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Now a part of Title VI of ESEA, President Clinton's $1.2 billion class-size reduction initiative, passed in 1998, illustrates Washington's obsession with means at the expense of results and also the triumph of symbolism over sound policy. The goal of raising student achievement is reasonable and essential; however, mandating localities do it by reducing class sizes precludes local decision-making and unnecessarily involves Washington in local affairs.

Mr. Rotherham goes on to state,

During the debate on the Clinton class-size proposal, it was correctly pointed out that research indicates that teacher quality is a more important variable in student achievement than class size. In fact, this crucial finding was even buried in the U.S. Department of Education's own literature on the issue. The Committee on the Prevention of Reading Difficulty in Young Children stated, "[Although] the quantity and quality of teacher-student interactions are necessarily limited by large class size, best instructional practices are not guaranteed by small class size." In fact, one study of 1000 school districts found that every dollar spent on more highly qualified teachers "netted greater improvements in student achievement than did any other use of school resources." Yet despite this, the class-size initiative allows only 15 percent of the $1.2 billion appropriation to be spent on professional development. Instead of allowing states and localities flexibility to address their own particular circumstances, Washington created a one-size-fits all approach.

Mr. Rotherham ends this section of the paper by asking the following insightful question,

Considering the crucial importance of teacher quality, the current shortage of qualified teachers, and the fact that class-size is not a universal problem throughout the country, shouldn't states and localities have the option of using more than 15 percent of this funding on professional development?

I am hopeful that Mr. Rotherham will prevail upon President Clinton to work with Congress to pass education reform legislation that allows states and local communities the flexibility they need to provide a quality education for all children, while ensuring that they are held accountable for the results of the education they provide. As Mr. Rotherham states, the federal government should not concentrate on ". . . means at the expense of results . . .", and should not allow ". . . the triumph of symbolism over sound policy," which the President's class size reduction program represents.

My best wishes go out to Mr. Rotherham, and it is my sincere hope that he will be able to have some influence with this administration and that he is able to convince them that Washington does not know best. It's time we put children first, and change the emphasis of the federal government from process and paperwork to kids and learning.

I ask to print in the RECORD the section from Mr. Rotherham's report that discusses his views on the administration's class size initiative.

The material follows:

TOWARD PERFORMANCE-BASED FEDERAL EDUCATION FUNDING: REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

(By Andrew Rotherham)

TEACHER QUALITY, CLASS SIZE, AND STUDENT ACHIEVEMENT

Reducing class size is obviously not a bad idea. Quite the contrary, substantial research indicates it can be an effective strategy to raise student achievement. As the Progressive Policy Institute has pointed out, all things being equal, teachers are probably more effective with fewer students. However, achieving smaller class sizes is often problematic. For example, as a result of a teacher shortage exacerbated by a mandate to reduce class sizes, 21,000 of California's 250,000 teachers are working with emergency permits in the states most troubled schools.

Now a part of Title VI of ESEA, President Clinton's $1.2 billion class-size reduction initiative, passed in 1998, illustrates Washington's obsession with means at the expense of results and also the triumph of symbolism over sound policy. The goal of raising student achievement is reasonable and essential; however, mandating localities do it by reducing class sizes precludes local decision-making and unnecessarily involves Washington in local affairs.

During the debate on the Clinton class-size proposal, it was correctly pointed out that research indicates that teacher quality is a more important variable in student achievement than class size. If fact, this crucial finding was even buried in the U.S. Department of Education's own literature on the issue. The Committee on the Prevention of Reading Difficulty in Young Children stated, "[Although] the quantity and quality of teacher-student interactions are necessarily limited by large class size, best instructional practices are not guaranteed by small class size." In fact, one study of 1000 school districts found that every dollar spent on more highly qualified teachers "Netted greater improvements in student achievement than did any other use of school resources." Yet despite this, the class-size initiative allows only 15 percent of the $1.2 billion appropriation to be spent on professional development. Instead of allowing states and localities flexibility to address their own particular circumstances, Washington created a one-size-fits all approach. Considering the crucial importance of teacher quality, the current shortage of qualified teachers, and the fact that class-size is not a universal problem throughout the country, shouldn't states and localities have the option of using more than 15 percent of this funding on professional development?•

TRIBUTE TO WHITEHALL AND MONTAGUE VETERANS

• Mr. ABRAHAM. Mr. President, I rise today to pay tribute to the Veterans of WWII from Whitehall and Montague, Michigan, on the occasion of the Restoration and Dedication of the WWII Monument in Whitehall, Michigan.

We as a country cannot thank enough the men and women of the armed forces who have served our country. The very things that make America great today we owe in large part to the Veterans of WWII as well as our Veterans of other wars. The bravery and courage that these young people showed in defending our nation is a tribute to the upbringing they received in Whitehall and Montague. While these men clearly are outstanding in their home towns, they also have contributed greatly to the freedom of all Americans.

These great men put everything aside for their country. They put their families and education aside for the good of democracy.

Some of them even gave their lives.

On August 14, 1999, there will be a WWII Monument Rededication honoring the Whitehall and Montague Veterans. At that time, their communities will, in a small but significant way, thank them for the sacrifices they made to keep us free.

I would like to take this opportunity to join the people of Whitehall and Montague in honoring all of their citizens who fought for our country. Furthermore, I would like to pay special tribute to those men who gave their lives for our country by listing them in the CONGRESSIONAL RECORD.

Mr. President, I yield the floor.

WWII MEMORIAL—KILLED IN ACTION

Robert Andrews
James Bayne
Thomas Buchanan
A. Christensen
Russell Cripe
Earl Gingrich
Otto Grunewald
Walter Haupt
Harry Johnson
Raymond Kissling
Robert LaFaunce
Kenneth Leighton
Edward Lindsey
Tauro Maki
Roger Meinert
Dr. D.W. Morse
Robert Pulsipher
John Radics
Lyle Rolph
Raymond Runsel
Wayne Stiles
H. Strandberg, Jr.
Robert Zatzke•

ANTICYBERSQUATTING CONSUMER PROTECTION ACT

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 240, S. 1255.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1255) to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Anticybersquatting Consumer Protection Act.".

