

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
February 16, 2006

Opening Statement of Senator Patrick Leahy
Ranking Member, Committee on the Judiciary
Executive Business Meeting
February 16, 2006

First, I would like to commend Chairman Specter for beginning this Committee's investigation into "the President's program" of domestic spying on Americans without a judge's approval with a very important hearing last week. The Chairman and I have a long history of conducting vigorous bipartisan oversight investigations. If the Senate is to serve its constitutional role as a real check on the Executive, real oversight is essential. Our hearing last week was only the beginning of the process.

Yesterday, the Chairman announced our second hearing on this matter will take place February 28. Unlike some other Committees around here, this Chairman and this Committee get to "phase two" of a multi-phase investigation. Earlier this week the Democratic Members of the Committee forwarded written follow up questions to the Attorney General, including less than three dozen that are prioritized for prompt answer before the next hearing and within the next two weeks. I spoke to this matter on the Senate floor and urged the Bush Administration to come clean with us and the American people.

In addition, we will want to move forward this spring with hearings and action to reauthorize the Voting Rights Act. We should complete that important action this year. Chairman Sensenbrenner in the House has long been involved and interested in this matter. It would be a fitting part of his legacy as the House Chairman if we could work together to accomplish that reauthorization before the Congress adjourns this year.

I understand from the Chairman that he intends to make immigration the focus of our work in the weeks ahead. I know that Senators Kennedy and Feinstein and others have extensive experience and strong views on these matters. A number of us have introduced immigration initiatives. I look forward to a productive debate on the Chairman's mark in the weeks ahead.

Of course for the past several days, the Senate has been seeking to consider our reported legislation in which we seek to provide fair compensation to asbestos victims without the delays, transaction costs and bankruptcies that have plagued these matters for so many years. The \$140 billion trust fund legislation, which is to be funded not from tax dollars but from contributions from manufacturers and insurers, was our best chance to solve the problem in the interests of victims. That was my interest and motivation. I thank the many veterans and veterans' organizations that have come forward to support our bill. I thank the UAW, asbestos workers and other unions for their support. I commend the Chairman for his persistent efforts to pass this worthwhile legislation.

Ours is an effort to solve a real problem for a large number of Americans who are the victims of asbestos. Some have used a parliamentary maneuver to stall progress on the trust fund and stall relief to asbestos victims. I will continue working with the Chairman to reconsider that parliamentary maneuver at the earliest opportunity and move forward with this remedial legislation.

Finally, I congratulate the Chairman for being honored with the Courage Award last night and setting an inspirational example for so many.

Statement of Senator Patrick Leahy
The Hatch-Leahy Amendment
to the Trademark Dilution Revision Act of 2005 (HR 683)
February 16, 2006

As we work to strengthen our intellectual property laws, to protect consumers and to crack down on companies that ignore these laws, I am pleased that we are able to address trademark dilution. This bill will protect the basic principles of trademark laws by protecting certain words, images, and logos that convey important information, such as the source, quality, and value of a product to the public.

Consumers have a right to know that they are in fact receiving what they think they are purchasing. Moreover, companies that have expended efforts at creating durable products worthy of a solid reputation deserve to have their trademark - and that reputation - respected.

In 1995, I worked closely with members of the House Judiciary Committee to enact the Federal Trademark Dilution Act. The goal of this bill was to unify differing state trademark dilution laws by expanding the scope of rights granted to famous and distinctive trademarks under the Lanham Act.

However, in 2003, the Supreme Court decided the case of *Moseley v. V Secret Catalogue, Inc.* The Court held that trademark holders had to show actual harm, not the likelihood of harm, from dilution before they could seek injunctions. So trademark holders are now forced to wait until actual injury is complete - and possibly irreparable damage is done -- before they can seek to halt the illegal dilution.

This is contrary to what Congress intended when it passed the dilution statute. What we did intend was to stop diluting before actual harm could be realized and the value of any reputable trademark debased.

H.R. 683 clarifies Congress' intentions when it passed the dilution act a decade ago, allowing an owner of a famous trademark to seek an injunction against a person who attempts to use the mark in a way that is likely to cause dilution by blurring or tarnishment. It lets the court consider "all relevant factors" in determining whether a mark is "famous." It also clarifies the fair use exemption to trademark dilution to ensure that innocent search engines are not caught up in the liability net.

Importantly, it also responds to concerns that mark holders would seek to assert dilution protection over otherwise non-famous trade dress by attaching their famous marks to the dress. Lastly, it restores the important "non-commercial use" exemption that has long protected important expressive and First Amendment activities, which the House bill would have restricted.

The legislative process is functioning well when we work with our colleagues across the aisle, and it is at its best when we work on a bipartisan basis with the other chamber. This bill has benefited from broad bi-partisan support in the House. It is my hope we will continue in the spirit of bi-partisanship and move swiftly to enact this bill.

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