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paragraph (1)(A) or the skilled nursing facility described in paragraph (1)(B); and

"(II) elects to receive services from the skilled nursing facility after the hospitalization, whether or not, in the case of a skilled nursing facility described in paragraph (1)(A), the individual resided in such facility before entering the hospital.

"(C) The skilled nursing facility has the capacity to provide the services the individual requires.

"(D) The skilled nursing facility agrees to accept substantially similar payment under the same terms and conditions that apply to similarly situated skilled nursing facilities that are under contract with the Medicare+Choice organization.

"(3) COVERAGE OF SNF SERVICES TO PREVENT HOSPITALIZATION.—A Medicare+Choice organization may not deny payment for services provided to an enrollee of a Medicare+Choice plan (offered by such organization) by a skilled nursing facility in which the enrollee resides, without a preceding hospital stay, regardless of whether the Medicare+Choice organization has a contract with such facility to provide such services, if—

"(A) the Medicare+Choice organization has determined that the service is necessary to prevent the hospitalization of the enrollee; and

"(B) the factors specified in subparagraphs (A), (C), and (D) of paragraph (2) exist.

"(4) COVERAGE OF SERVICES PROVIDED IN SNF WHERE SPOUSE RESIDES.—A Medicare+Choice organization may not deny payment for services provided to an enrollee of a Medicare+Choice plan (offered by such organization) by a skilled nursing facility in which the enrollee resides, regardless of whether the Medicare+Choice organization has a contract with such facility to provide such services, if the spouse of the enrollee is a resident of such facility and the factors specified in subparagraphs (A), (C), and (D) of paragraph (2) exist.

"(5) SKILLED NURSING FACILITY MUST MEET MEDICARE PARTICIPATION REQUIREMENTS.—This subsection shall not apply unless the skilled nursing facility involved meets all applicable participation requirements under this title.

"(6) PROHIBITIONS.—A Medicare+Choice organization offering a Medicare+Choice plan may not—

"(A) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under such plan, solely for the purpose of avoiding the requirements of this subsection;

"(B) provide monetary payments or rebates to enrollees to encourage such enrollees to accept less than the minimum protections available under this subsection;

"(C) penalize or otherwise reduce or limit the reimbursement of a health care provider or organization because such provider or organization provided services to the individual in accordance with this subsection; or

"(D) provide incentives (monetary or otherwise) to a health care provider or organization to induce such provider or organization to provide care to a participant or beneficiary in a manner inconsistent with this subsection.

"(7) COST-SHARING.—Nothing in this subsection shall be construed as preventing a Medicare+Choice organization offering a Medicare+Choice plan from imposing deductibles, coinsurance, or other cost-sharing for services covered under this subsection if such deductibles, coinsurance, or other cost-sharing would have applied if the skilled nursing facility in which the enrollee received such services was under contract with the Medicare+Choice organization.

"(8) NONPREEMPTION OF STATE LAW.—The provisions of this subsection shall not be construed to preempt any provision of State law that affords greater protections to beneficiaries with regard to coverage of items and services provided by a skilled nursing facility than is afforded by such provisions of this subsection.

"(9) DEFINITIONS.—In this subsection:

"(A) CONTINUING CARE RETIREMENT COMMUNITY.—The term 'continuing care retirement community' means an organization that provides or arranges for the provision of housing and health-related services to an older person under an agreement.

"(B) SKILLED NURSING FACILITY.—The term 'skilled nursing facility' has the meaning given such term in section 1819(a).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. ABRAHAM, Mr. TORRICELLI, Mr. DEWINE, Mr. KOHL, and Mr. SCHUMER):

S. 1461. A bill to amend the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) to protect consumers and promote electronic commerce by prohibiting the bad-faith registration, trafficking or use of Internet domain names that are identical to, confusingly similar to, or dilutive of distinctive trademarks or service marks; to the Committee on the Judiciary.