(b) REFERENCES TO THE TRADEMARK ACT OF 1946.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act

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entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 2. FINDINGS.

Congress finds the following:

(1) The registration, trafficking in, or use of a domain name that is identical without regard to the goods or services of the parties, with the bad-faith intent to profit from the goodwill of another's mark (commonly referred to as "cyberpiracy" and "cybersquatting")—

(A) results in consumer fraud and public confusion as to the true source or sponsorship of goods and services;

(B) impairs electronic commerce, which is important to interstate commerce and the United States economy;

(C) deprives legitimate trademark owners of substantial revenues and consumer goodwill; and

(D) places unreasonable, intolerable, and overwhelming burdens on trademark owners in protecting their valuable trademarks.

(2) Amendments to the Trademark Act of 1946 would clarify the rights of a trademark owner to provide for adequate remedies and to deter cyberpiracy and cybersquatting.

SEC. 3. CYBERPIRACY PREVENTION.

(a) IN GENERAL.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by inserting at the end the following:

"(B) In determining whether there is a bad-faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—

"(i) the trademark or other intellectual property rights of the person, if any, in the domain name;

"(ii) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

"(iii) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

"(iv) the person's legitimate noncommercial or fair use of the mark in a site accessible under the domain name;

"(v) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

"(vi) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for substantial consideration without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services;

"(vii) the person's intentional provision of material and misleading false contact information when applying for the registration of the domain name; and

"(viii) the person's registration or acquisition of multiple domain names which are identical without regard to the goods or services of such persons.

"(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

"(2)(A) The owner of a mark may file an in rem civil action against a domain name if—

"(i) the domain name violates any right of the registrant of a mark registered in the Patent and Trademark Office, or section 43 (a) or (c); and

"(ii) the court finds that the owner has demonstrated due diligence and was not able to find a person who would have been a defendant in a civil action under paragraph (1).

"(B) The remedies of an in rem action under this paragraph shall be limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.".

(b) ADDITIONAL CIVIL ACTION AND REMEDY.—The civil action established under section 43(d)(1) of the Trademark Act of 1946 (as added by this section) and any remedy available under such action shall be in addition to any other civil action or remedy otherwise applicable.

SEC. 4. DAMAGES AND REMEDIES.

(a) REMEDIES IN CASES OF DOMAIN NAME PIRACY.—

(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking "section 43(a)" and inserting "section 43 (a), (c), or (d)".

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting ", (c), or (d)" after "section 43 (a)".

(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

"(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just. The court shall remit statutory damages in any case in which an infringer believed and had reasonable grounds to believe that use of the domain name by the infringer was a fair or otherwise lawful use.".

SEC. 5. LIMITATION ON LIABILITY.

Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—

(1) in the matter preceding subparagraph (A) by striking "under section 43(a)" and inserting "under section 43 (a) or (d)"; and

(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D)(i) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary relief to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.

"(ii) An action referred to under clause (i) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—

"(I) in compliance with a court order under section 43(d); or

"(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another's mark registered on the Principal Register of the United States Patent and Trademark Office.

"(iii) A domain name registrar, a domain name registry, or other domain name registration authority shall not be liable for damages under this section for the registration or maintenance of a domain name for another absent a showing of bad faith intent to profit from such registration or maintenance of the domain name.

"(iv) If a registrar, registry, or other registration authority takes an action described under clause (ii) based on a knowing and material misrepresentation by any person that a domain name is identical to, confusingly similar to, or dilutive of a mark registered on the Principal Register of the United States Patent and Trademark Office, such person shall be liable for any damages, including costs and attorney's fees, incurred by the domain name registrant as a result of such action. The court may also grant injunctive relief to the domain name registrant, including the reactivation of the domain name or the transfer of the domain name to the domain name registrant.".

SEC. 6. DEFINITIONS.

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the undesignated paragraph defining the term "counterfeit" the following:

"The term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).

"The term 'domain name' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.".

SEC. 7. SAVINGS CLAUSE.

Nothing in this Act shall affect any defense available to a defendant under the Trademark Act of 1946 (including any defense under section 43(c)(4) of such Act or relating to fair use) or a person's right of free speech or expression under the first amendment of the United States Constitution.

SEC. 8. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 9. EFFECTIVE DATE.

This Act shall apply to all domain names registered before, on, or after the date of enactment of this Act, except that statutory damages under section 35(d) of the Trademark Act of 1946 (15 U.S.C. 1117), as added by section 4 of this Act, shall not be available with respect to the registration, trafficking, or use of a domain name that occurs before the date of enactment of this Act.

AMENDMENT NO. 1609

(Purpose: To clarify the rights of domain name registrants and Internet users with respect to lawful uses of internet domain names, and for other purposes)

Mr. BROWNBACK. Mr. President, Senators HATCH and LEAHY have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The Senator from Kansas [Mr. BROWNBACK], for Mr. HATCH, for himself and Mr. LEAHY, proposes an amendment numbered 1609.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, line 4, beginning with "to" strike all through the comma on line 7 and insert "or confusingly similar to a trademark or service mark of another that is distinctive at the time of the registration of the domain name, or dilutive of a famous trademark or service mark of another that is famous at the time of the registration of the domain name,".

On page 11, strike lines 5 through 12 and insert the following:

"(d)(1)(A) A person shall be liable in a civil action by the owner of a trademark or service mark if, without regard to the goods or services of the parties, that person—

"(i) has a bad faith intent to profit from that trademark or service mark; and

"(ii) registers, traffics in, or uses a domain name that—

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"(I) in the case of a trademark or service mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to such mark; or

"(II) in the case of a famous trademark or service mark that is famous at the time of registration of the domain name, is dilutive of such mark.

On page 12, line 19, strike all beginning with "to" through the comma on line 22 and insert "or confusingly similar to trademarks or service marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous trademarks or service marks of others that are famous at the time of registration of such domain names,".

On page 13, insert between lines 3 and 4 the following:

"(D) A use of a domain name described under subparagraph (A) shall be limited to a use of the domain name by the domain name registrant or the domain name registrant's authorized licensee.

