SR 2266

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SENATE REPORT No.2266

AMENDING THE LANHAM TRADE--MARK ACTAUGUST 5, 1954--Ordered to be printed

Mr. WILEY, from the Committee on the Judiciary, submitted the following

REPORT
[To accompany S. 2540]
The Committee on the Judiciary, to which was referred the bill (S.2540) to amend the act entitled "An act to provide for the registration and protection of trade--marks used in commerce, to carry out the provisions of international conventions, and for other purposes, approved July 5, 1946, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT
Strike out all after the enacting clause, and insert in lieu thereof the following:
The paragraph (1) of subsection (a) of section 1 of the Act entitled "An Act to provide for the registration and protection of trade--marks used in commerce, to carry out the provisions of international conventions, and for other purposes", approved July 5, 1946 (60 Stat 427), as amended, is amended by striking the words "as might be calculated to deceive" and inserting in lieu thereof "as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake or deceive"; and by striking the words "or services" from the proviso thereof.

SEC. 2. Subsection (d) of section 2 is amended by striking the language beginning with the word "confusion", first appearance, and ending with the word "herewith" at the end of said subsection and inserting in lieu thereof the following: "confusion, or to cause mistake, or to deceive: Provided. That when the Commissioner determines that confusion, mistake or deception not likely to result from the continued use by more than one person of the same or similar marks under conditions and limitations as to the mode or place of use of the marks or the goods in connection with which such marks are used, concurrent registrations may be granted to such persons when they have become entitled to use such marks as a result of their concurrent lawful use in commerce prior to (i) the earliest of the filing dates of the applications pending under this Act; or (ii) the application filing dates of a registration granted under this Act: or (iii) July 5, 1947, in the case of registrations previously granted under the Act of March 3, 1881, or February

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20, 1905, and continuing in full force and effect on that date: or (iv) July 5, 1947, in the case of applications under the Act of February 20, 1905, pending on July 5, 1947. Concurrent registrations may also be granted by the Commissioner when a court of competent jurisdiction has finally determined that more than one person is entitled to use the same or similar marks in commerce. In the grant of concurrent registrations, the Commissioner shall

prescribe conditions and limitations of the grant as to the mode or place of use of the mark or the goods in connection with which such mark is registered to the respective persons".

SEC. 3. Section 6 is amended by striking the entire section and inserting in lieu thereof the following:

SEC. 6. (a) The Commissioner may require the applicant to disclaim an unregistrable component of a mark otherwise registrable. The applicant may voluntarily disclaim a component of a mark sought to be registered.
"(b) No disclaimer heretofore or hereafter made, or made under paragraph (d) of section 7 of this Act, shall prejudice or affect the applicant's or registrant's right then existing or thereafter arising in the disclaimed matter, or his rights of registration on another application if the disclaimed matter be or shall have become distinctive of his goods or services."

SEC. 4. Subsection (a) of section 7 is amended by striking therefrom the word "either", by striking the words "name printed" and inserting in lieu thereof the words "signature placed": by striking the words "assistant commissioner or by one of the law examiners duly" and inserting in lieu thereof the words "officer of the Patent Office"; and by striking the words "and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose" and inserting in lieu thereof, the words "and a record thereof shall be kept in the Patent Office".
Subsection (d) of section 7 is amended by striking the entire subsection and inserting in lieu thereof the following: "Upon application of the registrant the Commissioner may permit any registration to be surrendered for cancellation, and upon cancellation the Commissioner shall make appropriate entry upon the records of the Patent Office. Upon application of the registrant and payment of the prescribed fee, the Commissioner for good cause may permit any registration to be amended or to be disclaimed in part: Provided, That the amendment or disclaimer does not alter materially the character of the mark. The Commissioner shall make appropriate entry upon the records of the Patent Office and upon the certificate of registration or, if said certificate is lost or destroyed, upon a certified copy thereof."

SEC. 5. Subsection (a) of section 8 is amended by striking the word "showing", first appearance, and inserting in lieu thereof the word "stating"; and after the word "use" inserting the words "in commerce on goods recited in the registration"; and striking the word "its", second appearance, and inserting in lieu thereof the word "any".
Subsection (b) of section 8 is amended by striking the word "showing", first appearance, and inserting in lieu thereof the word "stating", and after the word "use" inserting the words "in commerce on goods recited in the registration", and by striking the word "its" and inserting in lieu thereof the word "any".