DOMAIN NAME PIRACY PREVENTION ACT OF 1999

Mr. HATCH. Mr. President, I am pleased to rise today, along with my colleague, the Ranking Member on the Judiciary Committee, Senator LEAHY, to introduce legislation that will address a growing problem for consumers and American businesses online. At issue is the deliberate, bad-faith, and abusive registration of Internet domain names in violation of the rights of trademark owners. for the Net-savy, this burgeoning form of cyber-abuse is known as "cybersquatting." for the average consumer, it is basically fraud, deception, and the bad-faith trading on the goodwill of others. Whatever you call it, it is an issue that has a great impact on American consumers and the brand names they rely on as indications of source, quality, and authenticity.

As anyone who has walked down the aisle in the grocery store knows, trademarks serve as the primary indicators of source, quality, and authenticity in the minds of consumers. How else do you explain the price disparity between various brands of toothpaste, laundry detergent, or even canned beans. These brand names are valuable in that they convey to the consumer reliable information regarding the source and quality of goods and services, thereby facilitating commerce and spurring confidence in the marketplace. Unauthorized uses of others' marks undercuts the market by eroding consumer confidence and the communicative value of the brand names we all rely on. For that very reason, Congress has enacted a number of statutes addressing the problems of trademark infringement, false advertising and unfair competition, trademark dilution, and trademark counterfeiting. Doing so has helped protect American businesses and, more importantly perhaps, American consumers.

As we are seeing with increased frequency, the problems of brand-name abuse and consumer confusion are particularly acute in the online environment. The fact is that a consumer in a "brick and mortar" world has the luxury of a variety of additional indicators of source and quality aside from a brand name. For example, when one walks in to the local consumer electronics retailer, he is fairly certain with whom he is dealing, and he can often tell by looking at the products and even the storefront itself whether or not he is dealing with a reputable establishment. These protections are largely absent in the electronic world, where anyone with Internet access and minimal computer knowledge can set up a storefront online.

In many cases what consumers see when they log on to a site is their only indication of source and authenticity, and legitimate and illegitimate sites may be indistinguishable in cyberspace. In fact, a well-known trademark in a domain name may be the primary source indicator for the online consumer. So it a bad actor is using that name, rather than the trademark owner, an online consumer is at serious risk of being defrauded, or at the very least confused. The result, as with other forms of trademark violations, is the erosion of consumer confidence in brand name identifiers and in electronic commerce generally.

Last week the Judiciary Committee heard testimony of a number of examples of consumer confusion on the Internet stemming from abusive domain name registrations. For example, Anne Chasser, President of the International Trademark Association, testified that a cybersquatter had registered the domain names "attphonecard.com" and "attcallingcard.com" and used those names to establish sites purporting to sell calling cards and soliciting personally identifying information, including credit card numbers. Chris Young, President of Cyveillance, Inc.—a company founded specifically to assist trademark owners police their marks online—testified that a cybersquatter had registered the name "dellspares.com" and was purporting to sell Dell products online, when in fact Dell does not authorize online resellers to market its products. We heard similar testimony of an offshore cybersquatter selling web-hosting services under the name "bellatlantics.com". And Greg Phillips, a Salt Lake City trademark practitioner that represents Porsche in protecting their famous trademark against what is now more than 300 instances of cybersquatting, testified of several examples where bad actors have registered Porsche marks to sell counterfeit goods and non-genuine Porsche parts.

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Consider also the child who in a "hunt-and-peck" manner mistakenly typed in the domain for "dosney.com", looking for the rich and family-friendly content of Disney's home page, only to wind up staring at a page of hardcore pornography because someone snatched up the "dosney" domain in anticipation that just such a mistake would be made. 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 computer game of the same name, but ended up at a pornography site.

