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Citation: 1 Anticounterfeiting Consumer Protection Act of 1996
104-153 110 Stat. 1386 S18594 1996

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Thu Mar 21 22:55:29 2013

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Sincerely,

CHRISTOPHER H. SMITH,
Chairman.
ALFONSE D'AMATO,
Cochairman.

THE ANTICOUNTERFEITING CONSUMER PROTECTION ACT OF 1995

Mr. LEAHY. Mr. President, I was pleased to be an original sponsor of S. 1136, the Anticounterfeiting Consumer Protection Act of 1995, to provide additional tools to combat trademark and goods counterfeiting crimes that cost our Nation billions of dollars per year.

The Judiciary Committee received estimates that international counterfeiting amounts to more than $200 billion a year. Bank robberies in this country involve less than $50 million a year. Just as we do not tolerate theft of peoples' funds from our banks, we can no longer tolerate the theft of intellectual property rights or reputation through unlawful copying, counterfeiting and infringement.

Even States like Vermont, with one of the lowest violent crime rates in the Nation, is home to businesses losing money to counterfeiters. Vermont Maple syrup producers comply with stringent standards so that syrup lovers around the world are not disappointed. They have to be constantly vigilant against counterfeiters who use the Vermont label to get a free ride on the reputation for excellence that syrup from my State enjoys.

Another example, concerns our IBM facility in Essex Junction, which makes 16- and 64-megabyte memory chips, known as Dynamic Random Access Memory Chips or DRAM. These memory chips are also the subject of counterfeiting activities. In addition, IBM has estimated annual losses to bootleg computer software at $1 billion.

The Software Publishers Association and Business Software Alliance estimate that software counterfeiting may account for as much as $6.5 billion a year, which is over 40 percent of all software industry revenues. This is unacceptable for any business if it is to survive.

At our Judiciary Committee hearing on October 10, we heard from Tom McGann, executive vice president of Burton Snowboards of Burlington, VT. This company is the world leader in making snowboard equipment, but loses an estimated $1 million annually to copycat boots made in Korea.

Companies that work hard and devote resources to developing good products, ensure design and safety standards, and develop a well-deserved reputation for quality should have their trademarks and good names protected. Moreover, consumers need to be sure that what they are buying is what it appears to be. Burton Snowboards' testimony brings home the reality and the damage of counterfeit goods.

Tom McGann made several important points and was by my estimation the most important and persuasive witness from which we heard. Tom observed that current legal options against counterfeiters were "so time consuming and so costly that we began to wonder why we went to the trouble of getting the patent at all." He also hit the nail on the head when he spoke about the unfairness of allowing those who make no investment in development and quality control to rip off companies that do. He made perhaps the most critical point when he testified that from a business perspective copies undercut the reputation and lead to the loss of public confidence in products of the company that is being copied.

Burton Snowboards is the world leader in making snowboard equipment, boots and related products. This private company was begun by Jake Burton Carpenter, who is generally credited with having developed the sport. This is a classic American story in which Jake-and-a-bandsaw-in-a-garage has led to a company that invests heavily in research and development to make the finest products of its kind in the world. Burton Snowboards' investment should be protected and its customers' confidence rewarded.

Our bill takes important steps to address the problem of counterfeiting in several ways. It seeks to expand our existing racketeering law to cover crimes involving counterfeiting and copyright infringement and to give our law enforcement officers additional, needed authority to seize counterfeit merchandise and impose fines on counterfeiters. It authorizes statutory damages of up to $1 million in private suits against infringers.

I also want to emphasize one of the considerations that bring me to this fight—the health and safety risks posed by counterfeit products. Consumers are being defrauded and being placed in jeopardy by products that do not meet the safety standards that are required of legitimate businesses. We must do everything that we can to confront these dangers as well as the economic damage of illegal counterfeiting. Everything from snowboard boots to software to airplane parts to baby formula to medicine and medical supplies have been the subject of counterfeiting. In addition to the economic harm, the health and safety risks from some counterfeit products provide additional justification for our doing everything that we can to confront the dangers as well as the damage of illegal counterfeiting.