SEC. 6. Section 9 is amended by striking the entire section and inserting in lieu thereof the following:
"SEC. 9. (a) Each registration may be renewed for periods of twenty years from the end of the expiring period upon payment of the prescribed fee and the filing of an application therefor accompanied by an affidavit by the registrant setting forth those goods recited in the registration on which the mark is still in use in commerce or showing that any nonuse in commerce is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and such application may be made at any time within six" months before the expiration of the period for which the certificate of registration was issued

or renewed, or it may be made within three months after such expiration on payment of the additional fee herein provided.
"(b) If the Commissioner refuses to renew the registration, he shall notify the registrant of his refusal and the reasons therefor."
"(c) An applicant for renewal not domiciled in the United States shall be subject to and comply with the provisions of section 1 (d) hereof."

SEC. 7. Section 10 is amended by changing the colon following the word "conducted" to a period and striking the words "Provided. That any assigned registration may be canceled at any time if the registered mark is being used by, or with the permission of, the assignee so as to misrepresent the source of the goods or services in connection with which the mark is used."

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SEC. 8. Subsection (a) of section 12 is amended by changing the period at the end thereof to a colon and inserting after the colon the following: "Provided. That in the case of an applicant claiming concurrent use, or in the case of an application to be placed in an interference, as provided for in section 16 of this Act, the mark, if otherwise registrable, may be published subject to the determination of the rights of the parties to such proceedings."
Subsection (b) of section 12 is amended by inserting after the word "months", second appearance, the following: "or such shorter time not less than thirty days as may be prescribed by or under regulations of the Commissioner".
Subsection (c) of section 12 is amended by striking therefrom the word "stated", and inserting in lieu thereof the word "recited"; and by striking therefrom the first word of the last sentence and inserting in lieu thereof the words "Marks published under this".
Section 12 is further amended by adding a new subsection (d) as follows:
"(d) The Commissioner is authorized to maintain a public search file containing reproductions or descriptions of all marks for which applications for registration are pending, together with the name and address of the applicant, the date of filing of the application, the goods or services and class for which registration is sought, the claimed dates of first use of the mark, and the name and address of the applicant's attorney."

SEC. 9. Section 13 is amended by adding at the end thereof the following sentence: "A notice of opposition may be amended under such conditions as may be prescribed by the Commissioner."

SEC. 10. Section 14 is amended by striking said section in its entirety and inserting in lieu thereof the following:

SEC. 14. A verified petition to cancel a registration of a mark, stating the grounds relied upon, may, upon payment of the prescribed fee, be filed by any person who believes that he is or will be damaged by the registration of a mark on the principal register established by this Act, or under the Act of March 3, 1881, or the Act of February 20,1905--
"(a) within five years from the date of the registration of the mark under this Act; or
"(b) within five years from the date of the publication under section 12(c)hereof of a mark registered under the Act of March 3, 1881, or the Act of February 20, 1905; or
"(c) at any time if the registered mark becomes the common descriptive name of an article or substance, or has been abandoned or its registration was obtained fraudulently or contrary to the provisions of section 4 or of subsections (a), (b), or (c) of section 2 of this Act for a

registration hereunder, or contrary to similar prohibitory provisions of said prior Acts for a registration thereunder, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services in connection with which the mark is used; or
"(d) at any time if the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, and has not been published under the provisions of subsection (c) of section 12 of this Act; or
"(e) at any time in the case of a certification mark on the ground that the registrant (1) does not control, or is not able legitimately to exercise control over, the use of such mark, or (2) engages in the production or marketing of any goods or services to which the certification mark is applied, or (3) permits the use of the certification mark for purposes other than to certify, or (4) discriminately refuses to certify or to continue to certify the goods of services or of any person who maintains the standards or conditions which such mark certifies."

SEC. 11. Section 15 is amended by striking "or trade name" and "patented or otherwise" from paragraph numbered (4).

SEC. 12. Section 16 is amended by striking therefrom the word "purchasers".

SEC. 13. Section 18 is amended by striking therefrom in the first sentence the words "In such proceedings the" and inserting in lieu thereof the word "The"; and by inserting in the first sentence after the word "may", first appearance, a comma and the following: "in the appropriate proceedings;" and by striking the word "may", second, third and fourth appearances.

