

112TH CONGRESS
2D SESSION

H. R. 3889

To amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2012

Mr. ISSA (for himself and Ms. ZOE LOFGREN of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Automotive
5 Repair, Trade, and Sales Act” or the “PARTS Act”.

6 **SEC. 2. EXCEPTION FROM INFRINGEMENT FOR CERTAIN**
7 **COMPONENT PARTS OF MOTOR VEHICLES.**

8 Section 271 of title 35, United States Code, is
9 amended by adding at the end the following new sub-
10 section:

1 “(j)(1) With respect to a design patent that claims
2 a component part of a motor vehicle as originally manufac-
3 tured—

4 “(A) it shall not be an act of infringement of
5 such design patent to make or offer to sell within
6 the United States, or import into the United States,
7 any article of manufacture that is similar or the
8 same in appearance to the component part that is
9 claimed in such design patent if the purpose of such
10 article of manufacture is for the repair of a motor
11 vehicle so as to restore such vehicle to its appear-
12 ance as originally manufactured; and

13 “(B) after the expiration of a period of 30
14 months beginning on the first day on which any
15 such component part is first offered to the public for
16 sale as part of a motor vehicle in any country, it
17 shall not be an act of infringement of such design
18 patent to use or sell within the United States any
19 article of manufacture that is similar or the same in
20 appearance to the component part that is claimed in
21 such design patent if the purpose of such article of
22 manufacture is for the repair of a motor vehicle so
23 as to restore such vehicle to its appearance as origi-
24 nally manufactured.

25 “(2) For purposes of this subsection—

1 “(A) the term ‘motor vehicle’ has the meaning
2 given that term in section 32101(7) of title 49;

3 “(B) the term ‘make’ includes any testing of an
4 article of manufacture; and

5 “(C) the term ‘offer to sell’ includes any mar-
6 keting of an article of manufacture to prospective
7 purchasers or users and any pre-sale distribution of
8 the article of manufacture.”.

9 **SEC. 3. CONFORMING AMENDMENT.**

10 Section 289 of title 35, United States Code, is
11 amended—

12 (1) in the first paragraph, by striking “Who-
13 ever” and inserting the following:

14 “(a) IN GENERAL.—Whoever”;

15 (2) in the second paragraph, by striking “Noth-
16 ing” and inserting the following:

17 “(b) RELATIONSHIP TO OTHER REMEDIES.—Noth-
18 ing”; and

19 (3) by adding at the end the following;

20 “(c) INAPPLICABILITY.—This section shall not apply
21 to any person who applies a patented design, or colorable
22 imitation thereof, described in subsection (a) to any article
23 of manufacture if that act would not be considered an act
24 of infringement under section 271(j)”.

1 **SEC. 4. EFFECTIVE DATE.**

2 These amendments made by this Act shall take effect
3 upon the expiration of the 90-day period beginning on the
4 date of the enactment of this Act and shall apply to any
5 patent issued, or application for patent filed, before, on,
6 or after that effective date.

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