Most troubling at our hearing was the testimony that increasingly, the revenue lost to legitimate U.S. companies is going into the pockets of international crime syndicates and organized criminals, who manufacture, import, and distribute counterfeit goods to fund their other criminal enterprises. It is time to use our RICO weapons against racketeers who are engaged in criminal infringing activities.

As we marked up the bill at the Judiciary Committee, I offered—and the Committee accepted—an amendment to clarify its provisions. Most importantly, my amendment clarified that those subject to civil penalties for participating in the importation of counterfeit goods should include those who "aid and abet" rather than those "in any way concerned in" the activity.

Even as we make our laws more effective in combating counterfeiting crimes here, we cannot overlook the international nature of the problem. Copycat goods with the labels of legitimate, American companies are manufactured, distributed, and sold in foreign cities around the globe. We should insist that our trading partners take action against all kinds of intellectual property violations: Whether counterfeiting or copyright piracy, it amounts to theft and fraud on the consuming public. We cannot tolerate our trading partners and international allies acting as safe havens for pirates. We must take all responsible action we can to protect against piracy and counterfeiting.

Our Nation's economic health in the next century rests in large part with our innovative high-technology and intellectual property companies. It is not protectionism to demand that others around the world recognize basic standards on trademark, patent, and copyright law and enforce prohibitions against counterfeiting and infringement. If our intellectual-property-based industries are to continue to lead the world, their creativity must be rewarded and their property rights and investments must be protected.

In addition to this legislation, we need to enlist the public in this fight and to educate the public about the downside of trademark counterfeiting and patent and copyright infringement. We need to be sure that our international negotiators and our trading partners share our resolve against these crimes.

I thank Jake Burton Carpenter, Tom McGann, and all those at Burton Snowboard for working with us on this measure. I also want to note the strong support of the Business Software Alliance and the Software Publishers Association, the Interactive Digital Software Association, the Recording Industry Association of America, the International Trademark Association, the American Amusement Machine Association, and the Imaging Supplies Coalition.

I appreciate hearing from Steven Olechny of The Timberland Co. from our neighboring State of New Hampshire and thank Timberland for its support for this legislation. I note the support a wide range of companies making everything from the Barney dinosaur and Mighty Morphin Power Rangers to Polo, No Fear, Nautica, and Hilfinger clothing to Oakley sunglasses and thank Hunting World, Hoechst Celanese, Procter & Gamble, Nintendo, Kodak, Polo Ralph Lauren, Nautica Apparel, Oakley, No Fear, Tommy Hilfinger Licensing, Chanel, Lyons

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Group, Warner Bros., the Walt Disney Co., Saban Entertainment, Rolex, the Coalition to Advance the Protection of Sports Logos, and the Cosmetic, Toiletry, and Fragrance Association for their comments on the legislation and their support. Finally, I want to thank John Bliss and the members of the International Anti-Counterfeiting Coalition for their effective work against international counterfeiting and their support for this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 1977, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 12, 1995.)

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, would you state the conditions under which this conference report is being debated?

The PRESIDING OFFICER. When the Senate considers the conference report to accompany H.R. 1977, the Interior appropriations bill, time will be limited to 6 hours, 3 of which shall be under the control of the Senator from Washington, or his designee, of which 20 minutes shall be under the control of the Senator from West Virginia; and 3 hours under the control of Senators BUMPERS and BRADLEY, or their designees.

Mr. GORTON. Mr. President, the Senate is no considering the conference report on H.R. 1977, the fiscal year 1996 Department of the Interior and related agencies appropriations bill. This conference report and accompanying statement of the managers appeared in the CONGRESSIONAL RECORD on December 12, 1995, on pages H14288 through H14310. This is the third conference agreement. The first conference report was recommitted by the House on September 28 due primarily to objections to the conference adoption of the Senate provisions on mining, which lifted the existing moratorium on issuing new patents. The second conference report was recommitted again by the House on November 15 due to objections to mining and Tongass National Forest concerns.

