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SENATE

BILL	DATE	PAGE(S)
S.1883	Oct 20, 1988 150	S16971-76

ACTION:

Trademark Law Revision Act of 1988: Senate concurred in the amendment of the House to S. 1883, to amend the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, and to carry out the provisions of certain international conventions."

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REGISTRATION AND PROTECTION OF TRADEMARKS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1883.

The PRESIDING OFFICER (Mr. SIMON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1883) to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.

(The amendment of the House is printed in the RECORD of October 19, 1988, beginning at page H 10411.)

Mr. HOLLINGS. Mr. President, I want to take a moment to speak in support of H.R. 2848, the Satellite Home Viewer Act of 1988, which is Title II of S. 1883, the bill before us today. In 1984, when we passed the Cable Telecommunications Act, we included a provision regarding the reception of satellite programming by home dish users. Since then, many programmers have scrambled their signals. This has caused numerous legal and policy problems, both in the areas of communications and copyright. H.R. 2848 addresses many of these problems, and while I believe some of its provisions could be improved, I believe that over all it is a good measure that should be enacted into law.

The Senate Commerce Committee has held numerous hearings on the effects of scrambling satellite-delivered programming. As a result, the committee reported Senator GORE's legislation, S. 889, which is pending on the calendar. This legislation seeks to address problems concerning access to this scrambled programming, the price of such programming, and the standard for the equipment used to decode the scrambled signals.

H.R. 2848 addresses many of the same problems the Commerce Committee addressed in S. 889. It requires

the FCC to determine whether to establish a standard for decoding equipment. This will help ensure that home dish users do not spend large sums of money only to find that the equipment is soon out of date. This bill also imposes increased penalties on people who illegally intercept scrambled programming. The piracy problem is certainly severe. It seems that every few weeks we hear of another incident where the police have caught a group of "satellite pirates." This must stop, and I believe these increased penalties will certainly help. Finally, this legislation requires the FCC to report to us on any discrimination by those who retransmit television signals via satellite to home dish users. Such a study will help ensure that marketplace is working fairly.

H.R. 2848 also corrects certain copyright problems. These are more in the domain of my Judiciary Committee colleagues, but they do have important communmications policy effects. They are thus of great concern to the Commerce Committee. By amending the copyright laws to give home dish users the ability to receive retransmitted television signals, we are increasing the number of information sources that people can receive and helping the communications industry grow. These are important results.

For all of these reasons, I believe H.R. 2848 deserves our support, and I urge that we act on it immediately.

Mr. DANFORTH. Mr. President, today the Senate is considering legislation that will help bring television signals to rural Americans.

This legislation creates an interim statutory license for satellite carriers to retransmit television signals to home satellite dish owners for private viewing. That means that home dish owners will have more access to satellite-delivered video programming.

This legislation is particularly important to dish owners who live in rural areas, and who have limited access to broadcast signals. It will help to bring signals to remote "white areas" where network signals cannot be received. At the same time, the bill protects the network-affiliate distribution system that has served local communities so well.

The Federal Communications Commission [FCC] is directed by this legislation to determine whether it is feasible to extend its syndicated exclusivity rules to the satellite carriage of broadcast signals. The FCC has, and would continue to have, the responsibility of administering the syndicated exclusivity rules. Violations of any such syndicated exclusivity rules would be violations of the Communications Act, and subject to the sanctions and penalties of that act. The FCC is also required by this legislation to report on whether, and the extent to which, there exists unlawful discrimination against distributors of secondary transmissions from satellite carriers. The FCC must also begin an inquiry to determine whether there is a need for a universal scrambling standard for satellite cable programming intended for private viewing by home dish owners.

The rampant problem of "piracy" of satellite signals is also addressed by this legislation. "Piracy" is the use of illicit descrambling technology to intercept scrambled programming without the authorization of the programmer or payment for the programming. Civil and criminal penalties for piracy are stiffened by this bill. Those who manufacture, assemble or modify unauthorized descramblers will be subject to fines of up to $500,000 and imprisonment of up to 5 years. Legitimate descrambler manufacturers and distributors are permitted to bring law suits against programming pirates under this legislation.

The product of considerable negotiation and compromise, the statutory copyright and piracy provisions of this legislation have widespread support in the communications industry. That is an unusual accomplishment. I urge my colleagues to support this legislation.

