

APPENDICES

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Vessel Hull Design Protection Act Report

Appendices

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PUBLIC LAW 105-304-- OCT. 28, 1998

DIGITAL MILLENNIUM COPYRIGHT ACT

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TITLE V- PROTECTION OF CERTAIN ORIGINAL DESIGNS

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SEC. 504. JOINT STUDY OF THE EFFECT OF THIS TITLE.

(a) In General.--Not later than 1 year after the date of the enactment of this Act, and not later than 2 years after such date of enactment, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.

(b) Elements for Consideration.--In carrying out subsection (a), the Register of Copyrights and the Commissioner of Patents and Trademarks shall consider--

(1) the extent to which the amendments made by this title has been effective in suppressing infringement of the design of vessel hulls;

(2) the extent to which the registration provided for in chapter 13 of title 17, United States Code, as added by this title, has been utilized;

(3) the extent to which the creation of new designs of vessel hulls have been encouraged by the amendments made by this title;

(4) the effect, if any, of the amendments made by this title on the price of vessels with hulls protected under such amendments; and

(5) such other considerations as the Register and the Commissioner may deem relevant to accomplish the purposes of the evaluation conducted under subsection (a).

PUBLIC LAW 106-113-- NOV. 29, 1999

INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

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TITLE V- MISCELLANEOUS PROVISIONS

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SEC. 5005. TECHNICAL AMENDMENTS RELATING TO VESSEL HULL DESIGN PROTECTION.

(a) In General.--

(1) Section 504(a) of the Digital Millennium Copyright Act (Public Law 105-304) is amended to read as follows:

“(a) In General.--Not later than November 1, 2003, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.”.

S. Lourie, Attorney-Advisor, Office of External Affairs, United States Patent and Trademark Office, Box 4, Department of Commerce, Washington, DC 20231. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenues, SE., Washington, DC and the Office of External Affairs, United States Patent and Trademark Office, Suite 902, 2121 Crystal Drive, Crystal Park 2, Arlington, VA. The public meeting will take place in LM-414 (CARP Hearing Room), James Madison Memorial Building, First and Independence Avenue, SE., Washington, DC. Notices of intent to participate in the public hearing should be faxed to (202) 252-3423 or e-mailed to wroberts@loc.gov.

FOR FURTHER INFORMATION CONTACT: William J. Roberts, Jr., Senior Attorney, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366. Linda S. Lourie, Attorney-Advisor, Office of External Affairs, U.S. Patent and Trademark Office, Box 4, Department of Commerce, Washington, DC 20231. Telephone: (703) 305-9300. Telefax: (703) 305-8885.

SUPPLEMENTARY INFORMATION:

Background

As a part of the Digital Millennium Copyright Act of 1998, Congress passed the Vessel Hull Design Protection Act ("VHDPA") which created sui generis protection for original designs of watercraft hulls and decks. The VHDPA was slated to sunset after two years but in 1999, as part of the Intellectual Property and Communications Omnibus Reform Act, the VHDPA was made a permanent part of the law. See 17 U.S.C. chapter 13. In making the VHDPA permanent, Congress directed the Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to conduct a study on the effectiveness of the VHDPA and report their findings to the Judiciary Committees of the Senate and House of Representatives by November 1, 2003.

In conducting the study, the Copyright Office and the U.S. Patent and Trademark Office are required to consider a number of factors. See Section 504 of the Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860. First, we must examine the extent to which the VHDPA has been effective in suppressing infringement of protected vessel hull

LIBRARY OF CONGRESS

Copyright Office

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. 2003-1]

Vessel Hull Design Protection Act

AGENCIES: The United States Copyright Office, Library of Congress; and the United States Patent and Trademark Office, Department of Commerce.

ACTION: Request for comments and notice of public hearing.

SUMMARY: In preparation for the report to the Congress on the Vessel Hull Design Protection Act, the United States Copyright Office and the United States Patent and Trademark Office are requesting written comments and are announcing a public hearing.

DATES: Written comments must be received on or before March 20, 2003. Reply comments must be received on or before April 14, 2003. The public meeting will be held on March 27, 2003, starting at 10 a.m. at the address below. Requests to participate or attend the public meeting are on a first-come, first-served basis and must be received by close of business on March 20, 2003.

ADDRESSES: If sent by mail, five copies of written comments and replies each should be addressed to: William J. Roberts, Jr., Senior Attorney, GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400 and Linda

designs. Second, we must consider the extent to which the vessel hull design registration process contained in chapter 13 of title 17 has been utilized by those eligible to claim protection. Third, we must consider the extent to which the creation of new designs of vessel hulls have been encouraged by the VHDPA. Fourth, we must examine the effect, if any, that the VHDPA has had on the price of protected vessel hulls.

Finally, we are directed to consider any other factors deemed relevant to accomplishing the purpose of this study. One item for consideration under this category is what, if any, amendments need to be made to the VHDPA to improve its function and/or effectiveness.

Request for Written Comments

In order to accomplish our assigned task, the cooperation and participation of marine manufacturers, designers and those affected by the VHDPA is essential. Consequently, we request interested parties to submit written comments and information/data relevant to the study factors described above. Although we are desirous of information related to all factors, we are particularly interested in receiving information as to how the VHDPA has stimulated the creation of new vessel hull designs, and what effect, if any, protection for designs has had on the price of watercraft. Interested parties submitting data or information that they consider confidential should appropriately mark such documents so that they are not included in the public record of this proceeding.

Public Hearing

To further the goal of obtaining relevant information and drafting the report, a public hearing will be held at the Copyright Office (see above for the specific address) on Thursday, March 27, 2003, at 10 a.m. The public hearing is intended to allow participants to present relevant information and answer questions from staff preparing the report. Those wishing to attend should notify the Copyright Office by fax or e-mail no later than March 20, 2003.

Dated: February 10, 2003.

David O. Carson,

General Counsel, Copyright Office.

Jonathan W. Dudas,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 03-3749 Filed 2-12-03; 8:45 am]

BILLING CODE 1410-30-P

**Vessel Hull Design Protection Act
Public Comments Received By United States Copyright Office**

[Docket No. 2003-1]

Comment No.	INDIVIDUAL/ORGANIZATION
1	J. Curtis Edmondson P.E. McGeorge School of Law
2	Paul Pollinger
3	Roger Yarborough, Vice President and General Manager Dynasty Boats, Inc.
4	Gary Clouse, President Champion Boats
5	Gary Clouse, President Champion Boats
6	David Neese, Vice President of Engineering Grady White Boats
7	Al Kuebelbeck, President Crestliner
8*	William T. Fryer, III Professor University Baltimore
9	J.J. Marie, President Zodiac of North America, Inc.
10	Les Crawford, President Lowe Boats
11	Monita W. fontaine, Vice President, Government Relations National Marine Manufactures Association [Note: Comments 3, 4, and 12 were attached]
12	Ron DiBartolo, President Challenger Power Boats
13	Scott Deal, President; Susan Blaxill-Deal, General Counsel Maverick Boat Company, Inc.
14	David Marlow, Director, Product Integrity Sea Ray Boat Group
15	Michael Schmicker, Vice President Business Development Pacific Marine/Navatek
16 - Reply Comment	National Marine Manufacturers Association Monita W. Fontaine, Esq.

* Appendices have been omitted. Please contact the U.S. Copyright Office to obtain copies.

J. Curtis Edmondson, P.E.
McGeorge School of Law
1865 7th Avenue
Sacramento, CA 95818
916.396.1353
916.498.9106 (fax)

Memorandum

RECEIVED

To: William J. Roberts, Jr, Copyright Office

Cc: Linda S. Lourie, USPTO

From: J. Curtis Edmondson, P.E.

Date: 03/18/03

Re: Public Comments on Vessel Hull Design Protection Act

MAR 20 2003

GENERAL COUNSEL
OF COPYRIGHT

1. Introduction

The Vessel Hull Design Protection Act (VHDPA) provides design protection for boat hulls. The author¹ of the memorandum believes that the design protection should be read to encompass protection for surfboards.

2. Does the Vessel Hull Design Protection Act apply to Surfboards

There has been some debate whether surfboards would fall within the scope of the VHDPA. To the knowledge of this author, no surfboard designs have been presented to the Copyright office for consideration under the auspices of this legislation. Also, recent conversations with members of the Copyright Office on March 6, 2003, indicated that they were unaware of any registrations of surfboard designs and that this legislation is probably not suitable for the manufacturers of surfboards.

Surfboards, like boats, are designed with a considerable investment in time and money by the designers and manufacturers. It would seem incongruous would this legislation would be so narrowly tailored to excluded a class of manufacturers simply because they are perceived as free spirited folks from the west coast.

¹ The commentary provided by this author has not been sponsored by any surfing association nor any manufacturer of surfboards. Rather, it is derived from the authors general affection for the sport having grown up on the sunny beaches of San Clemente, California.

DECKET NO.
2003-1
DATE ENCL. NO. 1

Despite a clear lack guidance from case law or administrative decisions, the enacted statute and comments made during public hearings when the statute was enacted clearly indicate that surfboards should fall within the ambit of this legislation.

a) Surfboards fit within the hull dimensions outlined in VHDP

Section 1301(b)(3) of the VHDP provides a defines the dimensions of the vessel as "...one larger than a rowboat,... but does not include any such craft that exceeds 200 feet in length". Congress has clearly defined an absolute upper bound on vessels that have been considered.

