Union Calendar No. 353

98TH CONGRESS
2D SESSION

H. R. 4222

[Report No. 98–619]

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1983

Mr. KASTENMEIER introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 14, 1984

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 26, 1983]

A BILL

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technical Amendments to the Federal Courts Improvement Act of 1982".

SEC. 2. (a) Section 1292(b) of title 28, United States Code, is amended by inserting "which would have jurisdiction of an appeal of such action" after "The Court of Appeals".

(b) Section 1292(c)(1) of title 28, United States Code, is amended by inserting "or (b)" after "(a)".

SEC. 3. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended in the fourth sentence by inserting ", within 60 days after the determination becomes final," after "appeal such determination".

SEC. 4. (a) Sections 142, 143, and 144 of title 35, United States Code, are amended to read as follows:

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"§ 143. Proceedings on appeal

"With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and

Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"§ 144. Decision on appeal

"The United States Court of Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue to the Commissioner its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(b) Paragraphs (2), (3), and (4) of subsection (a) of section 21 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1071(a) (2), (3), and (4)), are amended to read as follows:

"(2) When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall

file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"(3) The Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to that court a brief explaining the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"(4) The United States Court of Appeals for the Federal Circuit shall review the decision from which the appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue its mandate and opinion to the Commissioner, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(c) The amendments made by this section shall apply to proceedings pending in the Patent and Trademark Office on the date of the enactment of this Act and to appeals pending in the United States Court of Appeals for the Federal Circuit on such date.

SEC. 5. Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982, was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act, so serve under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia.

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