Mr. DECONCINI. Senator Hatch and I, as ranking member and chairman of the Subcommittee on Patents, Copyrights, and Trademarks, are extremely pleased Congress is taking final action on S. 1883 so that this important bill can reach President Reagan's deak and be signed into law. S. 1883 is the most significant piece of trademark legislation to come before Congress in over four decades. It was approved by the Senate in May of this year by unanimous consent and with bipartisan support. It is before us again, having passed the House. The House significantly revised our version before passage, and we would like to comment briefly on some of those changes.

We introduced S. 1883 because we felt it was important to revise and update the 42-year-old Federal trademark statute, the Lanham Act. We were concerned that existing law could no longer keep pace with societal changes and modern commercial realities. As passed by the Senate, S. 1883 accomplished six major objectives aimed at modernizing Federal trademark law.

First, S. 1883 permitted a trademark applicant to file a trademark registration application on the basis of the applicant's bona fide intent to use the mark in commerce. This provision would eliminate potential problems and sometimes futile expenditures faced by applicants under the existing preapplication use in commerce requirement. Moreover, it would harmonize United States trademark law with laws of other countries, such as Canada and Great Britain, that have already converted to an intent to use system. This change would eliminate preferential treatment of foreign trademark applicants who are currently exempted from the use in commerce requirement. Under S. 1883, all trademark applicants, both foreign and domestic, would be subject to the same application standards.

The second objective of S. 1883 was to remove from the Federal register "deadwood," or marks that are not in commercial use. The bill would accomplish this goal by redefining the meaning of use to a stricter standard, by shortening the term of registration from 20 to 10 years, and by increasing the requirements trademark owners must meet in order to maintain their registrations.

A third objective of the Senate passed version was protection of truly famous trademarks from dilution, which is unauthorized use that diminishes the distinctive quality of a mark. This was accomplished by the addition of a narrow Federal cause of action which is important because it would establish a national standard for the protection of famous marks. Currently, only 23 states have dilution laws. This creates a "patchwork" type of protection that does not satisfactorily protect the tremendous value of famous marks.

The remaining three objectives of S. 1883 were the creation of a Federal system governing trademark security interests; revision of section 43(a) of the Lanham Act, which has evolved into a Federal unfair competition statute, so that the language reflects federal court interpretation; and finally, clarification and modification of many Lanham Act provisions to facilitate the act's uniform interpretation.

As S. 1883 emerged from the House, it is a somewhat different bill than what the Senate sent over. Although the House passed verison is still a strong and valuable piece of legislation, we feel that it is important to comment on and clarify some of the House changes.

We are particularly disappointed by the House's decision to eliminate the Federal dilution cause of action. Although this was a somewhat controversial issue, the Senate had worked hard to come up with a carefully crafted compromise that we thought would be acceptable to all. By eliminating this section, the Federal Government loses the opportunity to provide guidance to those States that have dilution laws, and to create greater certainty in this area.

Just as important, the dilution provision would have aided U.S. delegates at the General Agreement on Tariffs and Trade negotiations. Currently, foreign countries can resist U.S. requests to provide higher international protection standards for intellectual property by pointing out that the United States provides little or no dilution protection. The dilution provision in S. 1883 would have demonstrated that we are willing to give the same level of protection we are asking other countries to provide.

Dilution is an important, developing area of the law. Eliminating this provision from the legislation will not elimi-

nate the accompanying problems; they merely will have to be addressed in the future.

The second major trademark law revision not contained in the House-passed version is the provision for a centralized trademark security interest system. The security interest provision included in the Senate-passed version encountered no opposition and was endorsed by the American Bankers Association. We are very disappointed by this omission and ask that the House reconsider this important issue in the next Congress.

We would like to make clear that the only implications of the House's failure to include these provisions is that time prevented us from reaching a consensus on specific statutory language. There should be no inference about the principles or objectives these provisions addressed and were intended to achieve.

Several of the remaining objectives of this legislation underwent significant revision in the House. The intent-to-use provisions were revised both technically and substantively. Unlike the Senate-passed bill, the House version provides for a second examination of the intent-to-use application after the applicant submits a statement of use. The Senate did not include this provision because we wanted to assure that once the Patent and Trademark Office [PTO] conditionally approved registration, the applicant would have the needed certainty to invest in actual use of the mark without fear that the PTO might reverse its earlier approval of the mark for registration.

