 1304.”.

17           (d) INFRINGEMENT.—Section 1309 of title 17,  
18 United States Code, is amended—

19           (1) in subsection (e), by striking “that a design  
20           was protected” and inserting “or reasonable grounds  
21           to know that protection for the design is claimed”;

22           (2) in subsection (e), by inserting “or from an  
23           image thereof,” after “copied from a design pro-  
24           tected under this chapter,”; and

1           (3) by adding at the end the following new sub-  
2           section:

3           “(h) SECONDARY LIABILITY.—The doctrines of sec-  
4           ondary infringement and secondary liability that are ap-  
5           plied in actions under chapter 5 of this title apply to the  
6           same extent to actions under this chapter. Any person who  
7           is liable under either such doctrine under this chapter is  
8           subject to all the remedies provided under this chapter,  
9           including those attributable to any underlying or resulting  
10          infringement.”.

11          (e) APPLICATION FOR REGISTRATION.—Section 1310  
12          of title 17, United States Code, is amended—

13           (1) in subsection (a), by striking the text and  
14           inserting the following:

15           “(1) VESSEL HULL DESIGN.—In the case of a  
16           design of a vessel hull, protection under this chapter  
17           shall be lost if application for registration of the de-  
18           sign is not made within 2 years after the date on  
19           which the design is first made public.

20           “(2) FASHION DESIGN.—In the case of a fash-  
21           ion design, protection under this chapter shall be  
22           lost if application for registration of the design is  
23           not made within 3 months after the date on which  
24           the design is first made public.”; and

1           (2) in subsection (b), by striking “for sale” and  
2           inserting “for individual or public sale”.

3           (f) EXAMINATION OF APPLICATION AND ISSUE OR  
4 REFUSAL OF REGISTRATION.—Section 1313(a) of title  
5 17, United States Code, is amended by striking “subject  
6 to protection under this chapter” and inserting “within  
7 the subject matter protected under this chapter”.

8           (g) RECOVERY FOR INFRINGEMENT.—Section  
9 1323(a) of title 17, United States Code, is amended by  
10 striking “\$50,000 or \$1 per copy” and inserting  
11 “\$250,000 or \$5 per copy”.

12          (h) OTHER RIGHTS NOT AFFECTED.—Section 1330  
13 of title 17, United States Code, is amended—

14           (1) in paragraph (1), by striking “or” after the  
15           semicolon;

16           (2) in paragraph (2), by striking the period and  
17           inserting “; or”; and

18           (3) by adding at the end the following:

19           “(3) any rights that may exist under provisions  
20           of this title other than this chapter.”.

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