To determine the lower bound, it is possible to referencing external sources, it is possible to find rowboats that are approximately 7 feet in length (see <http://www.simplicityboats.com/OSchallengerresults.html>). Likewise, at public testimony on October 23, 1997 before Congressman Noble, a representative from Zodiac, a maker of inflatable boats testified in favor of the VHDP. Their company manufactures a boat with a hull length of 6'7". No is no record indicating that objections were made to the length of their boats.

Surfboards clearly fit within the dimensions of rowboats. A "shortboard" may have dimensions ranging from 4-6 feet. A "longboard" can range from 8 -12 feet in length.

Therefore, there is nothing to indicate that the legislature intended to exclude surfboards simply based on length.

b) Are Surfboards 'crafts designed to navigate on water'

If a surfboard is considered purely a device for recreational purposes, then an argument may be raised that it is not a "craft designed to navigate on water".

Functionally, surfboards have most of the same elements of the navigable craft. A keel is present on most boats and is present on surfboards in the form of a skeg (skag). Surfboards have also been used to navigate from Catalina Island to Newport Beach (see <http://www.surfmuseum.org/legends/tomblake.html>). Also, surfboards have been used as platforms for the purpose of sportfishing, an activity not uncommon to boaters (see attached letter from Brent Matschke).

Surfboards also serve a valuable utility when used to rescue drowning swimmers. It is not uncommon to see beach lifeguards to not only have

a rescue buoy, but, to also have a surfboard or paddleboard to assist them in their efforts.

Therefore, although the primary use of surfboards is to ride waves for recreational purposes, surfboards serve a valuable utility when used to assist fisherman or save lives.

c) Surfboards can fit within the requirement of an "original design"

Section 1302 of the VHDP A indicates that designs must be "original". The originality requirement may present a significant hurdle to the registration of most surfboard designs.

The author of this memo has received commentary that the surfboard manufacturing (aka 'shapers') is a small community of craftsmen that regularly exchange designs (email from representatives of Clarke Foam, Infinity Surfboards, and Kim Paddington, available upon request). A free flow exchange on information on designs would clearly create a statutory bar making surfboards not suitable for registration under VHDP A 1302 (2) (staple or commonplace designs not suitable for registration).

Historical analysis of the development of surfboard designs teaches otherwise: that there is significant innovation due to designer experimentation. The pintail design, the swallowtail design, and the thruster skeg configuration are clear examples of innovation. Although certain designers may choose to forgo protection for the purpose to openly donate their ideas, other designers should not be foreclosed protection as a matter of public policy.

An analogy may be found in software development community in what is known as the "open source movement". Certain software authors may forsake certain copyright protections for the purpose of donating their developed code to betterment of a community of programmers. But, it is quite common that these same authors seek copyright protection in other situations.

It is also clear that some surfboard manufacturers use a 'design approach' to fabricating their boards. A partial printout from the "Infinity Surfboards" (Dana Point, CA) web-site demonstrates that surfboard fabrication is approached from a design perspective. Likewise, several websites market instructions so that a board may be built from a design. (see <http://www.transmediapublishing.com/site/index.html>).

Therefore, whether a surfboard design is excluded pursuant to 1302 should be a matter for the Copyright office and the Courts to decide.

Outright rejection of any registrations for unique designs, simply on the basis that they are "surfboards" would clearly be improper.

3. The Surfing industry will require design protection as new designs are created and the relative ease of overseas design copying.

The surfboard building industry are faced with many of the same challenges as boat builders. Current surfboard designs may be scanned using three dimensional scanning equipment. These designs can then be transmitted to production facilities overseas.

This method of design copying does not differ greatly than the "hull splashing" which served as the impetus to enacting the VHDPA.. After the design is input it is possible to use CNC machines to directly cut a foam blank to precise tolerances.

Although the economic difference between a copied boat hull and a copied surfboard differs greatly on an absolute basis, boats having a sale price typically one or two orders of magnitude more than surfboards, the percentage difference is more than likely on the same scale.

4. Current Lack of Design Registrations for surfboards is not indicative of the lack of need for future registrations.

The five year history of the VHDPAs has yielded over 100 registrations. These registrations have largely been awarded to marine manufacturers of boats. This is not surprising since the legislation enacted after the decision in *Bonito Boats, Inc. v Thundercraft Boats, Inc.*, 489 U.S. 141 (1989), was in reaction to loss of state law protections for boat builders.

The surfboard manufacturing industry is not as mature as the boat building industry. Surfing is still not a sport that is as widely practiced as pleasure boating.

With media attention since the 1970's (movies such as "Endless Summer", "Big Wednesday", and "Blue Crush") and the rise in population on both coasts, this is bound to change. This change will prompt improved manufacturing techniques. These techniques will prompt capital investment in surfboard manufacturing. These investments in both manufacturing and engineering will probably warrant some protection.

5. Conclusion

The surfboard designer, like any designer, intrinsically feels that a new and innovative design is 'his'. These innovations should be able to command a premium price as a reward for the efforts put forth by the designer.

Comments provided in 1997, during the hearings sponsored by Congressman Coble, clearly indicated that VHDPAs were intended to protect the marine industry. The Copyright Office and the Courts have had a history of expansive rather than restrictive interpretation of the statutes.

Although a surfboard may be seen by some as a dalliance to some, a few conversations with anyone involved in the sport, will quickly show that it is a serious activity that has captured the hearts of millions.

March 12, 2003

William J. Roberts, Jr.
Senior Attorney
P.O. Box 70977
Southwest Station
Washington, DC 20024

Re: Statement of Surfboard Use

Dear Mr. Roberts,

I have used a surfboard, 10' in length, blue in color, and with a single fin for the purpose of fishing. When surfboard fishing, I wear a back pack that I use to carry a small supply of fishing tackle and also in which I store any fish that I catch. I paddle the board a 100 yards or so off shore with the fishing pole held between the surfboard's deck and my chest. Once in position, I simply sit upright and fish as though I were in a canoe or any other small boat.

Sincerely,

/s/
Brent Matschke



LONGBOARDS

Models

[Design Article](#)

[Surfing Pictures](#)

[Airbrush Design](#)

[How to Order](#)

INFINITY LONGBOARDS

What Do These models Do Anyway?

By Steve Boehne

So your thinking about getting a new surfboard and your trying to decide which Infinity model is best for you. Your decision is important, hopefully this article will help to clarify the different aspects of surfboard design. A surfboard was one of the last things made in America 100% by hand, unfortunately, most of the big name, high production shops use shaping machines to create their boards. Their shapers create nothing, they just fine sand after the machine. We do not use a shaping machine at Infinity because shaping is the most artful part of making a surfboard. The shaper gives the board birth, he controls the genes that will give it personality. That board will either flow with you and be there for you in the tight spots, or it will fight you every step of the way and toss you off like a mean old horse. I have been shaping surfboards since the age of 13 in 1960. It has taken nearly this long to learn the "genealogy" of their design. The combination of length, thickness, tail rocker, nose rocker, center rocker, concaves, "V" tail, rail contour, edges, outline, and fins used to make that board your best friend take years of

is unlike the "thruster" where the center fin is the same size as the side fins and positioned about 5" behind. When fins are spread forward and back like a thruster, they actually fight against each other during a turn. I discovered the advantage of the Cluster by using a fin box in the center of a thruster. I found that as the fin was reduced in size and moved forward right up behind the side fins, that the board's turning was improved immensely. With our convertible version, you can switch back and forth to a single or Cluster and compare the difference yourself on the same board.

The Cluster model is the best turning board I have ever ridden. The design utilizes two 5 1/2" rail fins plus a small 3" center fin. The concept: a surfboard is banked up and turned on its rail, but on a traditional single fin design, the fin is positioned in the center of the board, usually 7 1/2" from the rail. A tremendous loss of power occurs because the water can flow around and past the rail as you turn, especially as the single fin is angled over from vertical. That is also why single fins sometimes "spinout". The Cluster side fins however, are installed right there on the rail, right at the pivot point of your turn. The fins are canted out and maintain full bite through the turn.



None of the wave energy is lost. Your turn is sharper, faster and easier.

The Cluster actually accelerates and projects you out of a bottom turn and up the wave face. You suddenly find yourself able to "draw vertical lines" up and down the wave like a shortboard surfer. A good surfer can ride more radically and a beginner can learn to turn easier. It's like power steering, you just lean and the board follows.

surfing, shaping and analyzing to know. I have carefully, sometimes relentlessly, passed this knowledge and shaping techniques on to the privileged few who shape Infinity surfboards. We Infinity shapers feel so lucky to have made a career of creating a beautiful product, contributing to a great sport and making surfers happy. Talking with a surfer, figuring out the performance characteristics that he is looking for in a board and then shaping, tweaking and blending all the variables into his best board ever is intensely rewarding.

You need to clarify what you want out of a board especially if you plan to have only one board. A lot of guys really don't get up on the nose, it wouldn't matter if they had the best nose rider in the world. These guys usually prefer carving, turning and trimming from behind the center of the board, yet they often buy a nose rider when they would prefer a board with more kick (turn up) in the nose and a faster release in the tail. Luckily, today's surfers can usually afford several Infinity models in their quiver. One to match the waves or mood of the day. Once you get your board, every wave you catch is free. Did you know that since 1960, the price of a surfboard has only increased by a multiple of 5.24 while cars have gone up 16 times and homes 22 times.

Each Infinity longboard model is designed to maximize a different performance characteristic. (A custom shape can be further fine tuned to suit an individuals surfing needs.) Sometimes just a good all-around board is the objective. The Classic model for the older guys and Competitor for the young guys does the job. The other three objectives in board design are usually: 1. speed with fast carving turns, 2. nose riding, and 3. paddleability for guys over 30.