In addition to these types of direct harm to consumers, cybersquatting harms American businesses and the goodwill value associated with their names. In part this is a result of the fact that in each case of consumer confusion there is a case of brand-name misappropriation and an erosion of goodwill. But, even absent consumer confusion, there are many many cases of cybersquatters who appropriate brand names with the sole intent of extorting money from the lawful mark owner, of precluding evenhanded competition, or even very simply of harming the goodwill of the mark.

For example, a couple of years ago a small Canadian company with a single shareholder and a couple of dozen domain names demanded that Umbro International, Inc., which markets and distributes soccer equipment, pay $50,000 to its sole shareholder, $50,000 to a charity, and provide a lifetime supply of soccer equipment in order for it to relinquish the "umbro.com" name. Warner Bros. was reportedly 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 "warnerpictures.com". And Intel Corporation was forced to deal with a cybersquatter who registered the "pentium3.com" domain and used it to post pornographic images of celebrities.

It is time for Congress to take a closer look at these abuses and to respond with appropriate legislation. In the 104th Congress, Senator LEAHY and I sponsored the "Federal Trademark Dilution Act," which has proved useful in assisting the owners of famous trademarks to police online uses of their marks that dilute their distinctive quality. Unfortunately, the economics of litigation have resulted in a situation where it is often more cost-effective to simply "pay off" a cybersquatter rather than pursue costly litigation with little hope of anything more than an injunction against the offender. And cybersquatters are becoming more sophisticated and more creative in evading what good case law has developed under the dilution statute.

The bill I am introducing today with the Senator from Vermont is designed to address these problems head on by clarifying the rights of trademark owners online 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. While the bill shares the goals of, and has some similarity to, legislation introduced earlier by Senator ABRAHAM, it differs in a number of substantial respects.

First, like Senator ABRAHAM's legislation, our 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. Our 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 our bill, 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 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 speech online. Our 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 earlier legislation.

Second, our 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 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. Our bill 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 and others who are online incognito for 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 our 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 Abraham bill, our bill 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 the registration of infringing domain names. Our bill goes further, however, in order to protect the rights of domain name registrants against overreaching trademark owners. Under our 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. Our 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, our 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.

Mr. President, this bill 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. I want to thank Senator LEAHY for his cooperation in crafting this particular measure, and also Senator ABRAHAM for his cooperation in this effort. I expect that the substance of this bill will be offered as a Committee substitute to Senator ABRAHAM's legislation when the Judiciary Committee turns to that bill tomorrow, and I look forward to broad bipartisan support at that time. I similarly

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look forward to working with my other colleagues here in the Senate to report this bill favorably to the House, and I urge their support in this regard.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1461

Be it enacted by the Senate and House of Representatives of the United States of America In Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Domain Name Piracy Prevention Act of 1999".

(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 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 to, confusingly similar to, or dilutive of a trademark or service mark of another that is distinctive at the time of registration of the domain name, 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:

"(d)(1)(A) Any person who, with bad-faith intent to profit from the goodwill of a trademark or service mark of another, registers, traffics in, or uses a domain name that is identical to, confusingly similar to, or dilutive of such trademark or service mark, without regard to the goods or services of the parties, shall be liable in a civil action by the owner of the mark, if the mark is distinctive at the time of the registration of the domain name.

"(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 to, confusingly similar to, or dilutive of trademarks or service marks of others that are distinctive at the time of registration of such domain names, 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

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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.

SECTION BY SECTION ANALYSIS—S. 1461, THE "DOMAIN NAME PIRACY PREVENTION ACT OF 1999."

SECTION 1. SHORT TITLE; REFERENCES

This section provides that the Act may be cited as the "Domain Name Piracy Prevention Act of 1999" and that any references within the bill to the Trademark Act of 1946 shall be a reference to 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", approved July 5, 1946 (15 U.S.C. 1051 et seq.), also commonly referred to as the Lanham Act.

