

HR 683

Trademark Dilution Revision Act of 2006

Congress: 109 (2005–2007, Ended)

Chamber: House

Policy Area: Commerce

Introduced: Feb 9, 2005

Current Status: Became Public Law No: 109-312.

Latest Action: Became Public Law No: 109-312. (Oct 6, 2006)

Law: 109-312 (Enacted Oct 6, 2006)

Official Text: <https://www.congress.gov/bill/109th-congress/house-bill/683>

Sponsor

Name: Rep. Smith, Lamar [R-TX-21]

Party: Republican • **State:** TX • **Chamber:** House

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Reported by	Mar 3, 2005
Judiciary Committee	Senate	Reported By	Feb 27, 2006

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

No related bills are listed.

(This measure has not been amended since it was reported to the Senate on February 27, 2006. The summary of that version is repeated here.)

Trademark Dilution Revision Act of 2006 - Amends the Trademark Act of 1946 to revise provisions relating to trademark dilution.

Entitles an owner of a famous mark that is distinctive to an injunction against another person who commences use of a mark of trade name, after it has become famous, in commerce in a manner that is likely to cause dilution by blurring or tarnishment, regardless of the presence or absence of actual or likely confusion, competition, or actual economic injury.

Defines a mark as famous if it is widely recognized by the general consuming public as a designation of the source of the goods or services of the mark's owner. Allows the court to consider all relevant factors when determining whether a mark is famous, including: (1) the duration, extent, and geographic reach of advertising and publicity of the mark; (2) the amount, volume, and geographic extent of sales of goods or services offered under the mark; (3) the extent of actual recognition of the mark; and (4) whether the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

Defines "dilution by blurring" as an association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. Allows the court to consider all relevant factors when determining whether a mark or trade name is likely to cause dilution by blurring, including: (1) the degree of similarity; (2) the degree of inherent or acquired distinctiveness of the famous mark; (3) the extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark; (4) the degree of recognition of the famous mark; (5) whether the user of the mark or trade name intended to create an association with the famous mark; and (6) any actual association between the mark or trade name and the famous mark.

Defines "dilution by tarnishment" as an association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

Declares that certain acts are not actionable as dilution by blurring or tarnishment, including: (1) any fair use of a famous mark by another person other than as a designation of source for the person's own goods or services, including for advertising or promotion that permits consumers to compare goods or services, or identifying and parodying, criticizing, or commenting upon the famous mark owner or the owner's goods or services; (2) all forms of news reporting and news commentary; and (3) any noncommercial use of a mark.

Requires the person who asserts trade dress protection for trade dress not registered on the principal register in a civil action for trade dress dilution to prove that: (1) the claimed trade dress, taken as a whole, is not functional and is famous; and (2) if the claimed trade dress includes any mark or marks registered on the principal register, the unregistered matter, taken as a whole, is famous separate and apart from any fame of such registered marks.

Allows the owner of a famous mark to seek additional remedies in an action under this Act if the person against whom the injunction is sought: (1) first used the mark or trade name in commerce after the date of enactment of this Act; (2) willfully intended to trade on the recognition of the famous mark; or (3) willfully intended to harm the reputation of the famous mark.

Declares that ownership of a valid registration is a complete bar to an action under state common law or statute that seeks to prevent dilution by blurring or tarnishment or that asserts any claim of actual or likely damage or harm to the

distinctiveness or reputation of a mark, label, or form of advertisement.

Actions Timeline

- **Oct 6, 2006:** Signed by President.
- **Oct 6, 2006:** Signed by President.
- **Oct 6, 2006:** Became Public Law No: 109-312.
- **Oct 6, 2006:** Became Public Law No: 109-312.
- **Sep 29, 2006:** Presented to President.
- **Sep 29, 2006:** Presented to President.
- **Sep 25, 2006:** Mr. Sensenbrenner moved that the House suspend the rules and agree to the Senate amendment.
- **Sep 25, 2006:** DEBATE - The House proceeded with forty minutes of debate on the motion to suspend the rules and agree to the Senate amendment to H.R. 683.
- **Sep 25, 2006:** Resolving differences -- House actions: On motion that the House suspend the rules and agree to the Senate amendment Agreed to by voice vote.(consideration: CR H6963-6965; text as House agreed to Senate amendment: CR H6963-6964)
- **Sep 25, 2006:** On motion that the House suspend the rules and agree to the Senate amendment Agreed to by voice vote. (consideration: CR H6963-6965; text as House agreed to Senate amendment: CR H6963-6964)
- **Sep 25, 2006:** Motion to reconsider laid on the table Agreed to without objection.
- **Mar 8, 2006:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.(consideration: CR S1921-1923; text as passed Senate: CR S1921-1923)
- **Mar 8, 2006:** Passed Senate with an amendment by Unanimous Consent. (consideration: CR S1921-1923; text as passed Senate: CR S1921-1923)
- **Mar 8, 2006:** Message on Senate action sent to the House.
- **Feb 27, 2006:** Committee on the Judiciary. Reported by Senator Specter with an amendment in the nature of a substitute. Without written report.
- **Feb 27, 2006:** Committee on the Judiciary. Reported by Senator Specter with an amendment in the nature of a substitute. Without written report.
- **Feb 27, 2006:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 366.
- **Feb 16, 2006:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Nov 3, 2005:** Committee on the Judiciary. Committee consideration and Mark Up Session held.
- **Apr 20, 2005:** Received in the Senate and Read twice and referred to the Committee on the Judiciary.
- **Apr 19, 2005:** Mr. Sensenbrenner moved to suspend the rules and pass the bill, as amended.
- **Apr 19, 2005:** Considered under suspension of the rules. (consideration: CR H2121-2123)
- **Apr 19, 2005:** DEBATE - The House proceeded with forty minutes of debate on H.R. 683.
- **Apr 19, 2005:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Apr 19, 2005:** Considered as unfinished business. (consideration: CR H2125-2126)
- **Apr 19, 2005:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 411 - 8 (Roll no. 109).(text: CR H2121-2122)
- **Apr 19, 2005:** On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 411 - 8 (Roll no. 109). (text: CR H2121-2122)
- **Apr 19, 2005:** Motion to reconsider laid on the table Agreed to without objection.
- **Mar 17, 2005:** Reported (Amended) by the Committee on Judiciary. H. Rept. 109-23.
- **Mar 17, 2005:** Reported (Amended) by the Committee on Judiciary. H. Rept. 109-23.
- **Mar 17, 2005:** Placed on the Union Calendar, Calendar No. 9.
- **Mar 9, 2005:** Committee Consideration and Mark-up Session Held.
- **Mar 9, 2005:** Ordered to be Reported (Amended) by Voice Vote.
- **Mar 3, 2005:** Subcommittee Consideration and Mark-up Session Held.
- **Mar 3, 2005:** Forwarded by Subcommittee to Full Committee (Amended) by Voice Vote.
- **Feb 17, 2005:** Subcommittee Hearings Held.
- **Feb 15, 2005:** Referred to the Subcommittee on Courts, the Internet, and Intellectual Property.
- **Feb 9, 2005:** Introduced in House
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Feb 9, 2005: Referred to the House Committee on the Judiciary.