

**Calendar No. 583**

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1727**

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**A BILL**

To authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

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SEPTEMBER 17, 1998

Reported with an amendment and an amendment to the  
title

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IN THE SENATE OF THE UNITED STATES

MARCH 6, 1998

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 17, 1998

Reported by Mr. HATCH, with an amendment and an amendment to the title  
[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

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

1 **SECTION 1. STUDY OF EFFECTS ON TRADEMARKS AND IN-**  
2 **TELLECTUAL PROPERTY RIGHTS OF ADDING**  
3 **GENERIC TOP-LEVEL DOMAINS.**

4 (a) **STUDY BY NATIONAL RESEARCH COUNCIL.**—Not  
5 later than 60 days after the date of enactment of this Act,  
6 the Secretary of Commerce, acting through the Assistant  
7 Secretary of Commerce and Commissioner of Patents and  
8 Trademarks, shall request the National Research Council  
9 of the National Academy of Sciences to conduct a com-  
10 prehensive study, taking into account the diverse needs of  
11 Internet users, of the short-term and long-term effects on  
12 trademark and intellectual property rights holders of add-  
13 ing new generic top-level domains and related dispute res-  
14 olution procedures.

15 (b) **MATTERS TO BE ASSESSED IN STUDY.**—The  
16 study shall assess and, as appropriate, make recommenda-  
17 tions for policy, practice, or legislative changes relating  
18 to—

19 (1) the short-term and long-term effects on the  
20 protection of trademark and intellectual property  
21 rights and consumer interests of increasing or de-  
22 creasing the number of generic top-level domains;

23 (2) trademark and intellectual property rights  
24 clearance processes for domain names, including—

25 (A) whether domain name databases  
26 should be readily searchable through a common

1 interface to facilitate the clearing of trademarks  
2 and intellectual property rights and proposed  
3 domain names across a range of generic top-  
4 level domains;

5 (B) the identification of what information  
6 from domain name databases should be acces-  
7 sible for the clearing of trademarks and intellec-  
8 tual property rights; and

9 (C) whether generic top-level domain reg-  
10 istrants should be required to provide certain  
11 information;

12 (3) domain name trademark and intellectual  
13 property rights dispute resolution mechanisms, in-  
14 cluding how to—

15 (A) reduce trademark and intellectual  
16 property rights conflicts associated with the ad-  
17 dition of any new generic top-level domains; and

18 (B) reduce trademark and intellectual  
19 property rights conflicts through new technical  
20 approaches to Internet addressing;

21 (4) choice of law or jurisdiction for resolution  
22 of trademark and intellectual property rights dis-  
23 putes relating to domain names, including which ju-  
24 risdictions should be available for trademark and in-  
25 tellectual property rights owners to file suit to pro-

1       tect such trademarks and intellectual property  
2       rights;

3           (5) trademark and intellectual property rights  
4       infringement liability for registrars, registries, or  
5       technical management bodies; and

6           (6) short-term and long-term technical and pol-  
7       icy options for Internet addressing schemes and the  
8       impact of such options on current trademark and in-  
9       tellectual property rights issues.

10       (c) COOPERATION WITH STUDY.—

11           (1) INTERAGENCY COOPERATION.—The Sec-  
12       retary of Commerce shall—

13           (A) direct the Patent and Trademark Of-  
14       fice, the National Telecommunications and In-  
15       formation Administration, and other Depart-  
16       ment of Commerce entities to cooperate fully  
17       with the National Research Council in its activi-  
18       ties in carrying out the study under this sec-  
19       tion; and

20           (B) request all other appropriate Federal  
21       departments, Federal agencies, Government  
22       contractors, and similar entities to provide simi-  
23       lar cooperation to the National Research Coun-  
24       cil.

1           (2) PRIVATE CORPORATION COOPERATION.—

2           The Secretary of Commerce shall request that any  
3           private, not-for-profit corporation established to  
4           manage the Internet root server system and the top-  
5           level domain names provide similar cooperation to  
6           the National Research Council.

7           (d) REPORT.—

8           (1) IN GENERAL.—Not later than 12 months  
9           after the date of enactment of this Act, the National  
10          Research Council shall complete the study under this  
11          section and submit a report on the study to the Sec-  
12          retary of Commerce. The report shall set forth the  
13          findings, conclusions, and recommendations of the  
14          Council concerning the effects of adding new generic  
15          top-level domains and related dispute resolution pro-  
16          cedures on trademark and intellectual property  
17          rights holders.

18          (2) SUBMISSION TO CONGRESSIONAL COMMIT-  
19          TEES.—Not later than 30 days after the date on  
20          which the report is submitted to the Secretary of  
21          Commerce, the Secretary shall submit the report to  
22          the Committees on the Judiciary of the Senate and  
23          House of Representatives.

1       (e) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There is  
2 authorized to be appropriated \$800,000 for the study con-  
3 ducted under this Act.

4       **SECTION 1. STUDY OF EFFECTS ON TRADEMARK RIGHTS OF**  
5                                   **ADDING GENERIC TOP-LEVEL DOMAINS.**

6       (a) *STUDY BY NATIONAL RESEARCH COUNCIL.*—Not  
7 later than 30 days after the date of enactment of this Act,  
8 the Secretary of Commerce shall request the National Re-  
9 search Council of the National Academy of Sciences to con-  
10 duct a comprehensive study, taking into account the diverse  
11 needs of domestic and international Internet users, of the  
12 short-term and long-term effects on trademark rights of add-  
13 ing new generic top-level domains and related dispute reso-  
14 lution procedures.

