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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1116

03/04/2013 Authored by Peppin and Atkins

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to trademarks; defining trademark bullying; modifying remedies;
1.3 amending Minnesota Statutes 2012, sections 333.18, by adding a subdivision;
1.4 333.29, subdivision 1.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 333.18, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 9. Trademark bullying. "Trademark bullying" as used in sections 333.18
1.9 to 333.31 means the practice of a trademark holder using litigation tactics in an attempt
1.10 to enforce trademark rights beyond a reasonable interpretation of the scope of the rights
1.11 granted to the trademark holder.

1.12 Sec. 2. Minnesota Statutes 2012, section 333.29, subdivision 1, is amended to read:

1.13 Subdivision 1. **Injunctive relief; money judgment.** An owner of a mark registered
1.14 under sections 333.18 to 333.31 may bring an action to enjoin the manufacture, use,
1.15 display, or sale of any counterfeits or imitations of the mark, and a court of competent
1.16 jurisdiction may grant injunctions to restrain the manufacture, use, display, or sale as
1.17 the court considers just and reasonable. The court may require the defendants to pay
1.18 to the owner either or both of the following: (1) all profits derived from the wrongful
1.19 manufacture, use, display, or sale; or (2) all damages suffered by reason of the wrongful
1.20 manufacture, use, display, or sale. The court may also order that counterfeits or imitations
1.21 in the possession or under the control of a defendant be delivered to an officer of the court,
1.22 or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for
1.23 an amount not to exceed three times the profits and damages and reasonable attorneys'

2.1 fees of the prevailing party if the court finds the other party committed the wrongful acts
2.2 with knowledge or in bad faith or otherwise as according to the circumstances of the case.

2.3 The court in exceptional cases may also award reasonable attorney fees to the
2.4 prevailing party. Exceptional cases include cases where a party brings suit for harassment,
2.5 malicious, fraudulent, or willful purposes, including trademark bullying.

2.6 Sec. 3. **EFFECTIVE DATE; APPLICATION.**

2.7 Section 1 and 2 are effective August 1, 2013, and apply to actions arising from
2.8 incidents occurring on or after that date.