The Cluster design has revolutionized our approach to achieving speed with carving turns. It is called the Cluster because the fins are grouped "clustered" nearly in a row across the board. The front of the center fin is aligned to the rear of the side fins. This

Because the Cluster can do a more vertical style of surfing (instead of just right and left), we put more kick (turn up) in the nose so it won't "catch" or "pearl" at the bottom of the wave. The kick also helps in late takeoffs and the beginner surfers errors in judgment. Because of a faster tail rocker and kicked nose, the Cluster catches waves easier and can be ridden in really large waves. It has a tremendous range in terms of wave size. The Cluster nose rides about the same as most boards, but was never meant to be a nose rider. I realized that a lot of guys wanted a Cluster nose rider, so the Rad Noserider was born. Rather than draw vertical lines, its' designed to trim across a wave face and do quick right - left cutbacks.

The objective of the Rad Noserider is to actually have two boards in one. The front half is the fastest trimming, most stable nose rider imaginable and the back half is a carving, turning, cutback machine. I have found that by quantifying design, rather than "eyeballing", measuring and placing rocker forward or behind center and blending nose concave into a "V" bottom tail that I can dial in performance characteristics very reliably. I can for example, place the fastest point of trim anywhere I want on a surfboard. In the Cluster, its behind center, in the Rad Noserider, its in front of center. A good nose rider will have less nose rocker to allow planning speed on the nose and extra tail rocker to suck the tail to the water surface.

This can be explained if you think of a nose rider like a seesaw: While standing on the nose, your weight is trying to make the board pearl. The tail rocker is lifting the water which in turn causes a downward suction. The mid section is actually supporting most of the surfers weight.



The Rad Noserider has a very long, concave that goes all the way back to the center of the board. It redirects the water to the center of the board instead of towards each rail as a belly would do. This concave is designed so that as the water first encounters the nose of the board (while you're nose riding) it feels no resistance until after it's passed under you. This is to prevent the board from "pushing" water and slowing down. Have you noticed when you bodysurf, that if you put your arms at your side and make a concave by keeping your head down in the water that you can stay in the wave longer? As soon as you lift your head up to get a breath of air, you slow down and loose the wave. That's because you loose the planning effect of your concave chest and you increase your body's rocker and stall out of the wave.

The Rad Noserider has a bevel under the rails, on each side of the concave. They make the board "forgiving" and allow you to "climb and drop" up and down the wave face while trimming on the nose. The bevels flow gracefully from each side of the concave into the "V" bottom-tail. To make the board nose ride, the Cluster "V" bottom is reshaped into "sweet spot rocker". The "V" and rocker are focused on a spot about 22 1/2" from the tail. This spot is placed between your feet directly under where you stand when turning. It makes the board turn and cutback incredibly well, almost like turning on a ball bearing. In addition, the tail template has been pulled into 14". This makes for fast zig-zag turns because your back foot reaches all the way across the tail where your toe and heel can press on each rail without moving your foot.

This sounds funny, but you can “fool the water” by blending a straighter speed rocker and then suddenly adding 3/4” of tail rocker in the last 22” of the board to make it ride the nose. If you combine this trick rocker with a hard rail, the board can be fast and still ride the nose. The Rad Noserider model, with 4 1/2” of tail rocker, is the perfect speed for making fast sections, and you can ride the nose with confidence that the tail won’t pop out

Not everyone wants a hot, fast paced surfboard. In fact, the smoother stylist all know that the classic body positions and smooth graceful turns are performed best on a classic shape with a big single fin and 60/40 rails. Craig Angel, a stylist with an awesome contest record told me once that he did his turns as “big and slow” as possible so that the vision of the maneuver stuck in the judges heads. The Classic, Stylemaster, and Retro all slow down the pace, glide down the line and turn like a Mercedes. I learned to shape professionally in the 60’s, at Gordie Surfboards. Gordie was a meticulous craftsman and master of the egg rail. I have maintained the graceful outlines and rails of the 60’s, but stepped up performance slightly through improvements in “V” and rocker. These classic models feel light and responsive, but smooth and predictable.

Rocker is the most important aspect of performance. It determines where the “sweet spot” is, what size waves the board will work best in, how fast the board will be, and how heavy a surfer it will work best for. The bigger and faster the wave, the less rocker you should have in order to insure that a boards’ maximum speed would be adequate. For the 160 - 180 pound surfer, I have found that a 9’ board works best with these tail rockers. Big fast waves, 2 3/4”, medium waves, 3 3/8”, and slower reef breaks, 3 7/8”. For an 8’6” board, you can subtract 1/4” and add 1/4” for a 9’6” board. Really big guys need less rocker to keep their boards from tracking too deep in the water. I use about 1/2” less tail rocker in a big guy floater. All Clark Foam blanks I use are glued to

“private” Infinity rockers. Each rocker bends the blank to the bottom contour needed in each Infinity model.

With all this in mind, you still have to decide which model to buy. If you are an experienced surfer and want to improve your nose riding, get a Rad Noserider. The Competitor is excellent for young, strong guys who like a good all around performance board. If you like the classic style, get one of our classic models: Style Master, Classic, Retro. If you really don't ride the nose or you are a beginner, then you'r better off with a model like the Cluster that has more kick in the nose. (We can make the other models with more kick in the nose when requested) If your not sure about 3 fins, then you can get a Cluster convertible. It can be converted to a single fin so that you can ride it both ways and decide what you like for yourself. Remember that what your really trying to do is have fun. Your boards' length and thickness must be matched to your weight and ability. If your board is so hard to paddle out and catch a wave on that the effort is not worth the fun you get from the ride in then what's the point anyway? If your not sure what thickness you need for easy paddling, refer to the FLOATER paragraph on the Long Board Models page. (keep in mind that board length and thickness determine buoyancy)

Background

Steve Boehne started surfing in 1959 on a balsa Velzy Jacobs. In 1960, he bought a foam blank (they only came in red or green at the time) hand cut it down the center and glued in a 1"redwood stringer. He shaped and glassed the board in his garage. Through high school he bought Walker blanks and would make a board for anyone - as long as it was in their garage.

While attending Cal State Fullerton in 1968, Steve got a job shaping for Gordie Surfboards in

Huntington Beach. Gordy was a real craftsman and spent many hours teaching Steve techniques in quality and accuracy. By 1970, Steve was shaping for four different surf shops in Huntington Beach, all at the same time. Steve is noted as saying, "I shaped 50 boards a week in 1970, probably 50% of all boards sold in Huntington Beach that year."

Steve has also been involved in tandem surfing competition. In 1962, Steve bought Hobie's personal tandem board and started surfing tandem at age 15. Since then, he and his wife Barrie have won the United States Championships in 1969 and 1982, the World Contest in 1971 and 1994, the prestigious Makaha International Tandem Championships in 1971, 1972, 1973, 1979, 1982, 1983. and the European Championships at Biarritz, France in 1995 and 1997.

Steve and Barrie started Infinity Surfboards in 1970. They have shared their love of tandem surfing with their friends and their love of surfing with everyone who has owned an Infinity surfboard. Their sons, Dave and Dan both work in the family business as well.

[Travel with Infinity Surf](#) | [WaveSki](#) | [ShortBoards](#) | [Tandem Surf](#) | [LongBoards](#) | [Products for Sale](#) | [Tropical Boutique](#) | [Home](#) | [Newsletter](#) | [Team Infinity](#) | [How to Contact Infinity Surf](#) | [E-mail Infinity Surf](#)

DOCKET NO.
RM 2003-1
COMMENT NO. <u>2</u>

**RESPONSE TO COPYRIGHT OFFICE REQUEST FOR COMMENT ON
VESSEL HULL DESIGN PROTECTION ACT**

My name is Paul Pollinger and I am an independent business person and holder of a Vessel Hull Design Protection Act copyright referred to as the Pollinger River/Ocean Hull Mod1. I am a beneficiary of the limited protection that the Act provides. I am not an attorney and do not know in detail the intent of the present copyright law.

While it is certainly true that holding this copyright is better than no protection at all, I would like to take this opportunity to request that the Vessel Hull Design copyright be extended in terms of years as it takes a long time for some endeavors to come to fruition. Clearly, ideas for short sea and inland waterway vessels like mine don't evolve quickly like dot com ideas. The conservative barge industry takes a long time to change. In fact, my idea could just as easily have been presented any time in the last 40 years ago had some one else thought about it in the way I did. A longer term for the copyright would ensure that my copyright protection will not end just when the Hull is being launched.

I also suggest that the Vessel Hull Design Protection Act today is in fact an enabling vehicle for spin-off projects and, as a result, once the Mod 1 Hull is successful, the Copyright Office will see a cascade of related ideas.

Some of the consequences of the Act, in my case, are as follows:

The Mod 1 Hull is a combined river/ocean hull specifically designed to navigate shallow draft routes and safely traverse ocean environments. It addresses significantly greater utilization of inland waterways and ports as well as short sea shipping routes and many deep water ports. It achieves this by combining, in a single vessel, the attributes of inland waterway operation with the strengths of ocean transportation for many markets

It is not a question of will the Mod 1 Hull sail the route, which now appears to be unchallenged, but of proving cost comparisons and persuading the massive container market to the Mod 1 Hull option. Introducing change into such historical operations as the inland waterways as well as short sea routes takes more time than I thought. However, I can discuss some of our goals and how they could provide incentive to Congress for funding this law.

The Mod 1 Hull will reduce the transportation costs for many important products thus making the same goods less expensive to the U.S. consumer. Economist generally agree that lower transportation costs are good for businesses and will spur growth in the impacted area. In this case the impacted area includes the Central U.S., the East Coast, Mexico and other regions.