15       (b) *MATTERS TO BE ASSESSED IN STUDY.*—The study  
16 shall assess and, as appropriate, make recommendations for  
17 policy, practice, or legislative changes relating to—

18                   (1) *the short-term and long-term effects on the*  
19 *protection of trademark rights and consumer interests*  
20 *of increasing or decreasing the number of generic top-*  
21 *level domains;*

22                   (2) *trademark rights clearance processes for do-*  
23 *main names, including—*

24                                   (A) *whether domain name databases should*  
25 *be readily searchable through a common inter-*

1           *face to facilitate the clearing of trademark rights*  
2           *and proposed domain names across a range of*  
3           *generic top-level domains;*

4                   *(B) the identification of what information*  
5           *from domain name databases should be accessible*  
6           *for the clearing of trademark rights; and*

7                   *(C) whether generic top-level domain reg-*  
8           *istrants should be required to provide certain in-*  
9           *formation;*

10           *(3) domain name trademark rights dispute reso-*  
11           *lution mechanisms, including how to—*

12                   *(A) reduce trademark rights conflicts associ-*  
13           *ated with the addition of any new generic top-*  
14           *level domains; and*

15                   *(B) reduce trademark rights conflicts*  
16           *through new technical approaches to Internet ad-*  
17           *ressing;*

18                   *(4) choice of law or jurisdiction for resolution of*  
19           *trademark rights disputes relating to domain names,*  
20           *including which jurisdictions should be available for*  
21           *trademark right owners to file suit to protect such*  
22           *trademark rights;*

23                   *(5) trademark rights infringement liability for*  
24           *registrars, registries, or technical management bodies;*

1           (6) *short-term and long-term technical and pol-*  
2 *icy options for Internet addressing schemes and the*  
3 *impact of such options on current trademark rights*  
4 *issues; and*

5           (7) *public comments on the National Research*  
6 *Council interim report and on any other reports that*  
7 *are issued by international governmental bodies.*

8           (c) *COOPERATION WITH STUDY.—*

9           (1) *INTERAGENCY COOPERATION.—The Secretary*  
10 *of Commerce shall—*

11                   (A) *direct the Patent and Trademark Office,*  
12 *the National Telecommunications and Informa-*  
13 *tion Administration, and other Department of*  
14 *Commerce entities to cooperate fully with the*  
15 *National Research Council in its activities in*  
16 *carrying out the study under this section; and*

17                   (B) *request all other appropriate Federal*  
18 *departments, Federal agencies, Government con-*  
19 *tractors, and similar entities to provide similar*  
20 *cooperation to the National Research Council.*

21           (2) *PRIVATE CORPORATION COOPERATION.—The*  
22 *Secretary of Commerce shall request that any private,*  
23 *not-for-profit corporation established to manage the*  
24 *Internet root server system and the top-level domain*

1        *names provide similar cooperation to the National*  
2        *Research Council.*

3        *(d) REPORTS.—*

4            *(1) IN GENERAL.—*

5                    *(A) INTERIM REPORT.—After a period of*  
6                    *public comment and not later than 4 months*  
7                    *after the date of enactment of this Act, the Na-*  
8                    *tional Research Council shall submit an interim*  
9                    *report on the study to the Secretary of Com-*  
10                   *merce.*

11                   *(B) FINAL REPORT.—After a period of pub-*  
12                   *lic comment and not later than 9 months after*  
13                   *the date of enactment of this Act, the National*  
14                   *Research Council shall complete the study under*  
15                   *this section and submit a final report on the*  
16                   *study to the Secretary of Commerce. The final*  
17                   *report shall set forth the findings, conclusions,*  
18                   *and recommendations of the Council concerning*  
19                   *the effects of adding new generic top-level do-*  
20                   *domains and related dispute resolution procedures*  
21                   *on trademark rights.*

22            *(2) SUBMISSION TO CONGRESSIONAL COMMIT-*  
23            *TEES.—*

24                   *(A) INTERIM REPORT.—Not later than 7*  
25                   *days after the date on which the interim report*

1           *is submitted to the Secretary of Commerce, the*  
2           *Secretary shall submit the interim report to the*  
3           *Committee on Commerce, Science, and Transpor-*  
4           *tation and the Committee on the Judiciary of the*  
5           *Senate, and to the Committee on Science and the*  
6           *Committee on the Judiciary of the House of Rep-*  
7           *resentatives.*

8                   *(B) FINAL REPORT.—Not later than 7 days*  
9           *after the date on which the final report is sub-*  
10          *mitted to the Secretary of Commerce, the Sec-*  
11          *retary shall submit the final report to the Com-*  
12          *mittee on Commerce, Science, and Transpor-*  
13          *tation and the Committee on the Judiciary of the*  
14          *Senate, and to the Committee on Science and the*  
15          *Committee on the Judiciary of the House of Rep-*  
16          *resentatives.*

17          *(e) AUTHORIZATION OF APPROPRIATIONS.—There is*  
18          *authorized to be appropriated \$800,000 for the study con-*  
19          *ducted under this Act.*

Amend the title so as to read: “To authorize the comprehensive independent study of the effects on trademark rights of adding new generic top-level domains and related dispute resolution procedures.”.