SEC. 14. Section 21 is amended by striking the entire section, and inserting in lieu thereof the following:

SEC. 21. (a)(1) An applicant for registration of a mark, party to an interference proceeding, party to an opposition proceeding, party to an application to register as a lawful concurrent user, party to a cancellation proceeding, a registrant who has filed an affidavit as provided in section 8, or an applicant for

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renewal, who is dissatisfied with the decision of the Commissioner, may appeal to the United States Court of Customs and Patent Appeals thereby waiving his right to proceed under section 21 (b) hereof; Provided. That such appeal shall be dismissed if any adverse party to the proceeding, other than the Commissioner, shall, within twenty days after the appellant has filed notice of appeal according to section 21 (a) (2) hereof, files notice with the Commissioner that he elects to have further proceedings conducted as provided in section 21 (b) hereof. Thereupon the appellant shall have thirty days thereafter within which to file a civil action under said section 21 (b), in default of which the decision appealed from shall govern the further proceedings in the case.
"(2) When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and shall file in the Patent Office, his reasons of appeal, specifically set forth in writing, within such time after the date of the decision appealed from, not less than sixty days, as the Commissioner appoints.
"(3) The court shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and parties thereto. The Commissioner shall transmit to the court certified copies of all the necessary original papers and evidence in the case specified by

the appellant and any additional papers and evidence specified by the appellee, and in an ex parte case the Commissioner shall furnish the court with the grounds of the decision of the Patent Office, in writing, touching all the points involved by the reasons of appeal.
"(4) The court, on petition, shall hear and determine such appeal on the evidence produced before the Patent Office, and the decision shall be confined to the points set forth in the reasons of appeal. Upon its determination, the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern the further proceedings in the case.
"(b) (1) Whenever a person authorized by section 21 (a) hereof to appeal to the United States Court of Customs and Patent Appeals is dissatisfied with the decision of the Commissioner, said person may, unless appeal has been taken to said Court of Customs and Patent Appeals, have remedy by a civil action if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints or as provided in section 21 (a). The court may adjudge that an applicant is entitled to a registration upon the application involved, that a registration involved should be canceled, or such other matter as the issues in the proceeding require, as the facts in the case may appear. Such adjudication shall authorize the Commissioner to take any necessary action, upon compliance with the requirements of law.
"(2) The Commissioner shall not be made a party to an inter prates proceeding under this subsection, but he shall be notified of the filing of the complaint by the clerk of the court in which it is filed and shall have the right to intervene in the action.
"(3) In all cases where there is no adverse party, a copy of the complaint shall be served on the Commissioner; and all the expenses of the proceedings shall be paid by the party bringing them, whether the final decision is in his favor or not. In suits brought hereunder, the record in the Patent Office shall be admitted on motion of any party, upon such terms and conditions as to costs, expenses, and the further cross--examination of the witnesses as the court imposes, without prejudice to the right of any party to take further testimony. The testimony and exhibits of the record in the Patent Office, when admitted, shall have the same effect as if originally taken and produced in the suit.
"(4) Where there is an adverse party, such suit may be instituted against the party in interest as shown by the records of the Patent Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs."

SEC. 15. Section 22 is amended by changing the period at the end thereof to a colon and adding the words "Provided, That registration of marks under the Act of March 3, 1881, or the Act of February 20, 1905, shall not constitute constructive notice for any time prior to July 5, 1947."

SEC. 16. Section 23 is amended by striking from the last paragraph thereof the words "has begun the lawful use of his mark in foreign commerce and that he".

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SEC. 17. Section 24 is amended by inserting in the second sentence thereof, following the word "time", the following: upon payment of the prescribed fee and the filing of a verified petition stating the grounds therefor."

SEC. 18. Section 26 is amended by inserting the words "the proviso of section 2(d)," after the words "advantages of"

SEC. 19. Section 28 is amended by inserting after the numerals "1920," the words "shall not constitute constructive notice and".

SEC. 20. Section 29 is amended by inserting the words "on or in connection with the goods or services" following the word "used"; by striking the words "mark goods bearing the registered mark" and inserting in lieu thereof the words "give such notice of registration".