SECTION 2. FINDINGS

This section sets forth Congress' findings that cybersquatting and cyberpiracy—defined as the registration, trafficking in, or use of a domain name that is identical to, confusingly similar to, or dilutive of a distinctive trademark or service mark of another with the bad faith intent to profit from the goodwill of that mark—harms the public by causing consumer fraud and public confusion as to the true source or sponsorship of goods and services, by impairing electronic commerce, by depriving trademark owners of substantial revenues and consumer goodwill, and by placing unreasonable, intolerable, and overwhelming burdens on trademark owners in protecting their own marks. Amendments to the Trademark Act would clarify the rights of trademark owners to provide for adequate remedies for the abusive and bad faith registration of their marks as Internet domain names and to deter cyberpiracy and cybersquatting.

SECTION 3. CYBERPIRACY PREVENTION

Subsection (a). In General. This subsection amends section the Trademark Act to provide an explicit trademark remedy for cybersquatting under a new section 43(d). Under paragraph (1)(A) of the new section 43(d), actionable conduct would include the registration, trafficking in, or use of a domain name that is identical to, confusingly similar to, or dilutive of the trademark or service mark of another, provided that the mark was distinctive (i.e., enjoyed trademark status) at the time the domain name was registered. The bill is carefully and narrowly tailored, however, to extend only to cases where the plaintiff can demonstrate that the defendant registered, trafficked in, or used the offending domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else. Thus, the bill does not extend to innocent domain name registrations by those who are unaware of another's use of the name, or even to someone who is aware of the trademark status of the name but registers a domain name containing the mark for any reason other than with bad faith intent to profit from the goodwill associated with that mark.

Paragraph (1)(B) of the new section 43(d) sets forth a number of nonexclusive, nonexhaustive factors to assist a court in determining whether the required bad-faith element exists in any given case. These factors are designed to balance the property interests of trademark owners with the legitimate interests of Internet users and others who seek to make lawful uses of others' marks, including for purposes such as comparative advertising, comment, criticism, parody, news reporting, fair use, etc. The bill suggests a total of eight factors a court may wish to consider. The first four suggest circumstances that may tend to indicate an absence of bad-faith intent to profit from the goodwill of a mark, and the last four suggest circumstances that may tend to indicate that such bad-faith intent exists.

First, under paragraph (1)(B)(i), a court may consider whether the domain name registrant has trademark or any other intellectual property rights in the name. This factor recognizes, as does trademark law in general, that there may be concurring uses of the same name that are noninfringing, such as the use of the "Delta" mark for both air travel and sink faucets. Similarly, the registration of the domain name "deltaforce.com" by a movie studio would not tend to indicate a bad faith intent on the part of the registrant to trade on Delta Airlines or Delta Faucets' trademarks.

Second, under paragraph (1)(B)(ii), a court may consider the extent to which the domain name is the same as the registrant's own legal name or a nickname by which that person is commonly identified. This factor recognizes, again as does the concept of fair use in trademark law, that a person should be able to be identified by their own name, whether in their business or on a web site. Similarly, a person may bear a legitimate nickname that is identical or similar to a well-known trademark, such as in the well-publicized case of the parents who registered the domain name "pokey.org" for their young daughter who goes by that name, and these individuals should not be deterred by this bill from using their name online. This factor is not intended to suggest that domain name registrants may evade the application of this act by merely adopting Exxon, Ford, or other well-known marks as their nicknames. It merely provides a court with the appropriate discretion to determine whether or not the fact that a person bears a nickname similar to a mark at issue is an indication of an absence of bad-faith on the part of the registrant.

Third, under paragraph (1)(B)(iii), a court may consider the domain name registrant's prior use, if any, of the domain name in connection with the bona fide offering of goods or services. Again, this factor recognizes that the legitimate use of the domain name in online commerce may be a good indicator of the intent of the person registering that name. Where the person has used the domain name in commerce without creating a likelihood of confusion as to the source or origin of the goods or services and has not otherwise attempted to use the name in order to profit from the goodwill of the trademark owner's name, a court may look to this as an indication of the absence of bad faith on the part of the registrant.

