Calendar No. 670

88TH CONGRESS, 1st Session | SENATE | REPORT No. 690

UNITED DAUGHTERS OF THE CONFEDERACY EXTENSION OF DESIGN PATENT

DECEMBER 4, 1963.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 5703]

The Committee on the Judiciary, to which was referred the bill (H.R. 5703) granting an extension of patent to the United Daughters of the Confederacy, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 5703 is to extend and renew design patent No. 29611, the insignia of the United Daughters of the Confederacy, for a period of 14 years from the date of enactment of the bill.

STATEMENT

The report of the Department of Commerce indicates no objection to the enactment of this legislation. H.R. 5703 was approved by the House of Representatives on August 6, 1963. The Senate Subcommittee on Patents, Trademarks, and Copyrights, to which H.R. 5703 was referred, has received no objections to this bill.

The design patent was originally issued on November 8, 1898. It was previously renewed and extended for a period of 14 years by Public Law 242, 69th Congress, approved May 18, 1926, and again by Public Law 220 of the 77th Congress, approved August 18, 1941. The last extension of the patent expired on August 18, 1955.

Paragraph (b) of the proposed legislation provides that no person who has manufactured the design of such patent between August 18, 1955, and the date of enactment of this act shall be held liable for

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infringement of this patent by the continued manufacture and sale thereof. This, of course, will preclude any penalty for manufacturing such design during that time.

The Senate during the 85th Congress passed a bill (S. 732) to extend the design patent but no action was taken in the House. The report of this committee on S. 732, 85th Congress, reads in part as follows:

> The design patent referred to undertakes to protect the insignia of the United Daughters of the Confederacy. In the report of the Secretary of Commerce on this legislation it is stated that the Department generally opposes the extensions of patents but that an exception has been made with respect to legislation extending the statutory period for design patents for emblems or badges of patriotic, fraternal, or religious organizations and for that reason the Department of Commerce interposes no objection to the enactment of this legislation.
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> It is noted in the report of the Secretary of Commerce that insofar as the records of the Patent Office show, the title to Design Patent No. 29,611 has never been transferred to the United Daughters of the Confederacy but remains in the name of the patentee, Simeon E. Theus. Inquiry was made in relation to this situation, the result of which is expressed in a letter to the Honorable James O. Eastland, chairman of the Committee on the Judiciary, from Senator A. Willis Robertson, of Virginia, dated April 15, 1957, in which it is suggested that the bill be amended by inserting the words in line 5, on page 1, after the patent number "which is the insignia of the United Daughters of the Confederacy."
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> It is intended that such amendment will at least give some recognition to the rights of the United Daughters of the Confederacy to continue official use of the design insignia even though there is not a record of assignment by the original patentee. Apparently, this has been the intent of the Congress over the years because, as indicated, there have been two extensions of this patent in the name of the United Daughters of the Confederacy and further, that it is not the policy of the Congress nor of the Patent Office to recommend extension of this type of patent unless it is in the interests of patriotic, fraternal, or religious organizations.

After a study of this matter the committee concurs in the action of the House and recommends that the bill, H.R. 5703, be considered favorably.

Attached hereto and made a part hereof are the report of the Department of Commerce on H.R. 5703, dated September 25, 1963, the Secretary of Commerce on S. 732, 85th Congress, and a letter from Senator Robertson to the chairman of the Senate Committee on the Judiciary, dated April 15, 1957.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 25, 1963.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request for the views of the Department of Commerce with respect to H.R. 5703, an act granting an extension of patent to the United Daughters of the Confederacy.

H.R. 5703 would renew Design Patent No. 29,611 and extend its term for a period of 14 years from the date of enactment of the act.

The design patent referred to undertakes to protect the insignia of the United Daughters of the Confederacy. This Department generally opposes extension of patents. However, an exception has been made with respect to legislation extending the statutory period for design patents for emblems or badges of patriotic, fraternal, or religious organizations.

The Department, therefore, interposes no objection to enactment of this legislation.

It should be noted that insofar as the assignment records of the Patent Office show, through August 1, 1963, the title to Design Patent No. 29,611 has never been transferred to the United Daughters of the Confederacy but remains in the name of the patentee, Simeon E. Theus.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

THE SECRETARY OF COMMERCE,
Washington, D.C., February 25, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to yor request of January 30, 1957, for the views of this Department with respect to S. 732, a bill granting an extension of patent to the United Daughters of the Confederacy.

S. 732 would renew Design Patent No. 29,611 and extend its term for a period of 14 years from the date of enactment of the bill.

The design patent referred to undertakes to protect the insignia of the United Daughters of the Confederacy. This Department generally opposes extension of patents. However, an exception has been made with respect to legislation extending the statutory period for design patents for emblems or badges of patriotic, fraternal, or religious organizations.

The Department, therefore, interposes no objection to enactment of this legislation.

It should be noted that insofar as the assignment records of the Patent Office show, the title to Design Patent No. 29,611 has never been transferred to the United Daughters of the Confederacy but remains in the name of the patentee, Simeon E. Theus.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
April 15, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR JIM: I have been in correspondence with the United Daughters of the Confederacy concerning the bill, S. 732, which I introduced to grant an extension of patent to the UDC on its insignia. A question of procedure was raised after Mr. George Green of your committee staff pointed out to me that the patent in question was registered in the name of an individual and that there was no record of title ever having been formally assigned to the organization. I also discussed the matter with a representative of the Patent Office and it was suggested that if the ladies of the UDC were unable to find the proper person to obtain an assignment at this late date their position might be improved by inserting within the text of the bill a reference indicating that the insignia was recognized as that officially used by the organization. This procedure has now been approved by the general board of the UDC.

I would appreciate it, therefore, if you would expedite action by your committee on this bill with an amendment to insert in line 5, after the patent No. "29,611" and before the words "which was renewed," the following language: "which is the insignia of the United Daughters of the Confederacy".

With best regards and all good wishes, I am,

Sincerely yours,

A. WILLIS ROBERTSON.

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