On page 16, line 24, strike the quotation marks and the second period.

On page 16, add after line 24 the following:

"(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act. The court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.".

Mr. HATCH. Mr. President, today the Senate considers legislation to address the serious threats to American consumers, businesses, and the future of electronic commerce, which derive from the deliberate, bad-faith, and abusive registration of Internet domain names in violation of the rights of trademark owners. For the Net-savvy, this burgeoning form of cyber-abuse is known as "cybersquatting." For the average consumer, it is simply fraud, deception, and the bad-faith trading on the goodwill of others.

Our trademark laws have long recognized the communicative value of brand name identifiers, which serve as the primary indicators of source, quality, and authenticity in the minds of consumers. These laws prohibit the unauthorized uses of other people's marks because such uses lead to consumer confusion, undermine the goodwill and communicative value of the brand names they rely on, and erode consumer confidence in the marketplace generally. Such problems of brand-name abuse and consumer confusion are particularly acute in the online environment, where traditional indicators of source, quality, and authenticity give way to domain names and digital storefronts that take little more than Internet access and rudimentary computer skills to erect. In many cases, the domain name that takes consumers to an Internet site and the graphical interface that greets them when they get there are the only indications of source and authenticity, and legitimate and illegitimate sites may be indistinguishable to online consumers.

Despite the protections of existing trademark law, cyber-pirates and online bad actors are increasingly taking advantage of the novelty of the Internet and the online vulnerabilities of trademark owners to deceive and defraud consumers and to hijack the valuable trademarks of American businesses. In some cases these bad actors register the well-known marks of others as domain names with the intent to extract sizeable payments from the rightful trademark owner in exchange for relinquishing the rights to the name in cyberspace. In others they use the domain name to divert unsuspecting Internet users to their own sites, which are often pornographic sites or competitors' sites that prey on consumer confusion. Still others use the domain name to engage in counterfeiting activities or for other fraudulent or nefarious purposes.

In considering this legislation, the Judiciary Committee has seen examples of many such abuses. For example, we heard testimony of consumer fraud being perpetrated by the registrant of the "attphonecard.com" and "attcallingcard.com" domain names who set up Internet sites purporting to sell calling cards and soliciting personally identifying information, including credit card numbers. We also heard examples of counterfeit goods and non-genuine Porsche parts being sold on a number of the more than 300 web sites found using domain names bearing Porsche's name. The risks posed to consumers by these so-called "dot.con" artists continue to escalate as more people go online to buy things like pharmaceuticals, financial services, and even groceries.

I was also surprised to learn that the "dosney.com" domain was being used for a hard-core pornography website—a fact that was brought to the attention of the Walt Disney Company by the parent of a child who mistakenly arrived at that site when looking for Disney's main page. In a similar case, a 12-year old California boy was denied privileges at his school when he entered "zelda.com" in a web browser at his school library, looking for a site he expected to be affiliated with the popular computer game of the same name, but ended up at a pornography site. Young children are not the only victims of this sort of abuse. Recently the Intel Corporation had the "pentium3.com" domain snatched up by a cybersquatter who used it to post pornographic images of celebrities and offered to sell the domain name to the highest bidder.

The Committee also heard numerous examples of online bad actors using domain names to engage in unfair competition. For example, one domain name registrant used the name "wwwcarpoint.com," without a period following the "www," to drive consumers who are looking for Microsoft's popular Carpoint car buying service to a competitor's site offering similar services. Other bad actors don't even bother to offer competing services, opting instead to register multiple domain names to interfere with companies' ability to use their own trademarks online. For example, the Committee was told that Warner Bros. was asked to pay $350,000 for the rights to the names "warner-records.com," "warner-bros-records.com," "warner-pictures.com," "warner-bros-pictures", and "warner-pictures.com."

It is time for Congress to take a closer look at these abuses and to respond with appropriate legislation. The bill the Senate considers today will address these problems by clarifying the rights of trademark owners with respect to cybersquatting, by providing clear deterrence to prevent such bad faith and abusive conduct, and by providing adequate remedies for trademark owners in those cases where it does occur. And while the bill provides many important protections for trademark owners, it is important to note that the bill we are considering today reflects the text of a substitute amendment that Senator LEAHY and I offered in the Judiciary Committee to carefully balance the rights of trademark owners with the interests of Internet users. The text is substantively identical to the legislation that Senator LEAHY and I introduced as S. 1461, with Senators ABRAHAM, TORRICELLI, DEWINE, KOHL, and SCHUMER as cosponsors. In short, it represents a balanced approach that will protect American consumers and the businesses that drive our economy while at the same time preserving the rights of Internet users to engage in protected expression online and to make lawful uses of others' trademarks in cyberspace.

Let me take just a minute to explain some of the changes that are reflected in the bill as it has been reported to the Senate by the Judiciary Committee. While the current bill shares the goals of, and has some similarity to, the bill as introduced, it differs in a number of substantial respects. First, like the legislation introduced by Senator ABRAHAM, this bill allows trademark owners to recover statutory damages in cybersquatting cases, both to deter wrongful conduct and to provide adequate remedies for trademark owners who seek to enforce their rights in court. The reported bill goes beyond simply stating the remedy, however, and sets forth a substantive cause of action, based in trademark law, to define the wrongful conduct sought to be deterred and to fill in the gaps and uncertainties of current trademark law with respect to cybersquatting.

Under the bill as reported, the abusive conduct that is made actionable is appropriately limited to bad faith registrations of others' marks by persons who seek to profit unfairly from the goodwill associated therewith. In addition, the reported bill balances the property interests of trademark owners with the interests of Internet users who would make fair use of others' marks or otherwise engage in protected

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speech online. The reported bill also limits the definition of domain name identifier to exclude such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry. It also omits criminal penalties found in Senator ABRAHAM's original legislation.