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MAR 18 2003

GENERAL COUNSEL
OF COPYRIGHT

River industry publications continuously report that Congress wants to reduce costs per ton mile on inland waterways. While the Mod1Hull won't reduce maintenance costs, it will increase the ton miles carried and thus positively address Congressional cost goals. In addition to adding volume to the waterways, the vessel introduces a greater dollar value to the waterways through containerized product. This in turn opens up the possibility of more jobs along with more profits for companies than simply shipping bulk products.

As short sea and river traffic increases, wear and tear on other forms of right of ways is reduced thus lowering federal and state right of way maintenance costs without significantly increasing costs on the waterways.

Furthermore, barge traffic is more environmentally friendly than other major forms of transportation and thus fewer total emissions will enter the system. For the group, which I support, that sees value in developing SEA 95 to reduce I95 highway congestion between NYC and Bridgeport, the Mod 1 Hull, in a similar scenario, would include the length of I 95 from Florida to Maine. In the Central US, barges place the container where it is easier for the truck or train to reach and most always closer to the customer than is possible with a deep draft hull using an expensive deep draft port.

Additionally, U.S. ship builders like a uniform design purchased in quantity. To the extent that the Mod 1 Hull is a pure hull which is simple in design yet versatile in application, it is positioned to become the universal short sea hull for North and South America.

While we are still accumulating the data, the sum total of the benefits that will flow to the US Government should surpass the cost of administrating the Vessel Hull Design Protection Act many times over.

Who knows how much protection the Vessel Hull Design Protection Act really delivers until there is a test? While it is very possible for someone to come out with a better idea, at least the Hull Design Protection Act makes it slightly more difficult for someone to steal the concept outright. I can say for sure that without the Act, I would not have advanced the time and money to present the hull in any formal way.

My request is that protected time in the ACT be extended to 15 years. I am prepared to document how long, arduous, and expensive it is to get an idea for a new kind of hull design to a concept, then to a product, and finally to a vessel operating in the market place.

Paul G. Pollinger
3713 Fulton St. NW
Washington, D.C. 20007-1343
202 333-6976
203 338-1948 fax



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MAR 18 2003

**GENERAL COUNSEL
OF COPYRIGHT**

March 14, 2003

RE: US Copyright Vessel Hull Registration Copyright Act

William J. Roberts, Jr., Senior Attorney,
GC/I&R
P.O. Box 70400
Southwest Station, Washington, D.C. 20024-0400

Dear Mr. Roberts:

It is the position of Dynasty Boats, Inc. that it is too early to gauge the true effectiveness that the Act has had on suppressing infringement of the design of vessel hulls. Until such time as the courts have had an opportunity to hear arguments on the issues outlined within the law will we truly know how successful the Act will be in stopping possible violators.

Since March 2002, Dynasty Boats has been participating in the registration of our products. We believe the intended protection the hull copyright offers us is definitely going to be an incentive to create new hull running surfaces and thereby increase the value of each product we produce.

Dynasty Boats, Inc. would be more comfortable if the U.S. Copyright office would stop publishing the pictures and drawings on their website. The public display of such confidential information regarding design is troubling. Specifically with regards to the consequences such unethical actions of foreign competition could have on the U.S. boat manufacturers.

Regarding the effect, if any, of the Act on the price of vessels with hulls protected under the Act, again we feel that it is too early to tell.

Best regards,

Roger Yarborough
Vice President and General Manager

LRD

DOCKET NO.
RV 2003-1
COMMENT NO. 3

cc: Linda S. Lourie, Office of External Affairs, United States Patent and Trademark
Kelly Bobec, National Marine Manufacturers Association

D Y N A S T Y B O A T S , I N C .

POST OFFICE BOX 310 • VINEMONT, ALABAMA 35179 • (256) 739-4182 • FAX (256) 739-4185



March 12, 2003

Mr. William J. Roberts, Jr.
Senior Attorney, GC/I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024-0400

RE: Comments on the 1998 Vessel Hull Design Protection Act

Dear Mr. Roberts:

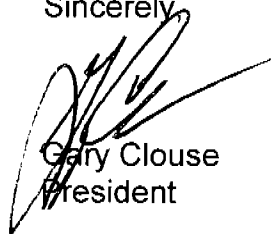
Stratos Boats, Inc. is a manufacturer of boats and is located in Murfreesboro, TN. Our company has utilized the protections afforded by the Vessel Hull Design Protection Act (VHDPA) in our past registrations of new vessel hull designs. We also plan to register our new vessel hull designs under the VHDPA in the future.

The VHDPA provides a disincentive to the unscrupulous practice of "hull splashing," which was quite common in our industry prior to passage of the VHDPA.

While the VHDPA provides us with protection from hull splashing in the U.S., Stratos is concerned that the Copyright Office's posting of the registered vessel hull design on the Internet facilitates the copying of designs by foreign boat manufacturers. Stratos requests that the drawings and photographs of the registered vessel hull designs no longer be available through the Copyright Office website.

Stratos appreciates the opportunity to submit these comments.

Sincerely,



Gary Clouse
President

DECKET NO.
MAR 2003 1
COMMENTS NO. 4



PERFORMANCE. POWER. PERFECTION.

March 12, 2003

Mr. William J. Roberts, Jr.
Senior Attorney, GC/I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024-0400

RE: Comments on the 1998 Vessel Hull Design Protection Act

Dear Mr. Roberts:

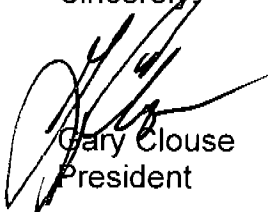
Champion Boats is a manufacturer of boats and is located in Murfreesboro, TN. Our company has utilized the protections afforded by the Vessel Hull Design Protection Act (VHDPA) in our past registrations of new vessel hull designs. We also plan to register our new vessel hull designs under the VHDPA in the future.

The VHDPA provides a disincentive to the unscrupulous practice of "hull splashing," which was quite common in our industry prior to passage of the VHDPA.

While the VHDPA provides us with protection from hull splashing in the U.S., Champion is concerned that the Copyright Office's posting of the registered vessel hull design on the Internet facilitates the copying of designs by foreign boat manufacturers. Champion requests that the drawings and photographs of the registered vessel hull designs no longer be available through the Copyright Office website.

Champion appreciates the opportunity to submit these comments.

Sincerely,


Gary Clouse
President

DOCKET NO.
RM 2003.1
COMMENT NO. <u>5</u>

CHAMPION BOATS

880 Butler Road, Murfreesboro TN 37127 www.championboats.com Ph: 615-494-2090 Fax: 615-494-2091

DOCKET NO.
2003-1
COMMENT NO. 6

DATE: March 13, 2003
TO: William J. Roberts, Jr., Senior Attorney
RE: VHDPA Comments
FROM: David Neese, Vice President of Engineering, Grady White Boats

In your response to the Copyright/Patent Office regarding the Vessel Hull Protection Act please consider the following comments and opinions.

I agree completely with the position of the NMMA that it is not appropriate to post drawings and photographs of protected designs on the Copyright Office's web site. I realize proper documentation is required for protection. I do not believe, however, that it is necessary to place all of the information on the internet where it can be easily analyzed by anyone who wishes to do so. This practice undermines the whole idea of protection that the act attempts to provide. Titles, company names, and descriptions of what is protected should be all that is necessary as a matter of record for the public to see.

I do have some additional concerns that I wish to be heard. The general nature of section 1301 allows the claims to be too vague. Please consider the following examples.

DVH0112 claims protection for:

"Overall appearance including deck, shape and hull configuration shape."

This claim is supported by four drawings. These are not engineering drawings. Instead, they are artists' style line drawings not supported by any dimensions or with any indication that the product could be built, or if it had ever in fact been built.

DVH 0111 claims protection for:

"Overall appearance including deck layout, hull configuration and shape."

Various pictures of the overall aesthetics of a cruiser style boat support this claim. Objectively, there are dozens of boats existing in our industry that have a similar appearance to this boat. None of the pictures show this boat to be anything unique. There is no specific information in their claim regarding what part of the overall appearance is supposed to be protected.

Line 2b on Form D-VH asks for a "brief general statement setting forth the salient features of the design." The instructions for line 2b require that the part of the design being protected be "sufficiently described." The instructions for pictures and drawings require that they adequately show the features of the design being protected.

I do realize that there is a balance between providing enough information to protect a design and overloading the designer with so much work that protection would not be sought. In the examples above the descriptions are too brief and they do not provide sufficient information for protecting a design. Nor do they make it clear that there is something to protect, or that the design was ever built.

I am very concerned that the more we allow claims for protection to be this vague, the greater potential we create for much wasted time dealing with frivolous claims throughout the industry. It is my strong suggestion that we require a much more clear description from the designers of the features and aesthetic values for which protection is being sought.

With regard to the questions of effectiveness of the VHDPA and its use to suppress infringement, encouragement of new design creation, and price concerns, I have little to say. Grady White does have several boats registered for protection. We have not seen the need to challenge anyone for infringement nor have we been challenged. The VHDPA has little effect on the price of our product or the cost of our product design, nor does it have an impact on our already strong desire to create new and exciting products for our customers.

Thank you for the opportunity to contribute.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Neese". The signature is fluid and extends across the width of the text area.

