

ASSEMBLY BILL NO. 81—ASSEMBLYMEN OCEGUERA, GIUNCHIGLIANI,
ATKINSON, BUCKLEY, CLABORN, CONKLIN, HORNE AND
PIERCE

FEBRUARY 13, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Providing for certain civil actions and remedies
related to intellectual property. (BDR 52-366)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to intellectual property; providing for the
protection of intellectual property by authorizing a civil
action for the unauthorized use of the intellectual
property; authorizing award for treble damages, attorney's
fees and costs in certain civil actions relating to marks;
and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 597 is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2.** *As used in sections 2 and 3 of this act, unless the*
4 *context otherwise requires, "intellectual property" means:*
5 1. *A patent issued by the United States Patent and Trademark*
6 *Office.*
7 2. *A copyright registered with the United States Copyright*
8 *Office.*
9 3. *A copyright recognized by the common law.*
10 **Sec. 3.** 1. *An owner of intellectual property has a right to*
11 *receive all economic benefits associated with the ownership of the*
12 *intellectual property. These rights include, without limitation, the*
13 *right to receive consideration for the use of the intellectual*
14 *property by another person.*



* A B 8 1 R 1 *

1 2. A person is liable for the intentional interference with the
2 prospective economic expectations of an owner of intellectual
3 property if the person intentionally uses the intellectual property
4 of another without the expressed authorization of the owner of the
5 intellectual property.

6 3. An owner of intellectual property may proceed by suit to
7 recover for his lost economic expectations caused by the
8 unauthorized use of his intellectual property.

9 4. A court of competent jurisdiction shall, upon finding a
10 defendant liable for the intentional interference with the
11 prospective economic expectations of an owner of intellectual
12 property, award to the owner of the intellectual property treble
13 damages on all profits derived from the intentional acts of the
14 defendant and treble damages on all damages suffered by reason
15 of those acts.

16 5. In an action brought pursuant to this section, the court
17 may award costs and attorney's fees to the prevailing party.

18 **Sec. 4.** NRS 600.430 is hereby amended to read as follows:

19 600.430 1. Any owner of a mark registered in this state may
20 proceed by suit to enjoin the manufacture, use, display or sale of
21 counterfeits or imitations of it. ~~[and a]~~

22 2. A court of competent jurisdiction may ~~[grant]~~ :

23 (a) *Grant* injunctions to restrain such manufacture, use, display
24 or sale as it deems just and reasonable under the circumstances ~~[~~
25 ~~and may require the defendants]~~ ;

26 (b) *Require the defendant* to pay to the owner all profits derived
27 from ~~[his]~~ the wrongful acts *of the defendant* and all damages
28 suffered by reason of these acts ~~[. The court may also order]~~ ;

29 (c) *Require the defendant to pay to the owner treble damages*
30 *on all profits derived from the willful and wrongful acts of the*
31 *defendant and treble damages on all damages suffered by reason*
32 *of these acts; and*

33 (d) *Order* that any counterfeits or imitations in the possession or
34 control of any defendant be delivered for destruction to an officer of
35 the court or to the complainant.

36 ~~[2.]~~ 3. *In an action brought pursuant to this section, the court*
37 *may award costs and reasonable attorney's fees to the prevailing*
38 *party.*

39 4. The enumeration of any right or remedy in this section does
40 not affect a registrant's right to prosecute under any penal law of
41 this state.

