

## S 3523

Innovative Design Protection Act of 2012

**Congress:** 112 (2011–2013, Ended)

**Chamber:** Senate

**Policy Area:** Commerce

**Introduced:** Sep 10, 2012

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 573.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 573. (Dec 20, 2012)

**Official Text:** <https://www.congress.gov/bill/112th-congress/senate-bill/3523>

### Sponsor

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

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

### Cosponsors (10 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Blumenthal, Richard [D-CT]	D · CT		Sep 10, 2012
Sen. Boxer, Barbara [D-CA]	D · CA		Sep 10, 2012
Sen. Cardin, Benjamin L. [D-MD]	D · MD		Sep 10, 2012
Sen. Gillibrand, Kirsten E. [D-NY]	D · NY		Sep 10, 2012
Sen. Graham, Lindsey [R-SC]	R · SC		Sep 10, 2012
Sen. Hatch, Orrin G. [R-UT]	R · UT		Sep 10, 2012
Sen. Kohl, Herb [D-WI]	D · WI		Sep 10, 2012
Sen. Snowe, Olympia J. [R-ME]	R · ME		Sep 10, 2012
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Sep 10, 2012
Sen. Klobuchar, Amy [D-MN]	D · MN		Sep 19, 2012

### Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Dec 20, 2012

### Subjects & Policy Tags

**Policy Area:**

Commerce

### Related Bills

Bill	Relationship	Last Action
112 HR 2511	Related bill	<b>Aug 25, 2011:</b> Referred to the Subcommittee on Intellectual Property, Competition and the Internet.

**(This measure has not been amended since it was introduced. The summary of that version is repeated here.)**

Innovative Design Protection Act of 2012 - Extends copyright protection to fashion designs. Revises the definition of "useful article" to include an article of apparel (clothing, handbags, purses, wallets, tote bags, belts, and eyeglass frames).

Excludes from protection designs embodied in a useful article 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.

Requires the owner of a fashion design to provide written notice of the design protection to any person the design owner has reason to believe has violated or will violate such protections. Prohibits an action for infringement of a fashion design from commencing until 21 days after such written notice is provided to the defendant.

Modifies infringement criteria with respect to retailers, sellers, importers, or distributors of an infringing article who did not make the article.

Revises provisions concerning acting without knowledge to state that it is not infringement to make, have made, import, sell, offer for sale, 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.

Declares that it shall not be infringement (under specified federal protections of original designs) to be engaged in: (1) the provision of a telecommunications service, or of an Internet access service or Internet information location tool; or (2) the transmission, storage, retrieval, hosting, formatting, or translation of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with the Communications Act of 1934.

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.

Rewrites 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 and the 21-day notice period provided in this Act.

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 (USPS), 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 20, 2012:** Committee on the Judiciary. Reported by Senator Leahy without amendment. With written report No. 112-259. Minority views filed.
- **Dec 20, 2012:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 573.
- **Sep 20, 2012:** Committee on the Judiciary. Ordered to be reported without amendment favorably.
- **Sep 10, 2012:** Introduced in Senate
- **Sep 10, 2012:** Read twice and referred to the Committee on the Judiciary.

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