The Senate recognizes that there may be limited situations in which the PTO can consider some registration issues only after use is made. The House bill provides for a second examination to accommodate these rare occasions, and only in these situations will a second examination be allowed. If the issue can be addressed during the first examination, clearly it must be addressed then. The PTO cannot be given the opportunity to reverse its conditional approval of a mark's registrability on the basis of facts that could have been—that should have been—looked at during the first examination.

Other changes in the intent-to-use system include reducing the amount of time a trademark applicant will have to make use of the mark to just 3 years instead of 4. Furthermore, the House added a "good cause" requirement the applicant must meet in order to obtain the last four 6-month extensions.

Once the intent-to-use system is in place, Congress must carefully monitor the effect the House changes have on both applicants and the PTO. If the changes serve to reduce the certainty the intent-to-use system is meant to provide, or prove burdensome to either applicants or the PTO, Congress should expeditiously consider revising the system so it can meet its stated objectives.

Two other House revised provisions that deserve special mention are the revised definitions of "use in commerce" and "abandonment of mark" which appear in the House-passed bill. The House amended these definitions to assure that the commercial sham of "token use"—which becomes unnecessary under the intent-to-use application system we designed—would actually be eliminated. In doing so, however, Congress' intent that the revised definition still encompass genuine, but less traditional, trademark uses must be made clear. For example, such uses as clinical shipments of a new drug awaiting FDA approval, test marketing, or infrequent sales of large or expensive or seasonal products, reflect legitimate trademark uses in the normal course of trade and are not to be excluded by the House language.

Finally, we would like to address the revisions the House made to the provision amending section 43(a) of the Lanham Act. Although it is clear that false advertising is not protected free speech, there was some concern on the House side that a provision creating a civil remedy for those who may be damaged by false advertising could run into serious first amendment problems. This concern was thoroughly scrutinized and extensive legal research was conducted to investigate all aspects of the envisioned problems. Although the Senate did not share in this concern, we were willing to agree to certain changes in order to eliminate House fears.

The revised language of section 43(a) includes a reference to misrepresentations made about another's goods or services in "commercial" advertising or promotions. In limiting the language in this say, the word "commercial" is intended only to eliminate any possibility that the section might be applied to political speech. Although the Senate sees this language as unnecessary because section 43(a) requires that the misrepresentations be made with respect to goods or services, we consider inclusion of the language harmless so long as Congress' intent that it be interpreted only as excluding political speech is clear. It is also Congress' intent that the "commercial" language be applicable any time there is a misrepresentation relating to goods or services. Therefore, even though they are not commercial enterprises, nonprofit organizations would be as liable for misrepresentations as profit organizations.

Also in the context of revising 43(a), the House revised 32(2) of the Lanham Act. This revision makes it clear that those in the broadcast industry are to be treated the same as those in the print media and publishing industries with respect to innocent infringement of trademark rights. This section also specifically extends the innocent infringement language of 32(2) of acts that violate 43(a) of the act.

Last, with respect to the revision of section 43(a) of the Lanham Act, it is important to clarify that, in revising section 43(a), Congress does not intend to preempt remedies otherwise available under the Lanham Act, State, or common law. A provision to this effect was contained in the version of S. 1883 we passed last May, but it does not appear in the version approved by the House. It is critical, therefore, that this point be made in the legislative history.

In sum, S. 1883 is a good and important bill that will modernize U.S. trademark laws so they more accurately reflect modern realities, and align with trademark laws of other countries. This bill is also important as a fine example of how a dedicated bipartisan effort can accomplish worthwhile goals. We are pleased to see the passage of S. 1883 by this Congress.

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today in support of S. 1883, the Trademark Law Revision Act of 1988. This vital legislation will serve to update our current trademark laws which have needed modernization for some time. These modernizations will bring our trademark laws in line with present day marketing practices and will help to harmonize U.S. trademark laws with those of other countries. The 100th Congress has worked very hard on S. 1883, and I am very pleased that we are now securing the passage of this important bill.

Trademarks encourage competition, promote economic growth and raise the standard of living for all of our citizens. The "Made in the USA" trademark in a foreign land carries a message more powerful than any foreign aid and more potent than any propaganda. America stakes its reputation on its trademarks. They are the most important ambassadors the United States sends abroad.

