

## S 3728

### Innovative Design Protection and Piracy Prevention Act

**Congress:** 111 (2009–2011, Ended)

**Chamber:** Senate

**Policy Area:** Commerce

**Introduced:** Aug 5, 2010

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 674.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 674. (Dec 6, 2010)

**Official Text:** <https://www.congress.gov/bill/111th-congress/senate-bill/3728>

## Sponsor

**Name:** Sen. Schumer, Charles E. [D-NY]

**Party:** Democratic • **State:** NY • **Chamber:** Senate

## Cosponsors (10 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Boxer, Barbara [D-CA]	D · CA		Aug 5, 2010
Sen. Cardin, Benjamin L. [D-MD]	D · MD		Aug 5, 2010
Sen. Feinstein, Dianne [D-CA]	D · CA		Aug 5, 2010
Sen. Gillibrand, Kirsten E. [D-NY]	D · NY		Aug 5, 2010
Sen. Graham, Lindsey [R-SC]	R · SC		Aug 5, 2010
Sen. Hatch, Orrin G. [R-UT]	R · UT		Aug 5, 2010
Sen. Hutchison, Kay Bailey [R-TX]	R · TX		Aug 5, 2010
Sen. Kohl, Herb [D-WI]	D · WI		Aug 5, 2010
Sen. Snowe, Olympia J. [R-ME]	R · ME		Aug 5, 2010
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Aug 5, 2010

## Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Dec 6, 2010

## Subjects & Policy Tags

**Policy Area:**

Commerce

## Related Bills

Bill	Relationship	Last Action
111 HR 2196	Related bill	Apr 30, 2009: Referred to the House Committee on the Judiciary.

Innovative Design Protection and Piracy Prevention Act - (Sec. 2) Extends copyright protection to fashion designs. Revises the definition of "useful article" to include an article of apparel.

Defines "apparel" as articles including clothing, handbags, purses, wallets, tote bags, belts, and eyeglass frames.

Excludes from protection designs embodied in a useful article that was made public by the designer or owner: (1) more than two years before the date of the application for registration in the case of a vessel hull design; and (2) more than three years before the date upon which protection of the design is asserted in the case of a fashion design.

Prohibits considering the presence or absence of a particular color or of a pictorial or graphic work imprinted on fabric when determining the protection of a fashion design.

Sets the term of protection at 3 years for a fashion design and 10 years for a design of a vessel hull.

Revises provisions concerning acting without knowledge to state that it is not infringement to make, have made, import, sell, offer for sale, advertise, or distribute any article embodying a design which was created without knowledge, either actual or reasonably inferred from the totality of the circumstances, that a design was protected and was copied from such protected design.

Prohibits deeming a vessel hull design to have been copied from a protected design if it is original and not substantially similar in appearance to a protected design.

Prohibits deeming a fashion design to have been copied from a protected design if it: (1) is not substantially identical in overall visual appearance to and as to the original elements of a protected design; or (2) is the result of independent creation.

Declares that it is not an infringement for a person to produce a single copy of a protected design for personal use or for the use of an immediate family member, if that copy is not offered for sale or use in trade during the protection period.

Rewrites provisions concerning the remedy for infringement to state, in general, that: (1) in the case of a vessel hull, the owner of a design is entitled, after issuance of a certificate of registration of the design, to institute an action for any infringement of the design; and (2) in the case of a fashion design, the owner of a design is entitled to institute an action for any infringement of the design after the design is made public.

Sets forth pleading requirements for a claimant in an action for fashion design infringement.

Increases the penalty for false representation.

Excludes protected fashion designs from: (1) importation enforcement regulations issued by the Secretary of the Treasury and the U.S. Postal Service; and (2) seizure and forfeiture provisions. Limits the applicability of such regulations and provisions to specified vessel hulls.

## Actions Timeline

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- **Dec 6, 2010:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report.
- **Dec 6, 2010:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 674.
- **Dec 1, 2010:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Aug 5, 2010:** Introduced in Senate
- **Aug 5, 2010:** Sponsor introductory remarks on measure. (CR S6893-6894)
- **Aug 5, 2010:** Read twice and referred to the Committee on the Judiciary.