

117TH CONGRESS
2D SESSION

S. RES. 738

Recognizing the importance of trademarks in the economy and the role of trademarks in protecting consumer safety, by designating the month of August as “National Anti-Counterfeiting and Consumer Education and Awareness Month”.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2022

Mr. GRASSLEY (for himself, Mr. COONS, Mr. DURBIN, Mr. TILLIS, and Mr. WARNOCK) submitted the following resolution; which was considered and agreed to

RESOLUTION

Recognizing the importance of trademarks in the economy and the role of trademarks in protecting consumer safety, by designating the month of August as “National Anti-Counterfeiting and Consumer Education and Awareness Month”.

Whereas public awareness is crucial to safeguard consumers and businesses from unsafe and unreliable products that, through illicit activity, threaten intellectual property rights, the economic market, and even the health and well-being of consumers;

Whereas Federal statutes such as the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946” or the “Lanham Act”) (60 Stat. 427, chapter 540; 15

U.S.C. 1051 et seq.) (referred to in this preamble as the “Lanham Act”) and the Trademark Counterfeiting Act of 1984 (Public Law 98–473; 98 Stat. 2178) regulate the unlawful act of producing and selling counterfeit products;

Whereas the Lanham Act provided the foundation for modern Federal trademark protection, creating legal rights and remedies for brand owners suffering from trademark infringement, helping consumers make informed choices by reducing the amount of confusingly similar products, and making the marketplace more fair, competitive, and safe for all;

Whereas, according to the World Intellectual Property Organization, there was an estimated 64,400,000 active trademark registrations around the world in 2020, an 11.2 percent increase from the previous year;

Whereas counterfeit products undermine laws, including the Lanham Act, that ensure the safety of consumers, businesses, and brand owners against illegitimate products in the marketplace, from which criminal groups and bad actors are benefitting at the expense of the public and private sector;

Whereas counterfeiters use different online platforms to attract consumers to buy illegitimate goods, usually enticing consumers through cheaper prices;

Whereas the growth of both global commerce and electronic commerce has expedited the evolving problem because it has given third-party actors an enhanced opportunity to reach consumers that they may have not previously been able to reach;

Whereas the deceptive tactics of counterfeiters and their counterfeit products pose actual and potential harm to the health and safety of United States citizens, especially the most vulnerable consumers in society, such as senior citizens and children;

Whereas, according to the 2021 Special 301 Report issued by the Office the United States Trade Representative, counterfeit items often do not comply with regulated safety standards, and as a result, vast amounts of unsafe products are constantly circulating the market;

Whereas goods originating in China and Hong Kong account for approximately 80 percent of all global customs seizures of dangerous counterfeit goods, including foodstuffs, pharmaceuticals, cosmetics, and other goods;

Whereas many international criminals have used the pandemic to exploit the market with numerous counterfeits, and as a result, have defrauded United States citizens;

Whereas the Federal Bureau of Investigation has stressed the need to educate the healthcare industry, private organizations, and the public of the United States on the increased potential for counterfeit medical equipment that is used in relation to the COVID–19 pandemic;

Whereas counterfeit medical products pose a particular threat to the safety and health of consumers in the United States because the counterfeit product does not provide the same level of protection as an authentic article;

Whereas these dangers were elevated during the COVID–19 pandemic by significant trafficking in counterfeit personal protective equipment, medical devices, and COVID–19 treatments;

Whereas, according to the World Trademark review, “as of 25 March 2021, there have been 2,054 covid-19-related seizures, including counterfeit masks and medicines totaling in excess of \$47.2 million, with 265 arrests”;

Whereas, in September 2021, the Drug Enforcement Administration (“DEA”) issued its first Public Safety Alert in 6 years to warn the public about the alarming increase in the availability and lethality of fake prescription pills in the United States, pills that often contain deadly doses of fentanyl, and in 2021 the DEA seized a staggering 20,400,000 fake prescription pills;

Whereas counterfeit products threaten the United States economy and job creation, and according to United States Customs and Border Protection, counterfeiting and piracy cost businesses in the United States more than \$200,000,000,000 per year and has led to the loss of 750,000 jobs;

Whereas, in 2021, the United States Customs and Border Protection reported 20,252 counterfeit good seizures, with “an estimated manufacturer’s suggested retail price (MSRP) of over \$2.15 billion if the goods were authentic[, which] equates to about \$5.88 million in counterfeit goods seizures every day”;

Whereas the manufacturing, trade, and consumption of counterfeit products are on the rise;

Whereas, according to the United States Patent and Trademark Office, as of 2020, at least 20 percent of counterfeit and pirated goods sold abroad displace sales in the United States, and of the \$143,000,000,000 sold of such goods, the United States economy suffers a loss of around \$29,000,000,000 per year;

Whereas businesses of all sizes collectively spend millions of dollars to protect and enforce their own brand and products by removing counterfeit products from both online and physical marketplaces;

Whereas businesses must devote resources to combating counterfeit products instead of using those resources to grow their business by hiring new employees and developing new products;

Whereas 1 of the most effective ways to protect consumers of the dangers of counterfeit products is through educational campaigns and awareness programs; and

Whereas organizations such as the Congressional Trademark Caucus, Federal enforcement agencies, the National Intellectual Property Rights Coordination Center, and State enforcement agencies are actively working to raise awareness of the value of trademarks and the impact and harms caused by counterfeit products on both the national and State economies: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) designates the month of August 2022 as
3 “National Anti-Counterfeiting and Consumer Edu-
4 cation and Awareness Month”;

5 (2) supports the goals and ideals of National
6 Anti-Counterfeiting and Consumer Education and
7 Awareness Month to educate the public and raise
8 public awareness about the actual and potential dan-
9 gers counterfeit products pose to consumer health
10 and safety;

1 (3) affirms the continuing importance and need
2 for comprehensive Federal, State, and private sector-
3 supported education and awareness efforts designed
4 to equip the consumers of the United States with
5 the information and tools needed to safeguard
6 against illegal counterfeit products in traditional
7 commerce, internet commerce, and other electronic
8 commerce platforms; and

9 (4) recognizes and reaffirms the commitment of
10 the United States to combating counterfeiting by
11 promoting awareness about the actual and potential
12 harm of counterfeiting to consumers and brand own-
13 ers and by promoting new education programs and
14 campaigns designed to reduce the supply of, and de-
15 mand for, counterfeit products.

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