Fourth, under paragraph (1)(B)(iv), a court may consider the person's legitimate noncommercial or fair use of the mark in a web site that is accessible under the domain name at issue. This factor is intended to balance the interests of trademark owners with the interests of those who would make lawful noncommercial or fair uses of others' marks online, such as in comparative advertising, comment, criticism, parody, news reporting, etc. The fact that a person may use a mark in a site in such a lawful manner may be an appropriate indication that the person's registration or use of the domain name lacked the required element of bad-faith. This factor is not intended to create a loophole that otherwise might swallow the bill by allowing a domain name registrant to evade application of the Act by merely putting up a noninfringing site under an infringing domain name. For example, in the well known case of *Panavision Int'l* v. *Toeppenn*, 141 F.3d 1316 (9th Cir. 1998), a well known cybersquatter had registered a host of domain names mirroring famous trademarks, including names for Panavision, Delta Airlines, Neiman Marcus, Eddie Bauer, Lufthansa, and more than 100 other marks, and had attempted to sell them to the mark owners for amounts in the range of $10,000 to $15,000 each. His use of the "panavision.com" and "panaflex.com" domain names was seemingly more innocuous, however, as they served as addresses for sites that merely displayed pictures of Pana Illinois and the word "Hello" respectively. This bill would not allow a person to evade the holding of that case—which found that Mr. Toeppen had made a commercial use of the Panavision marks and that such uses were, in fact, diluting under the Federal Trademark Dilution Act—merely by posting noninfringing uses of the trademark on a site accessible under the offending domain name, as Mr. Toeppen did. Rather, the bill gives courts the flexibility to weigh appropriate factors in determining whether the name was registered or used in bad faith, and it recognizes that one such factor may be the use the domain name registrant makes of the mark.

Fifth, under paragraph (1)(B)(v), a court may consider whether, in registering or using the domain name, the registrant intended to divert consumers away from the trademark owner's website to a website that could harm the goodwill of the mark, either for purposes of 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. This factor recognizes that one of the main reasons cybersquatters use other people's trademarks is to divert Internet users to their own sites by creating confusion as to the source, sponsorship, affiliation, or endorsement of the site. This is done for a number of reasons, including to pass off inferior goods under the name of a well-known mark holder, to defraud consumers into providing personally identifiable information, such as credit card numbers, to attract eyeballs to sites that price online advertising according to the number of "hits" the site receives, or even just to harm the value of the mark. Under this provision, a court may give appropriate weight to evidence that a domain name registrant intended to confuse or deceive the public in this manner when making a determination of bad-faith intent.

Sixth, under paragraph (1)(B)(vi), a court may consider a domain name registrant's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for substantial consideration, where the registrant has not used, and did not have any intent to use, the domain name in the bona fide offering of any goods or services. This factor is consistent with the court cases, like the *Panavision* case mentioned above, where courts have found a defendant's offer to sell the domain name to the legitimate mark owner as being indicative of the defendant's intent to trade on the value of a trademark owner's marks by engaging in the business of registering those marks and selling them to the rightful trademark owners. It does not suggest that a court should consider the mere offer to sell a domain name to a mark owner or the failure to use a name in the bona fide offering of goods or services is sufficient to indicate bad faith. Indeed, there are cases in which a person registers a name in anticipation of a business venture that simply never pans out. And someone who has a legitimate registration of a domain name that mirrors someone else's domain name, such as a trademark owner that is a lawful concurrent user of that name with another trademark owner, may, in fact, wish to sell

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that name to the other trademark owner. This bill does not imply that these facts are an indication of bad-faith. It merely provides a court with the necessary discretion to recognize the evidence of bad-faith when it is present. In practice, the offer to sell domain names for exorbitant amounts to the rightful mark owner has been one of the most common threads in abusive domain name registrations.