The U.S. trademark law, commonly referred to as the Lanham Act, was enacted 42 years ago. Although it has worked well for many years, it is now in need of updating and revision to reflect changes in business practices and other laws. S. 1883 will make these changes without costing the taxpayers any money. S. 1883 will reduce the advantage foreign nationals currently enjoy in obtaining U.S. trademark rights; eliminate unnecessary and costly uncertainity for small and large companies in launching new products and reduce the geographic fragmentation of trademark rights; improve and make the trademark system equal for small enterpreneurs and corporate trademark owners; and modernize the Lanham Act, clarifying its provisions, removing inconsistencies, conforming it to judicial interpretation, and updating it to reflect modern day commercial realities.

I wish to thank the ranking minority member of the Subcommittee on Patents, Copyrights and Trademarks,

Senator HATCH, and his counsel Abby Kuzma and Randy Rader; Senate cosponsers Senator GRASSLEY and his counsel Melissa Patack, and Senator HEFLIN and his counsel Karen Kremer, who all played vital roles in the Senate action. Next, I wish to congratulate the chairman of the House Subcommittee on Courts, Civil Liberties and the Administration of Justice, Mr. KASTENMEIER, for his work in bringing reasonable, balanced trademark law revision legislation to the floor of the House for action. Additionally, I would like to express my appreciation to the ranking minority member of the Courts Subcommittee, Mr. MOOREHEAD, who was the original sponsor of the trademark law revision legislation in the House.

I would also like to thank the U.S. Trademark Association [USTA] for its leadership in the private sector. The USTA's 2-year study of trademark law problems before legislation was initiated and its continued commitment as the process evolved has been indispensable in securing passage of the reform legislation. I would particularly like to thank Robert Eck, former USTA president; Ronald Kareken, the current USTA president; Robin Rolfe, USTA executive director; and USTA manager of Government relations, Yvonne Chicoine whose dedication and perseverance contributed greatly to the passage of the bill.

Just as important was the objective advice Congress received from the Patent and Trademark Office, particularly Ron Bowie, which proved very helpful in drafting this legislation. I also wish to thank everyone else whose dedication and hard work were invaluable to the passage of S. 1883.

I especially would like to commend Jerome Gilson, whose expertise was invaluable throughout the legislative process; Dolores Hanna, Vito Giordano, Al Robin, and the many others with the Trademark Review Commission who participated in the 2-year study by the USTA; the American Intellectual Property Law Association; Intellectual Property Owners, Inc.; the American Bar Association; and the many, many other individuals and groups who joined together to see this bill enacted.

Finally, I wish to extend my thanks to my staff members Tara McMahon, Ed Baxter, and Mary Cabanski and all the others on my staff who have put so much time and effort into getting this bill passed.

Mr. President, S. 1883 also contains, as a separate title, the provisions of H.R. 2848, the Satellite Home Viewer Act. This title represents the end product of many months of work by the House Judiciary's Subcommittee on Courts, Civil Liberties, and the Administration of Justice. I want to congratulate the chairman of that subcommittee, Congressman ROBERT KASTENMEIER, for his success in working out a very emotional and controversial subject to the satisfaction of all the parties involved. It is my pleasure to be able to accept the work of Chairman KASTENMEIER's subcommittee and urge my colleagues in the Senate to support his fine effort.

I also want to take this opportunity to thank Chairman KASTENMEIER for his cooperation in packaging these two worthy bills together. I believe the strategy of linking the two bills together, both in the negotiations and in congressional consideration, was the only way that both could have been passed this year. Chairman KASTENMEIER's cooperation in this strategy was instrumental in our mutual success.

Senator LEAHY has been a strong proponent of the Satellite Home Viewer Act in the Senate. I would like to thank him and acknowledge his role in the Senate's decision to so promptly pass the House version of H.R. 2848.

Mr. HATCH. Mr. President, among the most gratifying moments of public service are those in which Senators and Representatives, Republicans and Democrats, unite in addressing a common concern, and reshape the law, that it may better do its work. For making this such a moment, I thank the senior Senator from Arizona, my friend DENNIS DECONCINI, who chairs the Subcommittee on Patents, Copyrights and Trademarks of the Senate Judiciary Committee. I thank also our esteemed colleagues from the House, Representatives ROBERT KASTENMEIER and CARLOS MOORHEAD. Their untiring labors have indeed reshaped trademark law in a way that will serve the purposes of the law far better, for the Government and for the people.