Second, the reported bill provides for in rem jurisdiction, which allows a mark owner to seek the forfeiture, cancellation, or transfer of an infringing domain name by filing an in rem action against the name itself, where the domain name violates the mark owner's substantive trademark rights and where the mark owner has satisfied the court that it has exercised due diligence in trying to locate the owner of the domain name but is unable to do so. A significant problem faced by trademark owners in the fight against cybersquatting is the fact that many cybersquatters register domain names under aliases or otherwise provide false information in their registration applications in order to avoid identification and service of process by the mark owner. The bill, as reported, will alleviate this difficulty, while protecting the notions of fair play and substantial justice, by enabling a mark owner to seek an injunction against the infringing property in those cases where, after due diligence, a mark owner is unable to proceed against the domain name registrant because the registrant has provided false contact information and is otherwise not to be found.

Additionally, some have suggested that dissidents or others who are online incognito for similar legitimate reasons might give false information to protect themselves and have suggested the need to preserve a degree of anonymity on the Internet particularly for this reason. Allowing a trademark owner to proceed against the domain names themselves, provided they are, in fact, infringing or diluting under the Trademark Act, decreases the need for trademark owners to join the hunt to chase down and root out these dissidents or others seeking anonymity on the Net. The approach in this bill is a good compromise, which provides meaningful protection to trademark owners while balancing the interests of privacy and anonymity on the Internet.

Third, like the original Abraham bill, the substitute amendment encourages domain name registrars and registries to work with trademark owners to prevent cybersquatting by providing a limited exemption from liability for domain name registrars and registries that suspend, cancel, or transfer domain names pursuant to a court order or in the implementation of a reasonable policy prohibiting cybersquatting. The bill goes further, however, in order to protect the rights of domain name registrants against overreaching trademark owners. Under the reported bill, a trademark owner who knowingly and materially misrepresents to the domain name registrar or registry that a domain name is infringing is liable to the domain name registrant for damages resulting from the suspension, cancellation, or transfer of the domain name. In addition, the court may award injunctive relief to the domain name registrant by ordering the reactivation of the domain name or the transfer of the domain name back to the domain name registrant. Finally, the bill also promotes the continued ease and efficiency users of the current registration system enjoy by codifying current case law limiting the secondary liability of domain name registrars and registries for the act of registration of a domain name.

Finally, the reported bill includes an explicit savings clause making clear that the bill does not affect traditional trademark defenses, such as fair use, or a person's first amendment rights, and it ensures that any new remedies created by the bill will apply prospectively only.

In addition, the Senate is considering today an amendment I am offering with Senator LEAHY to make three additional clarifications. First, our amendment will clarify that the prohibited "uses" of domain names contemplated by the bill are limited to uses by the domain name registrant or his authorized licensee and do not include uses by others, such as in hypertext links, directory publishing, or search engines.

Second, our amendment clarifies that, like the Federal Trademark Dilution Act, uses of names that dilute the marks of others are actionable only where the mark that is harmed has achieved the status of a "famous" mark. As reported by the Committee, the bill does not distinguish between famous and non-famous marks. I supported this outcome because I believe the bill should provide protection to all mark owners against the deliberate, bad-faith dilution of their marks by cybersquatters—particularly given the proliferation of small startups that are driving the growth of electronic commerce on the Internet. Nevertheless, in the interest of moving the bill forward to provide much needed protection to trademark owners in a timely fashion and to build more closely on the pattern set by established law, I agreed to support an amendment limiting the scope of the bill to famous marks in the dilution context. Thus, our amendment clarifies that, like substantive trademark law generally, uses of others' marks in a way that causes a likelihood of consumer confusion is actionable whether or not the mark is famous, but like under the Federal Trademark Dilution Act, dilutive uses of others' marks is actionable only if the mark is famous.

Finally, our amendment clarifies that a domain name registrant whose name is suspended in an extra-judicial dispute resolution procedure can seek a declaratory judgment that his use of the name was, in fact, lawful under the Trademark Act. This clarification is consistent with other provisions of the reported bill that seek to protect domain name registrants against overreaching trademark owners.

Let me say in conclusion that this is an important piece of legislation that will promote the growth of online commerce by protecting consumers and providing clarity in the law for trademark owners in cyberspace. It is a balanced bill that protects the rights of Internet users and the interests of all Americans in free speech and protected uses of trademarked names for such things as parody, comment, criticism, comparative advertising, news reporting, etc. It reflects many hours of discussions with senators and affected parties on all sides. Let me thank Senator LEAHY for his work in crafting this particular measure, as well as Senator ABRAHAM for his cooperation in this effort, and all the other cosponsors of the bill and the substitute amendment adopted by the Judiciary Committee last week. I look forward to my colleagues' support of this measure and to working with them to get this important bill promoting e-commerce and online consumer protection through the Senate and enacted into law.

Mr. LEAHY. Mr. President, I am pleased that the Senate is today passing the Hatch-Leahy substitute amendment to S. 1255, the "Anticybersquatting Consumer Protection Act." Senator HATCH and I, and others, have worked hard to craft this legislation in a balanced fashion to protect trademark owners and consumers doing business online, and Internet users who want to participate in what the Supreme Court has described as "'a unique and wholly new medium of worldwide human communication.'" Reno v. ACLU, 521 U.S. 844 (1997).

On July 29, 1999, Senator HATCH and I, along with several other Senators, introduced S. 1461, the "Domain Name Piracy Prevention Act of 1999." This bill then provided the text of the Hatch-Leahy substitute amendment that we offered to S. 1255 at the Judiciary Committee's executive business meeting the same day. The Committee unanimously reported the substitute amendment favorably to the Senate for consideration. This substitute amendment, with three additional refinements contained in a Hatch-Leahy clarifying amendment, is the legislation that the Senate considers today.

Trademarks are important tools of commerce.—The exclusive right to the use of a unique mark helps companies compete in the marketplace by distinguishing their goods and services from those of their competitors, and helps consumers identify the source of a product by linking it with a particular company. The use of trademarks by companies, and reliance on trademarks by consumers, will only become more important as the global marketplace becomes larger and more accessible with electronic commerce. The reason is simple: when a trademarked name is

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used as a company's address in cyberspace, customers know where to go online to conduct business with that company.

