

July 22, 2008

Mr. SCOTT of Virginia: Mr. Speaker, H.R. 6531, the Vessel Hull Design Protection Amendments of 2008, makes technical corrections to the 1998 Vessel Hull Design Protection Act for the purpose of clarifying Congress' intent that the design of an original vessel hull, separate from a vessel deck, may be protected.

In 1998, the Vessel Hull Design Protection Act established sui generis intellectual property protection for original vessel hull designs. That Act sought to address the problems of copycats who make molds of popular boat designs in order to produce knock-off versions. These knock-offs obviously cut into the market of the original manufacturers who had invested substantial time and resources in designing and testing their boats. Nevertheless, some copycats--mostly operating overseas--have exploited a flaw in the language of the 1998 Act.

As defined in the Act, a protected ``hull" consists of both the hull and deck of a vessel. In determining infringement, the courts have interpreted this to mean that an allegedly infringing design must be substantially similar to both the hull and the deck of the protected design taken together. This means that a vessel with a hull identical to a protected design but with a different deck is not considered an infringement. This loophole has allowed copycats to continue to take and use popular hull designs of others with impunity.

To correct the problem, H.R. 6531 explicitly extends protection to a hull, a deck, or both, as the original manufacturer chooses. If a manufacturer elects to protect just the hull, infringement will be judged based on whether the hull of the alleged infringer is substantially similar. The same applies also if only the deck is protected.

If a manufacturer elects to protect both the hull and the deck, infringement will continue to be judged on whether the combined hull and deck design is substantially similar.

It is anticipated that the Copyright Office will promulgate regulations and a registration form that will clearly indicate that a deck, a hull, or hull-and-deck combination can be protected in one application.

H.R. 6531 also amends the 1998 Act to ensure that any vessel manufactured by or on behalf of the Department of Defense is governed by that agency's general procurement law, notwithstanding vessel hull design protection.

Passage of H.R. 6531 will finally provide boat manufacturers with the protection that Congress intended to give them a decade ago.

And one point, Mr. Speaker, the bill does not address the problem of fashion design policy that is hurting U.S. designers. But given the complexity of developing the appropriate protection scheme for fashion designs, it would be better addressed in a more thorough manner the next Congress.

So I urge my colleagues to support this important measure this time.