David Neese
Vice President of Engineering, Grady White Boats



DOCKET NO.
89-2002-1
COMMENT NO. <u>7</u>

March 12, 2003

Mr. William J. Roberts, Jr.
Senior Attorney, GC/I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024-0400

RE: Comments on the 1998 Vessel Hull Design Protection Act

Dear Mr. Roberts:

Crestliner is a manufacturer of aluminum fishing and pleasure boats and is located in Little Falls, Minnesota. Our company has utilized the protections afforded by the Vessel Hull Design Protection Act (VHDPA) in our past registrations of new vessel hull designs. We also plan to register our new vessel hull designs under the VHDPA in the future.

The VHDPA provides a disincentive to the unscrupulous practice of "hull splashing," which was quite common in our industry prior to passage of the VHDPA.

While the VHDPA provides us with protection from hull splashing in the U.S., Crestliner is concerned that the Copyright Office's posting of the registered vessel hull design on the Internet facilitates the copying of designs by foreign boat manufacturers. Crestliner requests that the drawings and photographs of the registered vessel hull designs no longer be available through the Copyright Office website.

Crestliner appreciates the opportunity to submit these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Al Kuebelbeck".

Al Kuebelbeck, President

RESPONSE TO COPYRIGHT OFFICE AND PATENT AND TRADEMARK OFFICE
REQUEST FOR COMMENTS ON THE VESSEL HULL DESIGN PROTECTION ACT

SUBMITTED BY PROFESSOR WILLIAM T. FRYER, III (See APPENDIX G for CV)
UNIVERSITY OF BALTIMORE SCHOOL OF LAW **WTF**

Mail Address: 7507 Clarendon Road
Bethesda, Maryland, 20814, U. S. A.
Telephone: 301-656-9479
E-mail address: fryer@fryer.com

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MARCH 18, 2003 (Corrected Copy)

DOCKET NO.
RM 2003-1
COMMENT NO. <u>8</u>

MAR 21 2003

**GENERAL COUNSEL
OF COPYRIGHT**

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INTRODUCTION

The Copyright Office and the Patent and Trademark Office requested comments on the Vessel Hull Design Protection (VHDP Act), after about three years from the time that law was enacted (Appendix A has the Federal Register publication of the request).

VHDP Act, 17 U.S.C. §§ 1301-1332, provides protection for vessel hulls, which can include the design appearance of a boat's overall shape, with some significant limitations (Appendix B has the VHDP Act statute). This protection resulted from considerable pressure from boat manufacturers who were having their new designs copied by competitors, for example, simply by buying another company's new boat and making fibre glass molds to produce the boat quickly.

The protection begins when a build boat is public [§§ 1302(5), 1304, 1310(b)], and the right to sue copiers [§ 1309(e)] exists for two years [§ 1302(5)], and does not require that a registration be in force at the time. There must be a registration in order to bring an infringement suit [§ 1321(a)]. The application must state that the design has been incorporated in a boat [§ 1320(d)(5)].

The Copyright Office administers the VHDP Act, approving the registrations. The Copyright web site introduces the procedure for using the VHDP Act (Appendix C has the web site introduction).

Testimony was given by this author before Congress as a part of a hearing on the legislation that became law (Appendix C has a copy of that testimony). It included an extensive review of the VHDP Act history, and a preliminary analysis of the legislation. One thesis of this testimony was that an industry must make a strong case for market entry design protection. The boat industry successfully made their case. Another point was to urge consideration of additional products for market entry protection using the VHDP Act structure. This testimony is still relevant to an evaluation of the VHDP Act performance and expectations. It introduced the foundation for protection of a product at the time it is ready for the market, a VHDP Act fundamental concept that has been adopted in many countries (see Topic 5 below and Appendices E and F). The copyright law has the same principle.

I. OBSERVATIONS AND RECOMMENDATIONS ON THE VESSEL HULL DESIGN PROTECTION ACT PERFORMANCE AND EXPECTATIONS

1. Extent of use related to number of registrations – Law is self activating and does not require registrations in many situations

A look at the VHDP Act registrations for February 13, 2003 revealed that there were five registrations, and the next earlier group of registrations was in December 2002. There has not been a steady flow of registrations. One should ask several questions based on the fact that only 119 registrations have been made in the approximately 3 years the law has been enacted.

One observation is that the law is self activating, and only if there are copiers that interfere with the business interests is their a need to register. Protection exists immediately from the built boat becoming public. A more level playing field has been created for the innovative boat designer. It may be that the word has gotten out that a boat design should not be copied identically for features that make the design distinctive and not excluded from protection. The market place is behaving as it should. Also the same rule applies to substantially identical

copies, with a strict view of what is substantially identical. The common features cannot be protected due to common, primarily functional designs that are needed for the boat to operate effectively. Overall, the law provides a narrow infringement window that keeps competition effective and unfair copying illegal.

The fact that there are not many registrations may be an indication that the law is working well and that most designers and manufacturers find that the two years of unregistered right, fair dealing provided by the law is working. This fact suggests that a longer period before registration is required may be workable. If a copier is discovered at any time during the two years, a registration can be established to enforce the rights obtained prior to registration under the law. The right terminates if no application for registration is filed within two years of the boat being made public. This sui generis system has the simplicity of copyright law, with a requirement to document the protected right within two years to obtain the full, ten year protection

The VHDP Act does not allow overlapping protection under the Act and a design patent [§ 1329]. VHDP Act protection terminates when a design patent is obtained on the same subject matter. This interface with design patents makes the VHDP Act a market entry protection system, stage 1, which may be followed by a stage 2 design patent protection, a longer and stricter requirement stage. The combination of these systems would create a comprehensive form of design protection, paralleling to a substantial extent the new EU Community Design, discussed in Topic 5 below.

2. Extent to which the VHDP Act is well known and the procedures for registration are understood and do not discourage registration.

Another observation about the low number of registrations is whether the law is well known, or the procedures are not easy to understand and use.

Recommendations: In this respect, it is clear that more direct communications from the Copyright Office would help, through attendance at boat shows, boat organization meetings, and encouraging articles about the VHDP Act in boat publications. The same recommendation would be appropriate with respect to the legal community.

A wide range of boat designers and manufacturers are filing registrations. Since the applications for registration are easily obtained on the Copyright Office web site, a lot of information can be learned about the boat and the applicant. There is a clear need to give more examples of how to file the application and what is required in terms of detail, so that unneeded details are not disclosed. It is reported that some boat designers and manufacturers consider the VHDP Act invasive, requiring too much information about their trade techniques and boat construction details, and they will not use it. The on-line registration documents show that several applications contain detailed boat drawings. In fact, all that is needed is to file photos that suitably present the design details that will be protected.

Recommendation: The application form could be revised to make it clearer that the

private aspects of the boat do not have to be presented in the application. It is another example where more education with the user would be useful.

3. Scope of design protection desired – Critical information needed on how to fill out the registration application

A primary need for any person filing an application without the aid of an attorney is to realize that what is shown in the drawings is what is protected. If the whole boat is shown, the individual details may not be protected. The Interim Regulations provide for protection of a feature on the boat that is less than the entire boat appearance. It is a procedure similar to what is used for design patents and trademarks, to select what is protected. Broken lines are used to identify boat structure that is not protected separately.

Recommendation: It is important to emphasize in the application instructions that protection depends on what is shown, a features may need separate applications. The advice to use an attorney skilled in the VHDP Act should be given, if the design owner does feel comfortable in sorting out these considerations.

4. Other products that may benefit from protection of the type given to the vessel hulls

There are other products, such as furniture, lamps, silverware, consumer appliances, and bikes that could benefit from protection at the time of market entry that is obtained under the VHDP Act. It would be a simple matter to amend the VHDP Act to broaden its subject matter scope keeping the basic structure of the law. The VHDP Act offers extensive protection of innocent infringers. The need exists for this type of market entry protection in several industries. It would be important to consider the expansion of the VHDP Act to other products, on an industry basis, after sufficient showing of a need for this protection.

Recommendation: The best way to evaluate whether additional products should be protected using the VHDP Act structure is to hold a hearing to solicit comments, as a first step.

5. Importance of international developments in encouraging the U. S. to provide VHDP Act protection and to add products to the protected list.

The international interest in using the VHDP Act is clear. The sampled February 13, 2003 filings included one by the famous French Zodiac inflatable boat company, and it was not the first registration by that company.

Clearly the VHDP Act is a step in helping to mesh U. S. design protection with foreign design protection systems, like the new European Union (EU) Community Design Regulation. The new EU Community Design system provides a period of three years protection against copying [article 19(2)] without registration from the time a wide range of products become public (articles 11 and 12), and a registration to continue protection at five year intervals up to 25 years

(APPENDIX E has the text of the EU Community Design Registration).

The parallel approaches between the VHDP Act and the EU Community Design are obvious. It is market entry protection that is given so effectively in copyright law. In order to obtain reciprocity under the EU Community Design Regulation, for protection of U. S. designs, it would be important to provide a three year period of protection against copying in the VHDP Act, as is required in the EU Community Design Regulation. A decision to make this change should include an evaluation of the impact on U. S. public interest, including competition and international trade, to provide a proper balance. This effort to achieve international harmonization could lead to protection of U. S. vessel designs in the EU, and other products added for protection. A comprehensive set of documents and up-to-date information on the EU Community Design can be found on the EU Trademark and Design Office web site, under Community Design (<http://www.oami.eu.int>), viewed March 18, 2003).

Recommendation: Consideration should be given to extending the VHDP Act unregistered protection period to three years, to achieve harmonization with the EU Community Design Regulation.

For more information on foreign market entry protection system and the VHDP Act, see the article, William T. Fryer, III, *The Evolution of Market Entry Industrial Design Protection : An International Comparative Analysis*, 21 *European Intellectual Property Review* 618 (1999) (APPENDIX F). This article has an extensive review of the VHDP Act history and operation. The article demonstrated the international acceptance of market entry protection against copying, within limits.

