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114TH CONGRESS
1ST SESSION

H. R. 684

To amend the Trademark Act of 1946 regarding the disparagement of Native American persons or peoples through marks that use the term ''redskin'', and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2015

Mr. HONDA (for himself, Mr. BLUMENAUER, Mr. CÁRDENAS, Ms. SLAUGHTER, Ms. EDWARDS, Ms. BROWN of Florida, Ms. LEE, Ms. LOFGREN, Mr. LEWIS, Ms. MOORE, Ms. BASS, Mr. GRIJALVA, Ms. NORTON, Ms. MCCOLLUM, Mr. BRADY of Pennsylvania, Mr. VARGAS, Mr. TAKANO, Mr. POCAN, Mrs. KIRKPATRICK, Mr. KILMER, Mr. ELLISON, Mr. MCDERMOTT, Mr. NOLAN, Mr. TAKAI, Mr. CARSON of Indiana, Ms. CLARKE of New York, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Trademark Act of 1946 regarding the disparagement of Native American persons or peoples through marks that use the term ''redskin'', and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act of 2015''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The use of the terms ''redskin'' and ''redskins'' in trademarks is widely understood to refer to or imply a negative reference to Native American persons or peoples, or both.

(2) The term ''redskin'' has been demonstrated by overwhelming linguistic and historical evidence to constitute a disparaging epithet insulting to Native American persons or peoples, or both.

(3) Major Native American organizations, including the National Congress of American Indians, the National Indian Education Association, the Native American Journalists Association, the Native American Rights Fund, the Morning Star Institute, the International Indian Treaty Council, and the National Indian Youth Council, have opposed the continued use of the term ''redskin'' in trademarks or as the name of sports teams.

(4) Recent psychological evidence has demonstrated the general negative effects associated with references in sports to Native American people.

(5) Trademarks containing the term ''redskin'', or any derivation of the term, should not continue to enjoy the benefits of Federal registration.

SEC. 3. REFERENCES TO TRADEMARK ACT OF 1946.

In this Act, the term ''Trademark Act of 1946'' means 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 (commonly referred to as the ''Lanham Act''; 15 U.S.C. 1051 et seq.).

SEC. 4. REGISTRATION OF MARKS CONTAINING CERTAIN TERMS.

Section 2(a) of the Trademark Act of 1946 (15 U.S.C. 1052(a)), is amended by adding at the end the following: ''A mark consisting of or including the term 'redskin' or any derivation of the term 'redskin' shall be conclusively presumed to consist of matter which may disparage persons if (1) the mark has been, is, or is intended to be used in commerce in connection with references to or images of one or more Native American persons or peoples, or to Native American persons or peoples in general; or (2) the Director determines that the term as included in the mark is commonly understood to refer to one or

more Native American persons or peoples, or to Native American persons or peoples in general.''.

SEC. 5. CANCELLATION OF MARKS.

Section 14 of the Trademark Act of 1946 (15 U.S.C. 1064), is amended—

(1) in the text before paragraph (1), by striking ''A petition to cancel'' and inserting ''(a) PETITIONS TO CANCEL.—A petition to cancel''; and

(2) by adding at the end the following:

''(b) CANCELLATION OF MARKS CONTAINING CERTAIN TERMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Director shall cancel a registration of a mark containing the term 'redskin' or any derivation of the term 'redskin' if—

''(A) the mark has been or is used in commerce in connection with references to or images of one or more Native American persons or peoples, or to Native American persons or peoples in general; or

''(B) the Director determines that the term as included in the mark is commonly understood to refer to one or more Native American persons or peoples, or to Native American persons or peoples in general.

"(2) RENEWAL.—A registration cancelled under paragraph (1) shall not be subject to renewal pursuant to section 9 of this Act.".

SEC. 6. CONFORMING AMENDMENTS.

(a) CANCELLATION DUE TO BLURRING OR DILUTION BY TARNISHMENT.—Section 2(f) of the Trademark Act of 1946 (15 U.S.C. 1052(f)), is amended in the last sentence by striking "section 14" and inserting "section 14(a)".

(b) EXCEPTION TO INCONTESTABILITY.—Section 15 of such Act (15 U.S.C. 1065) is amended in the text before paragraph (1) by striking "section 14 of this Act," and inserting "section 14(a) of this Act or for which a registration is required to be cancelled under section 14(b) of this Act,".

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act and shall apply to—

(1) any mark that is registered under the Trademark Act of 1946 before, on, or after such date; and

(2) any application to register a mark under that Act that is pending on, or filed on or after, such date.

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