

February 8, 1985

TO: ABA - PTC, Committee 305 (Industrial Designs)
FROM: William T. Fryer III, Chairman
SUB: Proposed Mark-Up of Industrial Design Bill for 1985.

Dear Committee Member:

In a week or so our Committee final report will be sent to you for approval. We all appreciate the work of the memebtrs who helped prepare the reports on several important topics related to Industrial Designs.

The enclosed mark-up of last years' Industrial Design Bill, H.R. 2985, 98th Congress, 1st Session, is sent to you with this note for your information and comment. You will recall that the Section in 1983 approved H.R. 2985. The mark-up reflects for the most part changes borrowed from the recently enacted Chip Law. The changes in some instances are considered improvements and in other instances are simply there to facilitate passage, since they represent concepts that some members of Congress apparently consider valuable.

The mark-up was made by a small ad hoc group drawn from various patent associations, so that we could have a common starting point as we go forward, and hopefully minimize any differences between associations. In my view, none of the changes are controversial in natrue but, of course, I would like each member's opinion, if different. If you would like to examine the Chip Law more closely, you will recall I sent you a copy of it with the last Committee mailing.

The change from H.R. 2985 and a brief explanation of its significance are on the mark-up. I can supply you with more background information, if you would like it. You will note that item 14 on page 18 is supported by 1983 Section resolutions, 305-5, recommending that the copyright law not be limited in anyway by this industrial design law. Each Section resolution was considered in the process of preparing the mark-up. The only section resolution that is not included is the one concerning the requirement for use, or offer to use, by the registered design owner, before an infringement suit can be brought (Resolution 305-4, Committee Report 1983, page 158).

At this time I think it is the best strategy to wait and see what bill is introduced in Congress and then have the Committee review it. Due to the timing, with an early deadline for the Committee report, this Committee action on the pending legislation would occur as a supplemental committee report, with a resolution, if appropriate.

I appreciate your continued cooperation. It looks like 1985 will be a busy year for industrial design legislation.

Best regards,



William T. Fryer III
Chairman

WTF:pn

P.S. Industrial Designs Society of America will have its annual meeting in Washington, D.C. this year. It would be a good opportunity to observe their accomplishments and to communicate with them. More information