The idea, discussed above, of adding other products to the basic, expandable VHDP Act structure should be another topic worth considering, following the lead of other countries.

II. ANSWERS TO SELECTED QUESTIONS ASKED IN THE REQUEST FOR COMMENTS

1. Question A. The Copyright Office and PTO are interested in receiving information as to how the VHDP Act has stimulated the creation of new vessel hull designs.

Response: The wide range of new Tracker boats at the Outdoor World store in Maryland (see web site, www.trackermarine.com, viewed on March 18, 2003), demonstrated there has been considerable creative activity in new boat hull design. The author has visited a number of boat yards recently, as a boat owner, and to research the technology of boat manufacture.. There was considerable evidence of new boat design. It would not seem that the VHDP Act has created an obstacle to the creation of new designs, and it has been an incentive..

For example, the author was contacted by Christian Buehner, manufacturer of duck boats in Maine (E-mail: tdb@tdbco.com). The author visited his shop in Maine to research the

manufacture of his fibreglass boats. The VHDP Act was discussed in detail with him. It appeared he was interested in use of the law to protect future designs, as an incentive to create new designs. It appeared that the law did not create an obstacle to the manufacture new designs for his boats..

2. Question B. The effect, if any, that the VHDP Act has had on the price of protected vessels.

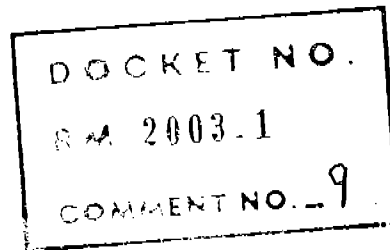
Response: The author has no data on this question. In general, a company will be able to retain a competitive price for a product if it can be marketed without unrestricted copying. In the past, it was well know that new fibreglass boats were copied by competitors and the impact of this piracy was a loss of profits, or a disincentive to manufacture of new designs. The VHDP Act was enacted to limit this piracy.



ZODIAC OF NORTH AMERICA, INC.

March 18, 2003

William J. Roberts, Jr., Esq.
Senior Attorney
GC/I&R
P. O. Box 70400
Southwest Station
Washington, D.C. 20024-0400



RECEIVED

Re: Solicitation of Comments by the Copyright Office
Vessel Hull Design Protection Act

MAR 20 2003

Dear Mr. Roberts:

**GENERAL COUNSEL
OF COPYRIGHT**

In accordance with a request from Monita W. Fontaine, Vice President, NMMA Government Relations, I have provided herewith five (5) copies of my comments with respect to the above-referenced issue.

Also, for your information, I am planning to comment directly on this issue and testify before the U.S. Copyright Office and U.S. Patent and Trademark Office on March 27, 2003.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely

JJ. Marie
President

JJM/dl
Enclosures

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MAR 20 2003

**GENERAL COUNSEL
OF COPYRIGHT**

Vessel Hull Design Protection Act (VHDPA)

Zodiac is the largest manufacturer of inflatable and rigid inflatable boats in the world, producing in excess of 30,000 units per year.

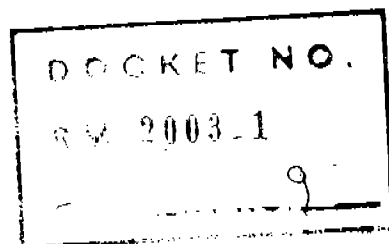
Since the inception of the VHDPA, we have made an effort to register each new hull design. We only wish this legislation had been in place years ago. It would have protected the American public and our company from the cheap and – sometimes – unsafe products produced from third-world countries, which were similar to “Zodiacs” but only in their overall appearance.

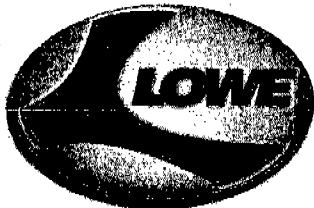
The existence of this legislation clearly pushes our engineers and designers to create innovative and different products, which is evidenced by the designs we have registered, with far more on the drawing board. Were it not for the VHDPA, the incentive for innovation would clearly be diminished.

The VHDPA also forces our competitors to come up with designs, which are original and innovative, rather than a mere copy of our designs, as had been the practice in the past.

We are unable, at this time, to measure the effectiveness of the VHDPA in suppressing infringement of protected vessel hull designs. We are concerned about the fact that these designs are published on the Internet, which makes it that much easier for unscrupulous third-world vendors to copy our boats and market them outside of the U.S.

Considering that all engineering and designs are done during the process of developing a new boat or hull, we believe that the mere filing of the design with the U.S. patent and Trademark Office has a negligible impact on the cost over the lifetime of the product.





L O W E B O A T S

2700 Industrial Drive, Lebanon, MO 65536
Ph: 417-532-9101 Fx: 417-532-8979 or e-mail lowe.com

DOCKET NO.	PL
BA 2003-1	
COMMENT NO.	10

March 13, 2003

Mr. William J. Roberts, Jr.
Senior Attorney, GC/I&R
P.O. Box 70400, Southwest Station
Washington, D.C. 20024-0400

RECEIVED

MAR 20 2003

Re: Comments on the 1998 Vessel Hull Design Protection Act

GENERAL COUNSEL
OF COPYRIGHT

Dear Mr. Roberts:

Lowe Boats is a manufacturer of aluminum boats and is located in Lebanon, Missouri. Our company has utilized the protections afforded by the Vessel Hull Design Protection Act (VHDPA) in our past registrations of new vessel hull designs. We also plan to register our new vessel hull designs under the VHDPA in the future.

The VHDPA provides a disincentive to the pirating of hull designs, which was quite common in our industry prior to passage of the VHDPA.

While the VHDPA provides us with protection in the U.S., we are concerned that the Copyright Office's posting of the registered vessel hull design on the Internet facilitates the copying of designs by foreign boat manufacturers. Lowe Boats requests that the drawings and photographs of the registered vessel hull designs no longer be available through the Copyright Office website.

We appreciate the opportunity to submit these comments.

Sincerely,

Les Crawford
President

Before the
U.S. Copyright Office and
U.S. Patent and Trademark Office
Washington, DC

RECEIVED

MAR 20 2003

GENERAL COUNSEL
OF COPYRIGHT

_____)
In the Matter of the)
)
Vessel Hull Design Protection Act)
)
_____)

Docket No. 2003-1

Comments of the National Marine Manufacturers Association

I am pleased to submit the following comments on behalf of the National Marine Manufacturers Association (the "NMMA") in response to the request for comments solicited by the U.S. Copyright Office and the U.S. Patent and Trademark Office. 68 Fed. Reg. 7350 (February 13, 2003)(the "Notice"). As a part of the Digital Millennium Copyright Act of 1998, Congress passed the Vessel Hull Design Protection Act ("VHDPA") which was scheduled to sunset after two years. In 1999, as part of the Intellectual Property and Communications Omnibus Reform Act, the VHDPA was made a permanent part of the law. In making the VHDPA permanent, Congress directed the Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to conduct a study on the effectiveness of the VHDPA and report their findings to the Judiciary Committees of the Senate and House of Representatives by November 1, 2003. The Notice requests that interested parties provide comments to facilitate the preparation of their congressionally mandated report to Congress.

With more than 1,400 companies as members that produce an estimated 80 percent of the marine products used in North America, the NMMA is the largest marine manufacturing organization in the nation. The NMMA is dedicated to creating, promoting and protecting an environment in which its members may achieve financial success through excellence in manufacturing, in selling and in servicing their customers.

The NMMA believes that the VHDPA, since its enactment in 1998, has been successful in achieving the goal envisioned by its sponsors to promote the innovation of new vessel hull designs by providing originators with a reasonable amount of protection against what had been

DOCKET NO.
MAR 2003-1
COMMENT NO. 11

the all too common practice of "hull splashing"¹ by unscrupulous competitors. Today, over 125 maritime designs have been registered under the VHDPA.

As such, we applaud the Copyright Office for its efforts in promoting the awareness of the VHDPA and for facilitating the process through which manufacturers and designers may register new designs under the VHDPA. The NMMA would like to suggest that the Copyright Office consider including the following issue in its report as an additional consideration relevant to further accomplishing the purposes of the VHDPA.

Restricted Access to Deposit Material

One important element of the Copyright Office's facilitation function is the ability of designers to research and review vessel designs which are registered under the VHDPA via the Copyright Office web site. However, it is this very access to the deposit material required for each registration that causes many members of the NMMA great concern. The NMMA would request that the Copyright Office include in its report under section 504(b)(5), as another consideration relevant to accomplishing the purposes of the amendments to the VHDPA, the following concerns about access of deposit material through the Copyright Office's Internet accessible web site.

Upon granting a registration, the Copyright Office currently publishes the drawings and photographs of the registered vessel hull design on the Internet—with open, free and/or non-restricted access to the public. The NMMA believes that this method of implementing the VHDPA facilitates the copying of protected designs by foreign competitors.² The VHDPA requires that the posted drawings and photographs be complete, since they must be "the entire visual disclosure of the design," and must "reveal all aspects of the design" in order for the designs to be registered.³ For this reason, foreign boat manufacturers can easily access the Copyright Office's web site, download the photographs and drawings, copy the registered designs, and manufacture and sell boats incorporating US protected designs in other countries without violating any foreign laws.

