

AUTOMOTIVE BODY PARTS ASSOCIATION

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Ms. Karin Ferriter
Mail Stop External Affairs
Director, U.S. Patent & Trademark Office
Post Office Box 1450
Alexandria, Virginia 22313-1450

RE: Automotive Body Parts Association Testimony for USPTO Tour on Protection of Industrial Designs

Ms. Ferriter:

The Automotive Body Parts Association (ABPA) is a non-profit organization representing more than 400 separate collision parts distribution, bumper sales, recycling facilities and manufacturing plants across the United States that are responsible for distributing approximately 75 percent of independently produced aftermarket crash replacement parts sold to the collision repair trade.

ABPA has joined representatives of The Consumer Federation of America (CFA), Public Citizen, Consumers Union, the Center for Auto Safety, Advocates for Highway and Auto Safety, and others in support of continuing 60 years of consumer choice and competition in the automobile replacement parts marketplace.

Carmaker replacement parts are generally 30 percent to 40 percent higher than the independently produced counterparts with which they compete. Even the most minor of fender-benders, without a permanent solution, would cost hundreds of dollars more to repair absent the competition in parts selection. Additionally, if choice is removed, consumers could also soon feel the sting of a monopoly on crash replacement parts in escalating insurance premiums.

By introducing and championing H.R. 5638, legislation that provides an exception from design patent infringement for alternative repair parts used for the purpose of restoring a vehicle to its original appearance, Representative Zoe Lofgren (CA-16) has gone to bat for consumers throughout America. ABPA requests that USPTO encourage the Administration to take a position of support for that legislation, to ensure that the

American motoring public continues to see the benefits from competition provided by quality alternative parts.

The carmakers are now using design protection to throttle competition. In mid-May of 2007, a ruling by the International Trade Commission (ITC), which named several ABPA members, essentially eliminated consumer choice for seven separate alternative parts for the 2004-2007 Ford F-150 pickup truck. Research shows that the number of design patents awarded to the major automobile manufacturers has grown to about 20 to 25 percent of the total U.S. patents awarded to those manufacturers.

We foresee that the ITC's decision will trigger many more new Section 337 cases by automakers. In fact, on May 2, Ford filed another complaint before the ITC, this time regarding certain collision parts for the Ford Mustang. This purposeful manipulation by the major auto manufacturers is damning to consumerism and the free marketplace.

If H.R. 5638 or similar legislation is not passed, the U.S. government is in essence delivering a monopoly on crash replacement parts to the carmakers, a development which would financially burden an already over-taxed driving public with increased direct and indirect costs for consumers and threaten dire consequences for America's aftermarket parts industry.

Thank you for this opportunity to submit testimony and for your consideration of ABPA's remarks.

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