

108TH CONGRESS
2D SESSION

H. R. 3872

To prohibit the misappropriation of databases while ensuring consumer access to factual information.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2004

Mr. STEARNS (for himself, Ms. SCHAKOWSKY, Mr. BOUCHER, Mr. UPTON, Mr. DINGELL, Mr. SHADEGG, Mr. MARKEY, Mr. PICKERING, Mr. DEUTSCH, Mr. TERRY, Mr. TOWNS, Mr. ISSA, Mr. GORDON, Mr. RUSH, Ms. ESHOO, Mr. GREEN of Texas, Ms. MCCARTHY of Missouri, Ms. SOLIS, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the misappropriation of databases while ensuring consumer access to factual information.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Access to
5 Information Act of 2004”.

6 **SEC. 2. MISAPPROPRIATION OF A DATABASE.**

7 (a) MISAPPROPRIATION PROHIBITED.—The mis-
8 appropriation of a database is an unfair method of com-

1 petition and an unfair or deceptive act or practice in com-
2 merce under section 5(a)(1) of the Federal Trade Com-
3 mission Act (15 U.S.C. 45(a)(1)).

4 (b) DEFINITION.—For purposes of subsection (a),
5 the term “misappropriation of a database” means that—

6 (1) a person (referred to in this section as the
7 “first person”) generates or collects the information
8 in the database at some cost or expense;

9 (2) the value of the information is highly time-
10 sensitive;

11 (3) another person’s (referred to in this section
12 as the “other person”) use of the information con-
13 stitutes free-riding on the first person’s costly efforts
14 to generate or collect it;

15 (4) the other person’s use of the information is
16 in direct competition with a product or service of-
17 fered by the first person; and

18 (5) the ability of other parties to free-ride on
19 the efforts of the first person would so reduce the
20 incentive to produce the product or service that its
21 existence or quality would be substantially threat-
22 ened.

23 **SEC. 3. LIMITATION ON LIABILITY OF CERTAIN ENTITIES.**

24 (a) LIMITATION ON LIABILITY.—No provider of an
25 interactive computer service shall be liable under section

1 2 for making available information that is provided by an-
2 other information content provider.

3 (b) DEFINITIONS.—In this section, the terms “inter-
4 active computer service” and “information content pro-
5 vider” have the meaning given to those terms in section
6 230(f) of the Communications Act of 1934 (47 U.S.C.
7 230(f)).

8 (c) CONSTRUCTION.—For purposes of section 230 of
9 the Communications Act of 1934 (47 U.S.C. 230), the
10 provisions of this Act shall not be construed to be a law
11 pertaining to intellectual property.

12 **SEC. 4. REMEDIES.**

13 (a) TREATMENT OF VIOLATIONS AS RULE VIOLA-
14 TIONS.—A misappropriation of a database under section
15 2 shall be treated as a violation of a rule defining an un-
16 fair or deceptive act or practice prescribed under section
17 18(a)(1)(B) of the Federal Trade Commission Act (15
18 U.S.C. 57a(a)(1)(B)).

19 (b) FTC AUTHORITY.—The Federal Trade Commis-
20 sion shall enforce this Act in the same manner, by the
21 same means, and with the same jurisdiction, powers, and
22 duties as though all applicable terms and provisions of the
23 Federal Trade Commission Act (15 U.S.C. 41 et seq.)
24 were incorporated into and made a part of this Act.

1 **SEC. 5. EXCLUSIONS.**

2 Nothing in this Act shall—

3 (1) affect the operation of the Securities Act of
4 1933 (15 U.S.C. 78a et seq.), the Securities Ex-
5 change Act of 1934 (15 U.S.C. 78a et seq.), the
6 Trust Indenture Act of 1939 (15 U.S.C. 77aaa et
7 seq.), the Investment Company Act of 1940 (15
8 U.S.C. 80a–1 et seq.), the Investment Advisers Act
9 of 1940 (15 U.S.C. 80b et seq.), the Securities In-
10 vestor Protection Act of 1970 (15 U.S.C. 78aaa et
11 seq.), or the rules and regulations thereunder;

12 (2) affect the authority of the Securities and
13 Exchange Commission; or

14 (3) apply to information with respect to
15 quotations for, or indications, orders, or transactions
16 in, securities.

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