More than four decades have passed since enactment of the Lanham Act, the foundation of America's trademark law. Think of the extraordinary changes in commerce we have witnessed since then. During these four phenomenal decades, the business side of trademark matters has progressed so dramatically that the law has been hard pressed to serve as well as it was intended to. The changes we have made will benefit all who are involved in the trademark community: not only great corporations and long established businesses, but new entrepreneurs and back yard tinkerers—and most importantly of all, every consumer in this country.

I was particularly concerned that the former law granted preferential treatment to foreign trademark applicants, since they were exempted from the use in commerce requirement. Under this legislation, all trademark applicants, foreign and domestic, must meet the same application standards.

Through all my years of Senate service, I have been pleased to work with the trademark community—on the Trademark Display Act in 1982, for example, and on the Trademark Counterfeiting Act and the Trademark Clarification Act in 1984. Now, as the ranking minority member on the Subcommittee on Patents, Copyrights and Trademarks, I am pleased to join in this more comprehensive updating and improvement of our trademark registration and enforcement laws.

I am also pleased that section II of this bill provides interim licensing of secondary transmission by satellite carriers of superstations for private viewing by Earth station owners. Representatives MOORHEAD and KASTENMEIER are to be commended for their fine work in preparing this portion of the bill. My Senate colleagues and I are grateful to join with the House in adopting this important measure, and we applaud the spirit of cooperation evident in this grand compromise, which brings together many diverse parties and interests.

Again, I salute my colleagues for their efforts on this bill: for their spirit of bipartisan cooperation, for their thorough and careful examination of the issues, and for their development of a prudent and workable bill—a bill which, I might add, I expect to pass without dissent.

Mr. LEAHY. Mr. President, as chairman of the Agriculture Committee, and as a Senator interested in rural development, I am aware of the contributions that backyard satellite dishes make to rural America. The Senate has before it legislation that will help those who live in rural areas—those who rely on satellite dishes—to receive the variety of television programming that many Americans take for granted. I hope that we will send this bill directly to the President for his signature.

Television has an unparalleled ability to link the diverse communities of our Nation. It provides Americans from every region of the country with the opportunity to acquire news and information, to observe their Government in action, and to watch sporting events, movies, and other forms of entertainment. This bill will help ensure that Americans who rely on satellite dishes can see those programs, too.

Those who reside near metropolitan areas receive a variety of programs for traditional over-the-air broadcasts. A great number see even more programs through cable systems wired directly into their homes.

But the wide variety of programming available in metropolitan areas is not available to all Americans. Many who live in rural areas do not get reception of more than one or two stations through the rooftop antennas that pick up signals broadcast over-the-air. Most do not have access to cable television, either.

In the last few years, backyard satellite dishes have been sprouting up in rural areas. A backyard dish owner usually subscribes to a package of signals similar to a cable programming package. Thus, a backyard dish provides a great service to rural consumers because it enables them to view the programs readily available to their cousins in the distant cities.

However, a backyard dish is capable of picking up satellite signals without the sender's knowledge or consent. A dish owner can pick up signals that cable systems, networks, and "superstations" send to their affiliates, subscribers and other customers throughout the country. The cable operators, broadcasters, copyright owners and others who invest a great deal of time and money to put together the programming are correct when they point out that dish owners who intercept the signals are not paying their fair share. Many of them now scramble their satellite signals to prevent unauthorized interception.

If Congress does not act, dish owners will not have the means to view the programming that most Americans get by simply switching on the set. They will not be able to buy the programming from distributors that sell packages of satellite signals.

While this problem threatens satellite signal distributors and the home dish owners, it is not easy to solve because it runs up against the legitimate rights of copyright owners and broadcasters.

H.R. 2848, a bill studied and reported by both the House Judiciary Committee and the House Commerce Committee, would amend the Copyright Act to permit businesses to include network and superstation programming in the packages sold to dish owners. Through a statutory license, the bill protects copyright owners and makes sure that dish owners are able to purchase at a fair price the means to receive superstation and network signals delivered by satellite. The law would sunset in 6 years and thus allow a new technology to establish itself while discouraging industry from becoming dependent on Congress' intervention in the marketplace. See House Report No. 100-887, parts 1 and 2.

The bill further defends the rights of networks and their affiliates by permitting the satellite retransmission of network programming to households located in white areas—households that cannot pick up network signals through a rooftop antenna or a cable because they are far from the big cities, or in some cases just on the wrong side of a mountain. The bill establishes a procedure to notify networks about the number of homes receiving their signal through satellites and penalizes retransmissions of network signals to persons who do not live in white areas.