Seventh, under paragraph (1)(B)(vii), a court may consider the registrant's intentional provision of material and misleading false contact information in an application for the domain name registration. Falsification of contact information with the intent to evade identification and service of process by trademark owners is also a common thread in cases of cybersquatting. This factor recognizes that fact, while still recognizing that there may be circumstances in which the provision of false information may be due to other factors, such as mistake or, as some have suggested in the case of political dissidents, for purposes of anonymity. This bill balances those factors by limiting consideration to the person's contact information, and even then requiring that the provision of false information be material and misleading. As with the other factors, this factor is nonexclusive and a court is called upon to make a determination based on the facts presented whether or not the provision of false information does, in fact, indicate bad-faith.

Eighth, under paragraph (1)(B)(viii), a court may consider the domain name registrant's acquisition of multiple domain names that are identical to, confusingly similar to, or dilutive of others' marks. This factor recognizes the increasingly common cybersquatting practice known as "warehousing", in which a cybersquatter registers multiple domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law developed under the Federal Trademark Dilution Act. This bill does not suggest that the mere registration of multiple domain names is an indication of bad faith, but allows a court to weigh the fact that a person has registered multiple domain names that infringe or dilute the trademarks of others as part of its consideration of whether the requisite bad-faith intent exists.

Paragraph (1)(C) makes clear that in any civil brought under the new section 43(d), a court may order the forfeiture, cancellation, or transfer of a domain name to the owner of the mark.

Paragraph (2)(A) 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 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. As indicated above, 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. This bill 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, provided the mark owner can show that the domain name itself violates substantive trademark law. Paragraph (2)(B) limits the relief available in such an in rem action to an injunction ordering the forfeiture, cancellation, or transfer of the domain name.

Subsection (b). Additional Civil Action and Remedy. This subsection makes clear that the creation of a new section 43(d) in the Trademark Act does not in any way limit the application of current provisions of trademark, unfair competition and false advertising, or dilution law, or other remedies under counterfeiting or other statutes, to cybersquatting cases.

SECTION 4. DAMAGES AND REMEDIES

This section applies traditional trademark remedies, including injunctive relief, recovery of defendant's profits, actual damages, and costs, to cybersquatting cases under the new section 43(d) of the Trademark Act. The bill also amends section 35 of the Trademark Act to provide for statutory damages in cybersquatting cases, in an amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just. The bill requires the court to remit statutory damages in any case where the infringer believed and had reasonable grounds to believe that the use of the domain name was a fair or otherwise lawful use.

SECTION 5. LIMITATION ON LIABILITY

This section amends section 32(2) of the Trademark Act to extend the Trademark Act's existing limitations on liability to the cybersquatting context. This section also creates a new subparagraph (D) in section 32(2) to encourage domain name registrars and registries to work with trademark owners to prevent cybersquatting through 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. This section also protects the rights of domain name registrants against overreaching trademark owners. Under a new section subparagraph (D)(iv) in section 32(2), a trademark owner who knowingly and materially misrepresents to the domain name registrar or registry that a domain name is infringing shall be liable to the domain name registrant for damages resulting from the suspension, cancellation, or transfer of the domain name. In addition, the court may grant 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, in creating a new subparagraph (D)(iii) of section 32(2), this section codifies current case law limiting the secondary liability of domain name registrars and registries for the act of registration of a domain name, absent bad-faith on the part of the registrar and registry.

SECTION 6. DEFINITIONS

This section amends the Trademark Act's definitions section (section 45) to add definitions for key terms used in this Act. First, the term "Internet" is defined consistent with the meaning given that term in the Communications Act (47 U.S.C. 230(f)(1)). Second, this section creates a narrow definition of "cybersquatting" to target the specific bad faith conduct sought to be addressed while excluding such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry.

SECTION 7. SAVINGS CLAUSE

This section provides 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.

SECTION 8. SEVERABILITY

This section provides a severability clause making clear Congress' intent that if any provision of this Act, an amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of the Act, the amendments made by the Act, and the application of the provisions of such to any person or circumstance shall not be affected by such determination.