Immediately after the enactment of the VHDPA, it was our experience that a large number of designers and manufacturers were hesitant to register designs because of a fear that the publications of their designs would only encourage copying by unscrupulous competitors. Today, a growing number of marine manufacturers are availing themselves of the protections of the VHDPA, in part because of both an increasing confidence in the integrity of the application process and the manner in which the Copyright Office has approached the VHDPA. More and more, manufacturers are understanding that once their design has been registered, any copying of

¹ "Hull splashing" refers to the process by which vessel hulls are easily copied. In the process, fiberglass is applied to the hull of an existing vessel. After it has hardened, it is removed and used as a mold to reproduce unauthorized copies of the original design.

² Since there is no specific protection for vessel hull designs in other countries, foreign competitors can freely access and copy designs protected under the VHDPA without regard to violating the VHDPA.

³ Application Form D-VH

that design by an unscrupulous competitor can result in sanctions, including injunctive and compensatory relief.

More recently, however, manufacturers are becoming concerned that while the VHDPA protects their designs within the United States, there is no similar protection for those who would copy their designs outside of this country. The fact that complete drawings and/or photographs of the designs appear on the Copyright Office's official web site is raising significant concern among the manufacturing community. We believe the continued availability of such detailed design information to foreign marine manufacturers, against whom the provisions of the VHDPA have no application, will have a chilling effect on the desire of manufacturers to seek protection through the VHDPA.

While US boat manufacturers could apply for patent protection abroad, such protection places a serious burden in time and money on US boat manufacturers.⁴ Protection under existing treaties also is presently insufficient to protect US boat manufacturers from foreign infringement. Neither of the two relevant treaties--the Paris Convention for the Protection of Industrial Property and the Hague Agreement Concerning the International Deposit of Industrial Designs--offers sufficient protection. While both offer protection for "industrial designs" against infringement by competitors in member countries, they do not protect the utilitarian function of the vessel hull which is protected under the VHDPA.⁵ According to Professor Robert Fryer, an industrial design expert, the VHDPA is *unique* in that it protects "both the ornamental appearance and utilitarian function of the vessel hull."⁶ The enactment of the VHDPA demonstrates a need and a heightened level of protection in the United States beyond that afforded in the treaties. In short, the present treaties remain insufficient to protect vessel hull designs in other countries. While possible, we do not anticipate the negotiation of any treaty to which the United States would be a party that would extend the protections of the VHDPA beyond the shores of the United States.

The NMMA requests that the drawings and photographs of the registered vessel hull designs no longer be available through the Copyright Office web site. We believe that you have the authority to make this change in the current policy and ask that you do so. As you know, the text of the VHDPA allows, but does not require, that the drawings and photographs of registered designs be posted on the Internet. The VHDPA reads, "[T]he Administrator shall publish lists and indexes of registered designs and cancellations of designs and *may* also publish the drawings

⁴ The Patent Cooperation Treaty allows for a single international patent application to be filed which would offer protection in up to 108 signing member-states. This would reduce the cost and time involved in obtaining patents, but there would still be time and money spent in filing the international application and in obtaining patents in non-member states.

⁵ The Paris Convention does not specifically define "industrial design." The definition provided by the Hague Agreement, which can be relied upon to interpret the Paris Convention, is "that aspect of a useful article which is ornamental or aesthetic."

⁶ Vessel Hull Design Protection Act: Hearing on H.R. 2696 Before the House Subcomm. on Courts and Intellectual Property, 105 Cong. 28 (1997).

or other pictorial representations of registered designs for sale or other distribution.⁷⁷ In the Hearing before the House Subcommittee on Courts and Intellectual Property, you expressed concern over the administrative costs of implementing the VHDP. While publishing the lists and indexes online in lieu of publishing a hard copy may save costs, the best way to save administrative costs with respect to the drawings and photographs is simply not to publish them at all. The sole obligation of the Register of Copyrights with respect to the drawings and photographs is to maintain a file of them which is available to the public.

Moreover, maintaining a public file, rather than publishing these materials on the Internet is consistent with existing rules regarding access to and copying of deposit materials associated with a copyright registration. Pursuant to 37 C.F.R. § 201.2(d)(2), copies of deposit materials may only be obtained by the owner or claimant, or by an attorney of record in connection with litigation or pursuant to a court order. Publishing VHDP designs online allows the public much greater access to vessel hull designs than any other protected work.

There may be a number of ways to make the files available to the public while, at the same time, limiting the copying of registered designs in accordance with the purpose of the VHDP. One option is to keep the paper files of the drawings and photographs in the Copyright Office, where the public can examine and inspect the files, or have the files copied under certain guidelines and/or restrictions. The administrative costs of such a system would be low, principally because the Copyright Office likely already maintains hard copy originals of the drawings and photographs. Allowing the public access to examine the existing files would also not be any additional financial burden for the Copyright Office since such public access is regularly administered by the Copyright Office.⁸

In sum, while US boat manufacturers accept the risk of infringement when they fail to register their designs with the Copyright Office under the VHDP, the Copyright Office should not facilitate misuse of the designs *after* such designs are registered under the provisions of the VHDP. Unfortunately, the NMMA believes that the stated purpose of the VHDP is currently being undermined by the method the Copyright Office is employing in its implementation of the VHDP.

There are no significant costs involved in removing the drawings and photographs from the Internet and making them available in paper form in, or upon proper request, from the Copyright Office. We believe the benefits of removing the drawings and photographs from the Internet significantly outweigh the costs of making them freely available to the public, particularly for foreign competitors, and facilitating the ease with which the designs can be copied. We believe that the Register of Copyrights has the discretion to remove the drawings

⁷ Vessel Hull Design Protection Act, 17 U.S.C. § 1315 (1998).

⁸ There are other ways to make the files available to the public. Files could be maintained electronically and emailed out to U.S. companies who can demonstrate a need to have such information. Entities which could not demonstrate a need to view the drawings and photographs would still have access to view the files in paper form at the Copyright Office.

and photographs from the Internet and to discontinue the practice of posting the protected designs on the Internet upon registration.

Some may believe that this is a matter that would be best addressed by the Congress. Therefore, we ask that you consider including this issue in the report with a recommendation that Congress authorize the removal of the deposit material from the VHDPA web site, and that an alternate method of making the information available to only relevant parties be prescribed.

Sincerely,

A handwritten signature in cursive script that reads "Monita W. Fontaine".

Monita W. Fontaine
Vice President, Government Relations

RECEIVED

MAR 20 2003

GENERAL COUNSEL
OF COPYRIGHT

MARINE HOLDINGS, Inc.

300 Westlink Dr.
Washington, MO 63090

Challenger
POWERBOATS

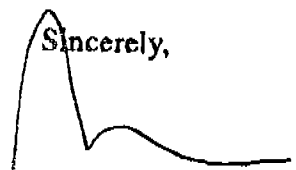
636-390-9000
636-394-7576 Fax

March 10, 2003

DATE: March 10, 2003
TO: Monita W. Fontaine, Vice President, Government Relations NMMA
FROM: Ron DiBartolo, Challenger Offshore, Inc.
RE: Solicitation of Comments by the Copyright Office
Vessel Hull Design Protection Act

Please accept this memo as our solid support regarding your memo dated to me dated March 7, 2003 regarding the Vessel Hull Protection Act. As a small builder, and having invested millions of dollars in the tooling required to manufacture the models we offer, I would not want an unscrupulous backyard builder splashing our hull designs. I have great empathy for those manufacturer's who compete honestly and as a result must endure the high cost of what it takes to manufacture the types of products that we offer. I firmly support your memo.

Sincerely,



Ron DiBartolo
President

DOCKET NO.
RM 2003-1
COMMENT NO. 12

ORIGINAL

DOCKET NO.
RM 2003-1
COMMENT NO. 13

Before the
U.S. Copyright Office and
U.S. Patent and Trademark Office
Washington, DC

RECEIVED

MAR 20 2003

GENERAL COUNSEL
OF COPYRIGHT

In the Matter of the)
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Vessel Hull Design Protection Act)
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Docket No. 2003-1

COMMENTS OF MAVERICK BOAT COMPANY INC.

On January 13, 2003, the U.S. Copyright Office and the U.S. Patent and Trademark Office issued a notice requesting written comments to facilitate those agencies' preparation of a Congressionally mandated report to Congress on the effectiveness of the Vessel Hull Design Protection Act ("VHDPA"). 68 Fed. Reg. 7350 (February 13, 2003)(the "Notice"). The VHDPA was passed in 1998 (as part of the Digital Millennium Copyright Act) and was slated to sunset after two years. In 1999, as part of the Intellectual Property and Communications Omnibus Reform Act, the VHDPA was made a permanent part of the law. When the VHDPA was made permanent, Congress directed the Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to conduct a study on the effectiveness of the VHDPA and report their findings to the Judiciary Committees of the Senate and House of Representatives by November 1, 2003. The Notice

initiates the Congressionally mandated study and, in particular, requests comments focus on the following areas:

1. the extent to which the Act has been effective in suppressing infringement of the design of vessel hulls;
2. the extent to which the registration process created by the Act has been utilized;
3. the extent to which the creation of new designs of vessel hulls have been encouraged by Act; and
4. the effect, if any, of the Act on the price of vessels with hulls protected under the Act.

Maverick Boat Company Inc., ("*Maverick*") is a family-owned Florida corporation that specializes in flats skiffs and bay boats for the fishing enthusiast. Maverick manufactures boats under the brand names of Maverick, Hewes and Pathfinder, and has annual gross sales of \$30 million dollars. Maverick has been an innovator in the design of high-tech, shallow draft skiffs and in its use of close molded infusion in the production and design of its boats. Maverick characterizes itself as a quality company, with quality employees, building quality boats.