Many Members of Congress are concerned that dish owners are paying too high a rate for satellite programming. This bill requires the Federal Communications Commission to report to Congress on whether dish owners are, in fact, subject to price discrimination. It makes sure that copyright penalties can be imposed against carriers who unlawfully discriminate against distributors in the selling of retransmitted signals.

The retransmission of network and superstation signals by cable systems or satellite carriers causes some problems. For example, a cable system could deliver a program into an area that already gets the program through a local broadcaster. The local broadcaster doesn't like that because he purchased rights to that program thinking that he would be the only one to show it within his area. The FCC is about to enforce syndicated exclusivity on cable systems—and thereby allow local braodcasters to have exclusive use of programs under certain circumstances. This bill will require the FCC to study whether syndex should apply to the dish industry in the manner in which it will apply to cable television.

Finally, I would like to mention two important contributions suggested by Chairman DINGELL's Committee on Energy and Commerce. The bill increases penalties for the theft of satellite signals and calls for a study of encryption technology to determine appropriate encryption standards.

Mr. President, ever since the House first sent this bill over to the Senate, I have been encouraging my colleagues on the Judiciary and Commerce Committees to pass this legislation before the recess. I know satellite dish owners around the Nation are counting on it. If we pass S. 1883, which now includes the text of H.R. 2848, we will be able to enhance the variety of programming available to those who rely on satellite dishes—including many Americans who live in rural areas.

I would like to thank Senators DECONCINI and HOLLINGS, who helped me keep this legislation on track, and to acknowledge the fine work of Congressmen BOB KASTENMEIER, MIKE SYNAR, RICK BOUCHER and CARLOS MOORHEAD. Those gentlemen found paths around every roadblock. I would also like to acknowledge those who represent the satellite dish industry, the dish owners, the cable industry, the satellite carriers, independent television, network television, the electric cooperatives, the motion picture industry, and all others who recognized that many parties had a stake in solving this very difficult problem.

COPYRIGHT LIABILITY OF STATE GOVERNMENTS

Mr. WILSON. Mr. President, I would like to address a concern regarding a developing issue of great significance to copyright holders, especially those selling textbooks, computer software, and other copyrighted works to state schools and universities.

At issue is whether State government agencies throughout the United States are free to use and copy copyrighted works without permission and without providing compensation to the person who created the work.

The Congress is charged by article I, section 8, of the Constitution to protect the interests of authors in their writings. This we have done through enactment and periodic updating of the Copyright Act. However, just a few weeks ago, on October 3, the Ninth Circuit Court of Appeals held that State governments are immune under present law from damage suits for copyright infringement. This decision apparently rests on the court's interpretation of the scope of the 11th amendment's protections of the States against suit. That decision, and a similar one issued by the fourth circuit, embodies an enormous potential to reduce critical incentives to authors of books, computer software, plays, music, films, and other creative works. Indeed, all copyright holders are at risk, but perhaps none more than educational publishers, among whose principal markets are State universities.

Mr. President, I do not intend to criticize fair use of copyrighted materials by State universities and other State agencies. Fair use is an integral element of our copyright laws and helps further the dissemination of ideas. I am only concerned that State institutions, just as is everyone else, be properly liable for their use of copyrighted works.

Mr. President, in light of the importance of this issue, I would appreciate hearing the views on this matter of the Senator from Arizona, Senator DECONCINI, who serves with great distinction as the chairman of the Judiciary Committee's Subcommittee on Patents, Copyrights, and Trademarks.

Mr. DECONCINI. Mr. President, the Senator from California and I share a strong concern for the rights of authors and other creative artists, and I have been pleased to work with him to further their interests.

Mr. President, the recent court decisions cited by Senator WILSON do greatly concern me. As the ninth circuit stated, "We recognize that our holding will allow States to violate the Federal copyright laws with virtual impunity. It is for Congress, however, to remedy this problem."

I want to assure the Senator from California that I will call early hearings of my subcommittee next year on this issue, and I anticipate that any necessary remedial legislation can be moved promptly in the next session. I trust that State institutions will not exploit this situation, as the issue will be addressed next year.

Mr. WILSON. Mr. President, I greatly appreciate receiving this assurance from my good friend. He is a champion of the rights of intellectual property rights holders, and no one in this body could ask for more than the word of the Senator from Arizona.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.