The growth of electronic commerce is having a positive effect on the economies of small rural states like mine. A Vermont Internet Commerce report I commissioned earlier this year found that Vermont gained more than 1,000 new jobs as a result of Internet commerce, with the potential that Vermont could add more than 24,000 jobs over the next two years. For a small state like ours, this is very good news.

Along with the good news, this report identified a number of obstacles that stand in the way of Vermont reaching the full potential promised by Internet commerce. One obstacle is that "merchants are anxious about not being able to control where their names and brands are being displayed." Another is the need to bolster consumers' confidence in online shopping.

Cybersquatters hurt electronic commerce.—Both merchant and consumer confidence in conducting business online are undermined by so-called "cybersquatters" or "cyberpirates," who abuse the rights of trademark holders by purposely and maliciously registering as a domain name the trademarked name of another company to divert and confuse customers or to deny the company the ability to establish an easy-to-find online location. A recent report by the World Intellectual Property Organization (WIPO) on the Internet domain name process has characterized cybersquatting as "predatory and parasitical practices by a minority of domain registrants acting in bad faith" to register famous or well-known marks of others—which can lead to consumer confusion or downright fraud.

Enforcing trademarks in cyberspace will promote global electronic commerce.—Enforcing trademark law in cyberspace can help bring consumer confidence to this new frontier. That is why I have long been concerned with protecting registered trademarks online. Indeed, when the Congress passed the Federal Trademark Dilution Act of 1995, I noted that: "[A]lthough no one else has yet considered this application, it is my hope that this antidilution statute can help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others." (CONGRESSIONAL RECORD, Dec. 29, 1995, page S19312)

In addition, last year I authored an amendment that was enacted as part of the Next Generation Internet Research Act authorizing the National Research Council of the National Academy of Sciences to study the effects on trademark holders of adding new top-level domain names and requesting recommendations on inexpensive and expeditious procedures for resolving trademark disputes over the assignment of domain names. Both the Internet Corporation for Assigned Names and Numbers (ICANN) and WIPO are also making recommendations on these procedures. Adoption of a uniform trademark domain name dispute resolution policy will be of enormous benefit to American trademark owners.

The "Domain Name Piracy Prevention Act," S. 1461, which formed the basis for the substitute amendment to S. 1255 that the Senate considers today, is not intended in any way to frustrate these global efforts already underway to develop inexpensive and expeditious procedures for resolving domain name disputes that avoid costly and time-consuming litigation in the court systems either here or abroad. In fact, the legislation expressly provides liability limitations for domain name registrars, registries or other domain name registration authorities when they take actions pursuant to a reasonable policy prohibiting the registration of domain names that are identical or confusingly similar to another's trademark or dilutive of a famous trademark. The ICANN and WIPO consideration of these issues will inform the development by domain name registrars and registries of such reasonable policies.

The Federal Trademark Dilution Act of 1995 has been used as I predicted to help stop misleading uses of trademarks as domain names. One court has described this exercise by saying that "attempting to apply established trademark law in the fast-developing world of the Internet is somewhat like trying to board a moving bus . . ." Bensusan Restaurant Corp. v. King, 126 F.3d 25 (2d Cir. 1997). Nevertheless, the courts appear to be handling "cybersquatting" cases well. As University of Miami Law Professor Michael Froomkin noted in testimony submitted at the Judiciary Committee's hearing on this issue on July 22, 1999, "[i]n every case involving a person who registered large numbers of domains for resale, the cybersquatter has lost."

For example, courts have had little trouble dealing with a notorious cybersquatter, Dennis Toeppen from Illinois, who registered more than 100 trademarks—including "yankee stadium.com," "deltaairlines.com," and "neiman-marcus.com"—as domain names for the purpose of eventually selling the names back to the companies owning the trademarks. The various courts reviewing his activities have unanimously determined that he violated the Federal Trademark Dilution Act.

Similarly, Wayne State University Law Professor Jessica Litman noted in testimony submitted at the Judiciary Committee's hearing that those businesses which "have registered domain names that are confusingly similar to trademarks or personal names in order to use them for pornographic web sites . . . have without exception lost suits brought against them."

Enforcing or even modifying our trademark laws will be only part of the solution to cybersquatting. Up to now, people have been able to register any number of domain names in the popular ".com" domain with no money down and no money due for 60 days. Network Solutions Inc. (NSI), the dominant Internet registrar, announced just last month that it was changing this policy, and requiring payment of the registration fee up front. In doing so, the NSI admitted that it was making this change to curb cybersquatting.

In light of the developing case law, the ongoing efforts within WIPO and ICANN to build a consensus global mechanism for resolving online trademark disputes, and the implementation of domain name registration practices designed to discourage cybersquatting, the legislation we pass today is intended to build upon this progress and provide constructive guidance to trademark holders, domain name registrars and registries and Internet users registering domain names alike.

Commercial sites are not the only ones suffering at the hands of domain name pirates. Even the Congress is not immune: while cspan.org provides detailed coverage of the Senate and House, cspan.net is a pornographic site. Moreover, Senators and presidential hopefuls are finding that domain names like bush2000.org and hatch2000.org are being snatched up by cyber poachers intent on reselling these names for a tidy profit. While this legislation does not help politicians protect their names, it will help small and large businesses and consumers doing business online.

As introduced, S. 1255 was flawed.—I appreciate the efforts of Senators ABRAHAM, TORRICELLI, HATCH and MCCAIN to focus our attention on this important matter. As originally introduced, S. 1255 proposed to make it illegal to register or use any "Internet domain name or identifier of an online location" that could be confused with the trademark of another person or cause dilution of a "famous trademark." Violations were punishable by both civil and criminal penalties.

I voiced concerns at a hearing before the Judiciary Committee that, in its original form, S. 1255 would have a number of unintended consequences that could hurt rather than promote electronic commerce, including the following specific problems:

The definition was overbroad.—As introduced, S. 1255 covered the use or registration of any "identifier," which could cover not just second level domain names, but also e-mail addresses, screen names used in chat rooms, and even files accessible and readable on the Internet. As one witness pointed out, "the definitions will make every fan a criminal." How? A file document about Batman, for example, that uses the trademark "Batman" in its name, which also identifies its online location, could land the writer in court under that bill. Cybersquatting is not about file names.