SECTION 9. EFFECTIVE DATE

This section provides that new statutory damages provided for under this bill shall not apply to any registration, trafficking, or use of a domain name that took place prior to the enactment of this Act.

Mr. LEAHY. Mr. President, I am pleased to join Senator HATCH, and others, today in introducing the "Domain Name Piracy Prevention Act of 1999." We 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 "'a unique and wholly new medium of worldwide human communication.'" *Reno* v. *ACLU*, 521 U.S. 844 (1997).

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 trademark name is 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,"

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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 expensive and expeditious procedures for resolving trademark disputes over the assignment of domain names. Both the Internet Corporation for Assigned Names and Numbers (I-CANN) 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 of 1999," which we introduce 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 bill 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, confusingly similar to or dilutive of another's trademark. The I-CANN 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 "yankeestadium.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 Committees 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 week 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 introduce today is intended to build 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.

Other Anti-cybersquatting Legislation Is Flawed. This is not the first bill to be introduced this session to address the problem of cybersquatting, and I appreciate the efforts of Senators ABRAHAM, TORICELLI, HATCH, and MCCAIN, to focus our attention on this important matter. They introduced S. 1255, the "Anticybersquatting Consumer Protection Act," which proposed making 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 last week that S. 1255 would have a number of unintended consequences that could hurt rather than promote electronic commerce, including the following specific problems:

The definition in S. 1255 is overbroad. S. 1255 covers 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.

S. 1255 threatens hypertext linking. The Web operates on hypertext linking, to facilitate jumping from one site to another. S. 1255 could disrupt 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.

S. 1255 would criminalize dissent and protest sites. A number of Web sites collect complaints about trademarked products or services, and sue the trademarked names to identify themselves. For example, there are protest sites named "boycotts-cbs.com" and "www.PepsiBloodbath.com." While the speech contained on those sites is clearly constitutionally protected, S. 1255 would criminalizes the use of the trademarked name to reach the site and make them difficult to search for and find online.

S. 1255 would stifle legitimate warehousing of domain names. The bill would change current law and make liable persons who merely register domain names similar to other trademarked names, whether or not they actually set up a site and use the name. The courts have recognized that companies may have legitimate reason 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

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deal. S. 1255 would make that company liable for trademark infringement.

For these and other reasons, Professor Litman concluded that this "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 is a better solution. The legislation we introduce today addresses the cybersquatting problem without jeopardizing other important online rights and interests. This bill would amend section 43 of the Trademark Act (15 U.S.C. §1125) 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, registers or uses a domain name that is identical to, confusingly similar to or dilutive of such trademark, without regard to the goods or services of the parties. the fact that the domain name registrant did not compete with the trademark owner would not be a bar to recovery. Significant sections of this bill 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 authority as part of an electronic address on the Internet. Since registrars only 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 domain names that are identical or similar to, or dilutive of, another's mark are not covered by the bill'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 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 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 international 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 persona 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 similar to, or dilutive of, anothers 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 bill 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, the 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 any 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. We also stand ready to make additional refinements to this legislation that prove necessary as this bill moves through the legislative process.

By Mr. JEFFORDS:

S. 1462. A bill to amend the Federal Food, Drug, and Cosmetic Act to permit importation in personal baggage and through mail order of certain covered products for personal use from Canada, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PERSONAL USE PRESCRIPTION DRUG IMPORTATION ACT OF 1999

Mr. JEFFORDS. Mr. President, today I am introducing legislation that takes another positive step toward the goal of providing access to affordable prescription drugs for patients in my state of Vermont, and many other patients across the United States.

The high cost of prescription drugs is an issue that faces many Americans every single day, as they try to decide how to make ends meet, and whether they can afford to fill the prescription given to them by their doctor. Unfortunately, it is not uncommon to hear of patients who cut pills in half, or skip dosages in order to make prescriptions

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