The agreements before the Senate today total $12.235 billion in discretionary budget authority. The outlay scoring totals $13.210 billion. The budget authority and outlay figures are precisely at the 602(b) allocation levels. The recommendations of this conference agreement represent a total decrease below the President's budget request of $1.7 billion in budget authority and of $949 million in outlays.

The conference report represents difficult choices and real cuts in spending—without scorekeeping adjustments—of $1.4 billion below the fiscal year 1995 level or a reduction of 10 percent. Interior bill agencies do not share equally in the 10-percent reduction. For instance, the land management agencies are reduced by 14 percent; cultural activities are reduced by 15 percent; the Indian programs are reduced by 4 percent; and the Department of Energy agencies are reduced by 10 percent.

The Interior appropriations bill is a complex bill, providing funding for 40 agencies with very diverse programs. This conference agreement reflects a meshing of the budget resolution considerations, the administration's fiscal year 1996 priorities, the priorities of the Senate and House, and the concerns of individual Members. For example, the Congress and the administration place a high priority on the National Park Service and the Indian programs. Therefore, the National Park Service and the Indian programs are reduced significantly less than other programs and agencies within the bill.

Our conference addressed a considerable number of differences. There were approximately 900 items in disagreement between the House and Senate Interior appropriations bills. As in the past, this bill has received abundant attention and sparked debate within the Congress and the administration. This conference report represents an earnest effort to address many of the administration's objections to this year's Interior actions.

There may be programs which Senators would like to see funded at higher levels. On many, I agree. Certainly, the administration has indicated that it views funding for some programs as inadequate. However, I would remind these Senators and the administration of the funding constraints for this bill and the difficult choices that had to be made. The conferees had to fund programs within an allocation that was 10 percent less than was available for the bill in fiscal year 1995. For every program that was reduced less than 10 percent, other programs had to be reduced by more than 10 percent.

Mr. President, I would like to highlight some of the items in the conference agreement:

INDIAN PROGRAMS

Programs for native Americans and Alaska Natives are funded at $3,652,895,000 within the bill. Within the funding constraints, high priority was placed on the health needs of native Americans funded through the Indian Health Service and on Bureau of Indian Affairs funded elementary and secondary education programs.

The conferees restored $111.5 million above the Senate level to the Bureau of Indian Affairs, resulting in an overall reduction for BIA of $159.6 million, or 9 percent, below the fiscal year 1995 level for BIA activities. Funds were restored primarily to tribal priority allocations, which fund tribal government services.

Additionally, $25 million has been added to the previous conference agreement for the Indian Health Service [IHS]. This brings the IHS 1 percent above the fiscal year 1995 enacted level.

LAND MANAGEMENT

Although the land management agencies have been decreased overall by 14 percent from the current level, the conferees have attempted to protect the operational base of the land management agencies as much as possible:

National Park Service: 0 percent.

Fish and Wildlife Service: −3 percent.

Bureau of Land Management: −5 percent.

Forest Service: −5 percent.

To assist with the growing recreation demands on the agencies in this bill, a pilot recreation fee proposal is included.

The construction accounts for the land management agencies have decreased $85 million in total—−20 percent. The majority of the construction projects involve the completion of ongoing projects and the restoration or rehabilitation of existing facilities.

Overall funding for land acquisition for the land management agencies totals $140 million which is 40 percent below the fiscal year 1995 appropriations level. There are no earmarks for specific projects. However, the administration must obtain congressional approval for any projects to be funded.

NATIONAL BIOLOGICAL SERVICE

The Interior's biological research is placed under the Director of the U.S. Geological Survey. Funding of $137 million is provided for the research activities, which is a reduction of $35.7 million below the current level.

MINING AGENCIES

The conference report includes a compromise between the Senate and House provisions on mining patents.

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