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The original bill threatened hypertext linking.—The Web operates on hypertext linking, to facilitate jumping from one site to another. The original bill could have disrupted this practice by imposing liability on operators of sites with links to other sites with trademark names in the address. One could imagine a trademark owner not wanting to be associated with or linked with certain sites, and threatening suit under this proposal unless the link were eliminated or payments were made for allowing the linking.

The original bill would have criminalized dissent and protest sites.—A number of Web sites collect complaints about trademarked products or services, and use the trademarked names to identify themselves. For example, there are protest sites named "boycott-cbs.com" and "www.PepsiBloodbath.com." While the speech contained on those sites is clearly constitutionally protected, as originally introduced, S. 1255 would have criminalized the use of the trademarked name to reach the site and made them difficult to search for and find online.

The original bill would have stifled legitimate warehousing of domain names.—The bill, as introduced, would have changed current law and made liable persons who merely register domain names similar to other trademarked names, whether or not they actually set up a site and used the name. The courts have recognized that companies may have legitimate reasons for registering domain names without using them and have declined to find trademark violations for mere registration of a trademarked name. For example, a company planning to acquire another company might register a domain name containing the target company's name in anticipation of the deal. The original bill would have made that company liable for trademark infringement.

For these and other reasons, Professor Litman concluded that, as introduced, the "bill would in many ways be bad for electronic commerce, by making it hazardous to do business on the Internet without first retaining trademark counsel." Faced with the risk of criminal penalties, she stated that "many start-up businesses may choose to abandon their goodwill and move to another Internet location, or even to fold, rather than risk liability."

The Hatch-Leahy Domain Name Piracy Prevention Act and substitute amendment to S. 1255 are a better solution.—S. 1461, the "Domain Name Piracy Prevention Act," which Senators HATCH and I, and others, introduced and which provides the text of the substitute amendment to S. 1255, addresses the cybersquatting problem without jeopardizing other important online rights and interests. Along with the Hatch-Leahy clarifying amendment we consider today, this legislation would amend section 43 of the Trademark Act (15 U.S.C. § 11125) by adding a new section to make liable for actual or statutory damages any person, who with bad-faith intent to profit from the goodwill of another's trademark, without regard to the goods or services of the parties, registers, traffics in or uses a domain name that is identical or confusingly similar to a distinctive trademark or dilutive of a famous trademark. The fact that the domain name registrant did not compete with the trademark owner would not be a bar to recovery.

Uses of infringing domain names that support liability under the legislation are expressly limited to uses by the domain name registrant or the registrant's authorized licensee. This limitation makes clear that "uses" of domain names by persons other than the domain name registrant for purposes such as hypertext linking, directory publishing, or for search engines, are not covered by the prohibition.

Domain name piracy is a real problem. Whitehouse.com has probably gotten more traffic from people trying to find copies of the President's speeches than those interested in adult material. As I have noted, the issue has struck home for many in this body, with aspiring cyber-poachers seizing domain names like bush2000.org and trying to extort political candidates for their use.

While the problem is clear, narrowly defining the solution is trickier. The mere presence of a trademark is not enough. Legitimate conflicts may arise between companies offering different services or products under the same trademarked name, such as Juno lighting inc. and Juno online services over the juno.com domain name, or between companies and individuals who register a name or nickname as a domain name, such as the young boy nicknamed "pokey" whose domain name "pokey.org" was challenged by the toy manufacturer who owns the rights to the Gumby and Pokey toys. In other cases, you may have a site which uses a trademarked name to protest a group, company or issue, such as pepsibloodbath.com, or even to defend one's reputation, such as www.civil-action.com, which belongs not to the motion picture studio, but to W.R. Grace to rebut the unflattering portrait of the company as a polluter and child poisoner created by the movie.

There is a world of difference between these sorts of sites and those which use deceptive naming practices to draw attention to their site (e.g., whitehouse.com), or those who use domain names to misrepresent the goods or services they offer (e.g., dellmemory.com, which may be confused with the Dell computer company).

We must also recognize certain technological realities. For example, merely mentioning a trademark is not a problem. Posting a speech that mentions AOL on my web page and calling the page aol.html, confuses no one between my page and America Online's site. Likewise, we must recognize that while the Web is a key part of the Internet, it is not the only part. We simply do not want to pass legislation that may impose liability on Internet users with e-mail addresses, which may contain a trademarked name. Nor do we want to crack down on newsgroups that use trademarks descriptively, such as alt.comics.batman.

In short, it is important that we distinguish between the legitimate and illegitimate use of domain names, and this legislation does just that. Significant sections of this legislation include:

Definition.—Domain names are narrowly defined to mean alphanumeric designations registered with or assigned by domain name registrars or registries, or other domain name registration authority as part of an electronic address on the Internet. Since registrars only register second level domain names, this definition effectively excludes file names, screen names, and e-mail addresses and, under current registration practice, applies only to second level domain names.

Scienter Requirement.—Good faith, innocent or negligent uses of a domain name that is identical or confusingly similar to another's mark or dilutive of a famous mark are not covered by the legislation's prohibition. Thus, registering a domain name while unaware that the name is another's trademark would not be actionable. Nor would the use of a domain name that contains a trademark for purposes of protest, complaint, parody or commentary satisfy the requisite scienter requirement. Bad-faith intent to profit is required for a violation to occur. This requirement of bad-faith intent to profit is critical since, as Professor Litman pointed out in her testimony, our trademark laws permit multiple businesses to register the same trademark for different classes of products. Thus, she explains:

[a]lthough courts have been quick to impose liability for bad faith registration, they have been far more cautious in disputes involving a domain name registrant who has a legitimate claim to use a domain name and registered it in good faith. In a number of cases, courts have refused to impose liability where there is no significant likelihood that anyone will be misled, even if there is a significant possibility of trademark dilution.

