



July 8, 2008

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

RE: Submitted Testimony For USPTO Tour On Protection Of Industrial Designs

Ms. Ferriter:

The Coalition for Auto Repair Equality (CARE) is an Alexandria, Virginia-based, non profit, national organization representing companies in the automotive aftermarket, including “mom and pop” shops. CARE was formed in 1991, to fend off car company, monopolistic, congressional legislation known as The Design Innovation and Technology Act, HR 1790. Had this bill passed, it would have granted a 10 year monopoly on all parts and eventually service to the car companies and their car dealerships. In addition, it would have eventually eliminated the automotive aftermarket through the elimination of competition, and would have eliminated any hope of motoring consumers to continue to have affordable, quality choices in their vehicle repairs.

Fortunately, many in Congress agreed with consumers and for the continuance of free-market competition, and thus defeated the bill in a Judiciary Subcommittee in the Winter of 1992.

However, never let it be said that a bad idea cannot be reborn to strike at the hearts and wallets of motoring consumers, especially during an economic belt-tightening, during which motorists may have to choose between purchasing gasoline and food or having their vehicles repaired. The choice to repair their vehicles should be held in the balance.

The new incarnation by the car companies of the 1991 Design Innovation and Technology Act is to have as many individual patents on vehicles, such as the popular Ford F-150, affecting designs such as hoods, bumpers and others parts, so that aftermarket parts cannot be manufactured to repair and fit the vehicles. This piece-meal monopoly will eventually cover every part of a vehicle, including under the hood and interiors, as well as exterior parts.

Should this car company monopoly strategy prevail, motoring consumers will be forced into purchasing expensive car company parts or choosing NOT to have the repairs made. Exterior parts patents may and could easily be morphed and expanded into eventually covering safety aspects of vehicles, such as brakes.

Since motoring consumers will lose their voice and control over their own property, this time their vehicles' repairs, it could be argued that they do not unequivocally own their vehicles, but are being indefinitely held hostage to the car companies.

Without competition, there is little or no reason for the car companies to develop better quality parts at competitive prices. A free-market system has always been used for innovation and improvements, resulting in consumer satisfaction. Aftermarket parts cost up to 50 percent less than the identical car company parts, and aftermarket parts come with long-term or life-time warranties, which car company parts do not.

CARE, of course, supports protection for the car companies' intellectual property. However, this is not about violation of intellectual property, but it is about the car companies' historic desires and actions to restrict the manufacture of aftermarket parts that, in this case, must look and function like the original part in order to sell.

A legislative solution exists in HR 5638, introduced by U.S. Representative Zoe Lofgren. This legislation allows for competition among the industries while protecting the car companies' intellectual property.

CARE strongly supports HR 5638 and we urge the examination of the current patent process that could be restricting one of America's foremost industries from being fully operational—the automotive aftermarket.

Thank you for this opportunity to submit testimony and for your consideration of our remarks.

Sincerely,

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