

less of whether the matrix or form has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

(7) A “deck” is the horizontal surface of a vessel that covers the hull, including exterior cabin and cockpit surfaces, and exclusive of masts, sails, yards, rigging, hardware, fixtures, and other attachments.

(Added Pub. L. 105–304, title V, § 502, Oct. 28, 1998, 112 Stat. 2905; amended Pub. L. 106–113, div. B, § 1000(a)(9) [title V, § 5005(a)(3)], Nov. 29, 1999, 113 Stat. 1536, 1501A–593; Pub. L. 110–434, § 1(b)–(d), Oct. 16, 2008, 122 Stat. 4972.)

#### AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–434, § 1(b), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The design of a vessel hull, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).”

Subsec. (a)(3). Pub. L. 110–434, § 1(c), added par. (3).

Subsec. (b)(2). Pub. L. 110–434, § 1(d)(1), substituted “vessel hull or deck, including a plug or mold,” for “vessel hull, including a plug or mold.”

Subsec. (b)(4). Pub. L. 110–434, § 1(d)(2), added par. (4) and struck out former par. (4) which read as follows: “A ‘hull’ is the frame or body of a vessel, including the deck of a vessel, exclusive of masts, sails, yards, and rigging.”

Subsec. (b)(7). Pub. L. 110–434, § 1(d)(3), added par. (7). 1999—Subsec. (b)(3). Pub. L. 106–113 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A ‘vessel’ is a craft, especially one larger than a row-boat, designed to navigate on water, but does not include any such craft that exceeds 200 feet in length.”

#### EFFECTIVE DATE

Pub. L. 105–304, title V, § 505, Oct. 28, 1998, 112 Stat. 2918, as amended by Pub. L. 106–113, div. B, § 1000(a)(9) [title V, § 5005(a)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–593, provided that: “The amendments made by sections 502 and 503 [enacting this chapter and amending sections 1338, 1400, and 1498 of Title 28, Judiciary and Judicial Procedure] shall take effect on the date of the enactment of this Act [Oct. 28, 1998].”

#### JOINT STUDY OF EFFECT OF THIS CHAPTER

Pub. L. 105–304, title V, § 504, Oct. 28, 1998, 112 Stat. 2917, as amended by Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4741(b)(1), title V, § 5005(a)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–586, 1501A–593, provided that:

“(a) IN GENERAL.—Not later than November 1, 2003, the Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office 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 [enacting this chapter and amending sections 1338, 1400, and 1498 of Title 28, Judiciary and Judicial Procedure].

“(b) ELEMENTS FOR CONSIDERATION.—In carrying out subsection (a), the Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office 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 Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office may deem relevant to accomplish the purposes of the evaluation conducted under subsection (a).”

### § 1302. Designs not subject to protection

Protection under this chapter shall not be available for a design that is—

(1) not original;

(2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;

(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

(4) dictated solely by a utilitarian function of the article that embodies it; or

(5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 2 years before the date of the application for registration under this chapter.

(Added Pub. L. 105–304, title V, § 502, Oct. 28, 1998, 112 Stat. 2906; amended Pub. L. 106–44, § 1(f)(1), Aug. 5, 1999, 113 Stat. 222.)

#### AMENDMENTS

1999—Par. (5). Pub. L. 106–44 substituted “2 years” for “1 year”.

### § 1303. Revisions, adaptations, and rearrangements

Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1302 if the design is a substantial revision, adaptation, or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection under this chapter or as extending any subsisting protection under this chapter.

(Added Pub. L. 105–304, title V, § 502, Oct. 28, 1998, 112 Stat. 2906.)

### § 1304. Commencement of protection

The protection provided for a design under this chapter shall commence upon the earlier of the date of publication of the registration under section 1313(a) or the date the design is first made public as defined by section 1310(b).

(Added Pub. L. 105–304, title V, § 502, Oct. 28, 1998, 112 Stat. 2907.)

### § 1305. Term of protection

(a) IN GENERAL.—Subject to subsection (b), the protection provided under this chapter for a design shall continue for a term of 10 years beginning on the date of the commencement of protection under section 1304.

(b) EXPIRATION.—All terms of protection provided in this section shall run to the end of the