The legislation outlines the following non-exclusive list of eight factors for courts to consider in determining whether such bad-faith intent to profit is proven: (i) the trademark rights of the domain name registrant in the domain name; (ii) whether the domain name is the legal name or nickname of the registrant; (iii) the prior use by the registrant of the domain name in connection with the bona fide offering of any goods or services; (iv) the registrant's legitimate noncommercial or fair use of the mark at the site under the domain name; (v) the registrant's intent to divert consumers from the mark's owner's online location in a manner that could harm the mark's

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goodwill, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the site; (vi) the registrant's offer to sell the domain name for substantial consideration without having or having an intent to use the domain name in the bona fide offering of goods or services; (vii) the registrant's intentional provision of material false and misleading contact information when applying for the registration of the domain name; and (viii) the registrant's registration of multiple domain names that are identical or similar to or dilutive of another's trademark.

Damages.—In civil actions against cybersquatters, the plaintiff is authorized to recover actual damages and profits, or may elect before final judgment to award of statutory damages of not less than $1,000 and not more than $100,000 per domain name, as the court considers just. The court is directed to remit statutory damages in any case where the infringer reasonably believed that use of the domain name was a fair or otherwise lawful use.

In Rem Actions.—The bill would also permit an in rem civil action filed by a trademark owner in circumstances where the domain name violates the owner's rights in the trademark and the court finds that the owner demonstrated due diligence and was not able to find the domain name holder to bring an in personam civil action. The remedies of an in rem action are limited to a court order for forfeiture or cancellation of the domain name or the transfer of the domain name to the trademark owner.

Liability Limitations.—The bill would limit the liability for monetary damages of domain name registrars, registries or other domain name registration authorities for any action they take to refuse to register, remove from registration, transfer, temporarily disable or permanently cancel a domain name pursuant to a court order or in the implementation of reasonable policies prohibiting the registration of domain names that are identical or confusingly similar to another's trademark, or dilutive of a famous trademark.

Prevention of Reverse Domain Name Hijacking.—Reverse domain name hijacking is an effort by a trademark owner to take a domain name from a legitimate good faith domain name registrant. There have been some well-publicized cases of trademark owners demanding the take down of certain web sites set up by parents who have registered their children's names in the .org domain, such as two year old Veronica Sams's "Little Veronica" website and 12 year old Chris "Pokey" Van Allen's web page.

In order to protect the rights of domain name registrants in their domain names the legislation provides that registrants may recover damages, including costs and attorney's fees, incurred as a result of a knowing and material misrepresentation by a person that a domain name is identical or similar to, or dilutive of, a trademark.

In addition, a domain name registrant, whose domain name has been suspended, disabled or transferred, may sue upon notice to the mark owner, to establish that the registration or use of the domain name by the registrant is lawful. The court in such a suit is authorized to grant injunctive relief, including the reactivation of a domain name or the transfer or return of a domain name to the domain name registrant.

Cybersquatting is an important issue both for trademark holders and for the future of electronic commerce on the Internet. Any legislative solution to cybersquatting must tread carefully to ensure that authorized remedies do not impede or stifle the free flow of information on the Internet. In many ways, the United States has been the incubator of the World Wide Web, and the world closely watches whenever we venture into laws, customs or standards that affect the Internet. We must only do so with great care and caution. Fair use principles are just as critical in cyberspace as in any other intellectual property arena. I am pleased that Chairman HATCH and I, along with Senators ABRAHAM, TORRICELLI, and KOHL have worked together to find a legislative solution that respects these considerations.

Mr. ABRAHAM. Mr. President, I am pleased to rise today in order to comment on S. 1255, the Anticybersquatting Consumer Protection Act of 1999. Through the tremendous help of several of my colleagues, notably Senators HATCH, LEAHY, TORRICELLI, MCCAIN, BREAUX, and LOTT, we moved this bill in little over one month from a concept to final product, through the Judiciary Committee with unanimous support, and again with unanimous support through the Senate floor. I thank all involved for their help, and I am comfortable in my belief that we have accomplished a great feat here today: the Senate has taken an important step in reforming trademark law for the digital age, and in protecting the expectations and safety of consumers, and the property rights of business nationwide.

This legislation will combat a new form of high-tech fraud that is causing confusion and inconvenience for consumers, increasing costs for people doing business on the Internet, and posing substantial threat to a century of pre-Internet American business efforts. The fraud is commonly called "cybersquatting," a practice whereby individuals in bad faith reserve Internet domain names or other identifiers of online locations that are similar or identical to trademarked names. Once a trademark is registered as an online identifier or domain name, the "cybersquatter" can engage in a variety of nefarious activities—from the relatively benign parody of a business or individual, to the obscene prank of redirecting an unsuspecting consumer to pornographic content, to the destructive worldwide slander of a centuries-old brand name. This behavior undermines consumer confidence, discourages Internet use, and destroys the value of established brand names and trademarks.

Electronic of "E" commerce in particular has been an engine of great economic growth for the United States. E-commerce between businesses has grown to an estimated $64.8 billion for 1999. Ten million customers shopped for some product using the Internet in 1998 alone. International Data Corporation estimates that $31 billion in products will be sold over the Internet in 1999. And 5.3 million households will have access to financial transactions like banking and stock trading by the end of 1999.

Our economy, and its ability to provide high paying jobs for American workers, is increasingly dependent upon technology—and on e-commerce in particular. If we want to maintain our edge in the global marketplace, we must address those problems which endanger continued growth in e-commerce. Some unscrupulous—though enterprising—people are engaged in the thriving and unethical business collecting and selling Internet addresses containing trademarked names.

Cybersquatting has already caused significant damage. Even computer-savvy companies buy domain names from cybersquatters at extortionate rates to rid themselves of a headache with no certain outcome. For example, computer maker Gateway recently paid $100,000 to a cybersquatter who had placed pornographic images on the website "www.gateway20000". But rather than simply give up, several companies, including Paine Webber, have instead sought protection of their brands through the legal system. However, as with much of the pre-Internet law that is applied to this post-Internet world, precedent is still developing, and at this point, one cannot predict with certainty which party to a dispute will win, and on what grounds, in the future.