Maverick prides itself on its reputation for quality. As a company that occupies a specialty niche, Maverick's continued success requires that it expend a large portion of its time and capital on researching and developing new product. Maverick welcomed the passage of the VHDPA and has registered all applicable designs with the Copyright Office. Maverick strongly believes that its efforts in research, development and design are significant commercial assets that necessitate protection and Maverick has acted to protect its designs by filing infringement cases under the VHDPA.


Maverick would like to address the first of the issues raised by the Notice, that is, the extent to which the VHDPAs have been effective in suppressing infringement of the design of vessel hulls, and to make a few suggestions. As the Copyright Office is well aware, the practice of copying or "splashing" a boat has been commonplace in the boating industry. Prior attempts by state governments to prevent this practice were struck down by the Supreme Court in *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141 (1989). The *Bonito Boats* decision was the motivating factor for the VHDPAs and, like Maverick, reputable boat manufacturers welcomed its passage. As we have stated, Maverick devotes significant resources to developing new hull designs. The design process is tedious and while some new designs are successful, to be frank, sometimes they miss the mark. By contrast, splashing an existing hull is a simple, inexpensive way to bring a product to market. No naval architecture expertise is required and, for a few thousand dollars and a weekend's worth of work, you can be in the boat business. By copying an existing hull design, an infringing manufacturer saves months of development time in bringing the product to market, thousands of R&D dollars and the time and effort it takes each year to experiment with both the successes and failures. These savings are why some manufacturers in our industry have continued to infringe on the designs of others.

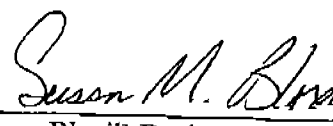
While the crucial first step in curtailing boat splashing was the VHDPAs, Maverick believes both the Copyright Office and the marine industry must work together to ensure that the VHDPAs realize their full potential. Suppression of infringement through the VHDPAs requires broad industry knowledge of the VHDPAs, their provisions and protections and the Copyright Office's application requirements. The Copyright Office should note that boat manufacturers have not historically had reason to deal with the Copyright Office and may be intimidated by the vessel hull design registration process. Frankly, the VHDPAs are complicated and not all boat

manufacturers have, or should need, access to copyright counsel. More needs to be done to promote the VHDPAs to all boat manufacturers from the smallest to the largest. Informational or educational forums sponsored by the Copyright Office and the marine industry in places such as Florida, Texas and Louisiana would give boat manufacturers an opportunity familiarize themselves with both the people and process involved. I understand that the Copyright Office conducts seminars in locations outside of DC in other contexts and suggest that would be appropriate here. It's only after all manufacturers are educated about their rights and remedies under the VHDPAs will boat splashing be curtailed.

Respectfully submitted,

MAVERICK BOAT COMPANY, INC.


Scott Deal
President


Susan Blaxill-Deal
General Counsel
Maverick Boat Company, Inc.



**RECEIVED**

March 20, 2003

William J. Roberts, Jr.
Senior Attorney, GC/I&R
PO Box 70400
Southwest Station
Washington, DC 20024

MAR 20 2003

GENERAL COUNSEL
OF COPYRIGHT

DOCKET NO.
RM 2003 1
COMMENT NO. 14

Re: Comments on Vessel Hull Design Protection Act

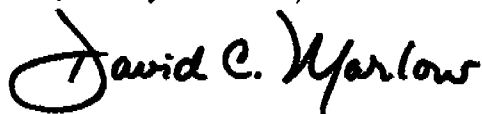
Mr. Roberts:

1. The extent to which the Act has been effective in suppressing infringement of the design of vessel hulls.
 - It is far too early to tell, as there has been neither infringements nor enforcements as of this time.
2. The extent to which the registration process created by the Act has been utilized.
 - The use has been minimal up to this point. Based on the current economic climate, this matter is not first and foremost on our list of key business indicators.
3. The extent to which the creation of new designs of vessel hulls have been encouraged by the Act.
 - Again this is minimal for the reasons stated above.
4. The extent, if any, of the Act on the price of vessels with hulls protected under the Act.
 - Minimal to non-existent given the fact that not many hulls have undergone this protection.

Finally, while we applaud the efforts of the Act to provide a reasonable amount of protection against hull splashing, it is noteworthy that we bring to your attention that this protection extends only to the confines of the United States. We continue to be concerned over the publication of our designs on the Copyrights Offices website. This may impede further use of the Act given that foreign entities can avail themselves of these protected designs with no repercussion.

We further ask that you consider removing the requirement of posting registered vessel hull designs from the Copyright Office's website.

Respectfully submitted,



David Marlow
Director, Product Integrity
Sea Ray Boat Group


TO:
William J. Roberts, Jr.
202-707-8366 FAX

Dear Mr. Roberts:

We noticed in the Federal Register of 13 February a notice regarding the Vessel Hull Design Protection Act.

Our company, Navatek Ltd., would like to express its support for this legislation. It has encouraged us to consider developing more proprietary hull designs, based on the knowledge that the VHDPa will protect our work in this area. It's working.

Best wishes,


Michael Schmicker
V.P. Business Development
Pacific Marine/Navatek
Suite 1110
841 Bishop St.
Honolulu, HI 96813
Tel: 808-531-7001 Ext. 18
email:schmicker@navships.com

DOCKET NO.
RM 2003 1
COMMENT NO. <u>15</u>

Before the
U.S. Copyright Office and
U.S. Patent and Trademark Office
Washington, DC

DOCKET NO.
RM 2003-1
COMMENT NO. 16

In the Matter of the
Vessel Hull Design Protection Act

Docket No. 2003-1

Reply Comments of the National Marine Manufacturers Association

The National Marine Manufacturers Association (the "NMMA") would like to take this opportunity to thank both the U.S. Copyright Office and the U.S. Patent and Trademark Office for organizing and conducting the roundtable discussions that took place on March 20, 2003, to discuss the effects of the Vessel Hull Design Protection Act (the "VHDPA") on the marine industry since its passage. The NMMA firmly believes that it is through these open forums, that encourage dialogue among often competing businesses, that the protections afforded by the VHDPA will be further recognized and strengthened. The NMMA would like to take this opportunity to address and reiterate important issues raised during the roundtable discussions and in the initial comments filed by other parties.

In its initial comments, the NMMA requested that the U.S. Copyright Office cease its current practice of posting the drawings and photographs of registered hull designs on the Internet. The NMMA believes that this open, free access to the public facilitates the copying of protected designs by foreign competitors. As the NMMA also noted in its comments, this

Internet posting may act as a disincentive for many boat manufacturers who would otherwise seek protection under the VHDP. This concern was evidenced by the written comments submitted by a number of parties, namely Dynasty Boats, Inc., Stratos Boats (A Genmar Company), Champion Boats, Inc., Crestline, Inc. (A Genmar Company), Lowe Boats, Grady-White Boats, Inc., and Sea Ray Boats, Inc. We understand that the U.S. Copyright Office and U.S. Patent and Trademark Office expressed a desire to post this information as a method of providing the public with notice of designs that are protected, as part of a more general effort to make more information available through the Internet.

A compromise suggested at the roundtable contemplates a two-tiered approach to deposit material. Those seeking protection under the VHDP would, as required under the current rules, provide deposit materials that adequately show the design for which protection is sought, which would provide the public with sufficient notice of the claim of protection. This initial deposit material could be posted on the Internet. At the applicant's option, an applicant could provide more detailed drawings or photographs that would further describe the design or design elements for which registration is sought. This supplemental deposit material would not be posted to the Internet; rather, copies of deposit materials would only be provided under the circumstances detailed in 37 C.F.R. § 201.2(d)(v)(2). These suggestions seemed to address adequately both the concerns of the U.S. Copyright Office in providing the public with some notice regarding claim of protection and the desire of the boating industry to avoid providing foreign infringers with ready access to detailed design drawings. As discussed at the roundtable, while a vessel design that is eligible for a design patent may receive extra-territorial protection, a vessel design that can only be protected under the VHDP cannot be protected against infringement that may occur outside of the United States.

Another topic of lengthy discussion at the roundtable was the proper interpretation of the term "substantial" as referenced in § 1303. This provision provides for protection of matter that would otherwise be excluded from protection if "the design is a substantial revision, adaptation, or rearrangement of such subject matter." 17 U.S.C. § 1303. Understandably, the U.S. Copyright Office struggles with the proper interpretation of that term in its daily examination process. While boat manufacturers may be able to agree on a proper interpretation on a case-by-case basis, it is difficult to craft broad generalizations that would apply in all circumstances. The NMMA believes that the scope of that term is likely to be defined further in litigation pending regarding designs protected by the VHDPDA and urges the U.S. Copyright Office to monitor those and other infringement cases under the VHDPDA.

And finally, a number of parties suggested that the U.S. Copyright Office, in conjunction with the marine industry, help raise awareness of both the protection and penalties provided under the VHDPDA. Professor William T. Fryer suggested that the reason for a relatively low number of registrations could be that the law is not well-known or that the procedures are difficult to understand. Professor Fryer suggests that the U.S. Copyright Office send representatives to boat shows and boat organization meetings and contribute to articles on the subject in boating magazines. Once some of the mystery has been dispelled, potential applicants are more likely to turn into registrants. This sentiment was also echoed by the comments filed by Maverick Boat Company, Inc. The NMMA whole-heartedly agrees with this suggestion and would be more than happy to assist both the U.S. Copyright Office and U.S. Patent and Trademark Office to become involved in marine industry events.

DATED: April 16, 2003

Respectfully submitted,



Monita W. Fontaine, Esq.
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National Marine Manufacturers Association
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