Whether perpetrated to defraud the public or to extort the trademark owner, squatting on Internet addresses using trademarked names is wrong. Trademark law is based on the recognition that companies and individuals build a property right in brand names because of the reasonable expectations they raise among consumers. If you order a Compaq or Apple computer, that should mean that you get a computer made by Compaq or Apple, not one built by a fly-by-night company pirating the name. The same goes for trademarks on the Internet.

To protect Internet growth and job production, Senators TORRICELLI, HATCH, MCCAIN, and I introduced an anticybersquatting bill which received strong public support. A number of suggestions convinced me of the need

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for substitute legislation addressing the problem of in rem jurisdiction and eliminating provisions dealing with criminal penalties, and I have been pleased to work with Senators HATCH and LEAHY to that effect.

Our final legislative product would establish uniform federal rules for dealing with this attack on interstate electronic commerce, supplementing existing rights under trademark law. It establishes a civil action for registering, trafficking in, or using a domain name identifier that is identical to, confusingly similar to, or dilutive of another person's trademark or service mark that either is inherently distinctive or had acquired distinctiveness.

This bill also incorporates substantial protections for innocent parties, keying on the bad faith of a party. Civil liability would attach only if a person had no intellectual property rights in the domain name identifier, the domain name identifier was not the person's legal first name or surname; and the person registered, acquired, or used the domain name identifier with the bad-faith intent to benefit from the goodwill of a trademark or service mark of another.

Just to be clear on our intent, the "bad-faith" requirement may be established by, among others, any of the following evidence:

First, if the registration or use of the domain name identifier was made with the intent to disrupt the business of the mark owner by diverting consumers from the mark owner's online location;

Second, if a pattern is established of the person offering to transfer, sell, or otherwise assign more than one domain name identifier to the owner of the applicable mark or any third party for consideration, without having used the domain name identifiers in the bona fide offering of any goods or services; or

Third, if the person registers or acquires multiple domain name identifiers that are identical to, confusingly similar to, or dilutive of any distinctive trademark or service mark of one or more other persons.

In addition, under this legislation, the owner of a mark may bring an in rem action against the domain name identifier itself. This will allow a court to order the forfeiture or cancellation of the domain name identifier or the transfer of the domain name identifier to the owner of the mark. It also reinforces the central characteristic of this legislation—its intention to protect property rights. The in rem provision will eliminate the problem most recently and prominently experienced by the auto maker Porsche, which had an action against several infringing domain name identifiers dismissed for lack of personal jurisdiction.

In terms of damages, this legislation provides for statutory civil damages of at least $1,000, but not more than $100,000 per domain name identifier. The plaintiff may elect these damages in lieu of actual damages or profits at any time before final judgment.

The growth of the Internet has provided businesses and individuals with unprecedented access to a worldwide source of information, commerce, and community. Unfortunately, those bad actors seeking to cause harm to businesses and individuals have seen their opportunities increase as well. In my opinion, on-line extortion in this form is unacceptable and outrageous. Whether it's people extorting companies by registering company names, misdirect Internet users to inappropriate sites, or otherwise attempting to damage a trademark that a business has spent decades building into a recognizable brand, persons engaging in cybersquatting activity should be held accountable for their actions. I believe that these provisions will discourage anyone from "squatting" on addresses in cyberspace to which they are not entitled.

I again wish to thank my colleagues for their assistance in this effort, and I look forward to final passage of this legislation after careful and thoughtful consideration by the House of Representatives.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The amendment (No. 1609) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 1255), as amended, was read the third time, and passed.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

PROVIDING TECHNICAL, FINANCIAL, AND PROCUREMENT ASSISTANCE TO VETERAN-OWNED SMALL BUSINESSES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 254, H.R. 1568.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1568) to provide technical, financial, and procurement assistance to veteran-owned small businesses, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, it is with great pleasure and enthusiasm that I rise in support of the Veterans Entrepreneurship and Small Business Development Act of 1999 (H.R. 1568). This bill is a critical building block in our efforts to provide significantly improved help to small businesses owned and operated by veterans and especially those small businesses owned by service-disabled veterans. This bill was approved by a unanimous vote of 18-0 in the Committee on Small Business after the Committee approved a substitute amendment that I offered with the Committee's Ranking Member, Senator KERRY.

Over the past two years, as the Chairman of the Committee on Small Business, I have brought three bills to the Senate floor that place a special emphasis on helping veteran entrepreneurs. The need for this legislation became necessary as Federal support for veteran entrepreneurs, particularly service-disabled veterans, has declined. Significantly, support for veteran small business owners historically has been weak at the Small Business Administration (SBA).

The Veterans Entrepreneurship and Small Business Development Act of 1999 seeks to provide assistance to veteran-owned small businesses to enable them to start-up and grow their businesses. The bill places a specific emphasis on small businesses owned and controlled by service-disabled veterans and directs SBA to undertake special initiatives on behalf of all veteran small business owners.

H.R. 1568 has key provisions that are of particular importance to veterans. The bill establishes a federally chartered corporation called the National Veterans Business Development Corporation (Corporation/NVBDC), whose purpose is to create a network of information and assistance centers to improve assistance for veterans who wish to start-up or expand a small businesses. The Corporation will be governed by a board of directors appointed by the President, who will take into consideration recommendations from the Chairmen and Ranking Members from the Committees on Small Business and Veterans Affairs of the Senate and House of Representatives before making appointments to the board. Although funds are authorized during the first four years of the Corporation, it is the expectation of the Committee on Small Business that it will become self-sufficient and will no longer need Federal assistance after this four year start-up period.

In an effort to make its programs more readily available to veteran entrepreneurs, the SBA is required to ensure that the SCORE Program and the Small Business Development Center (SBDC) Program work directly with the Corporation so that veteran entrepreneurs receive technical support and other needed assistance.

H.R. 1568 places special emphasis on credit programs at SBA that can be helpful to veterans, and especially service-disabled veterans. The bill specifically targets veterans for the 7(a) guaranteed business loan program, the 504 Development Company Loan Program, and the Microloan Program.

A key component of H.R. 1568 is to make Federal government contracts more readily available to service disabled veterans who own and control

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