SEC. 21. Section 30 is amended by striking therefrom all of said section except the first sentence thereof and inserting in lieu of the matter stricken the following: "The applicant may file an application to register a mark for any or all of the goods and services upon or in connection with which he is actually using the mark: Provided. That when such goods or services fall within a plurality of classes, a fee equaling the sum of the fees for filing an application in each class shall be paid, and the Commissioner may issue a single certificate for such mark."

SEC. 22. Section 31 is amended by inserting after the ninth semicolon the words "for filing petition to revive an abandoned application. $10,"; by striking the comma following the word "disclaimer" in the final clause of the same paragraph and inserting in lieu thereof the word "or", and by striking from said final clause the following: "surrender, or cancellation".

SEC. 23. Subsection (1) of section 32 is amended by striking the entire subsection and inserting in lieu thereof the following:
"Any person who shall, without the consent of the registrant--
"(a) use in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive: or
"(b) reproduce, counterfeit, copy, or colorably imitate a registered mark and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive,
shall be liable in a civil action by the registrant for the remedies hereinafter provided. Under subsection (b) hereof, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation intended to be used to deceive, or to cause confusion, or to cause mistake.
Paragraph (b) of subsection (2) of section 32 is amended by striking the word "published" and inserting in lieu thereof the word "publisher".

SEC. 24. Subsection (b) of section 33 is amended by striking therefrom the word "certificate", second appearance, and inserting in lieu thereof "affidavit filed under the provisions of said section 15".
Paragraph (3) of subsection (b) of section 33 is amended by striking therefrom the words "has been assigned and", and by striking therefrom the word "assignee" and inserting in lieu thereof the words "registrant or a person in privity with the registrant".

Paragraph (5) of subsection (b) of section 33 is amended by striking therefrom "(a) or" following the word "subsection".
Paragraph (6) of subsection (b) of section 33 is amended by inserting the words "registration under this Act or" after the word "the", second appearance; by striking therefrom "(A) or" following the word "subsection", first appearance; by striking from the proviso the words "only where the said mark has been published pursuant to subsection (c) of section 12 and shall apply"; by striking the words "the date of" following the words "prior to" in the said proviso and inserting in lieu thereof "such registration or such", and by striking therefrom the words "subsection (a) or (c) of" following the word "under" said proviso.
Paragraph (7) of subsection (b) of section 33 is amended by striking said paragraph in its entirety.

SEC. 25. Section 35 is amended by striking therefrom "31 (1) (b)" and inserting in lieu thereof "32"; and by adding at the end thereof a new paragraph as follows;

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"The court in exceptional cases may award reasonable attorney fees to the prevailing party."

SEC. 26. (a) Section 42 is amended by striking therefrom the initial word "That" and by capitalizing the then initial word "No": by striking the word "the" following the words "simulate the name of"; by striking the words "manufacture, or" following the word "domestic", first appearance; by striking the word "trade", each appearance; by striking the words "in accordance with the provisions of this Act" following the word "registered", first appearance, and inserting in lieu thereof the words "on the principal register, or under the Act of March 3, 1881, or under the Act of February 20, 1905," and by striking therefrom the words, "issued in accordance with the provisions of this Act," and inserting in lieu thereof the words "on the principal register, or under the Act of March 3, 1881, or under the Act of February 20, 1905."
(b) Section 42 is further amended by designating the matter now therein as subsection (a) and by adding new subsections (b) and (c) to read as follows:
"(b) For the purpose of this section a foreign mark which is identical with a mark recorded under subsection (a) hereof shall not be deemed to copy or simulate the said recorded mark when used by a person having a branch--factory, parent--subsidiary, agency, licensee, partnership, or similar relationship with the owner of the registration.
"(c) Articles entered free of duty under any of the exemptions provided for in section 321 and paragraphs 1632, 1747 and 1798 of the Tariff Act of 1930, as amended, and articles entitled to temporary entry under bond as provided for in section 308 of the Tariff Act of 1930 shall not be excluded from importation under subsection (a) hereof."
(c) Section 526 of the Tariff Act of 1930 (U.S.C. 1952 edition, title 19, sec. 1526) is repealed.

SEC. 27. Subsection (b) of section 44 is amended by striking said subsection in its entirety and inserting in lieu thereof the following:
"(b) Any person whose country of origin is a party to any convention or treaty relating to trade--marks, trade or commercial names, or the repression of unfair competition, to which the United States is also a party, or extends reciprocal rights to nationals of the United States by law, shall be entitled to the benefits of this section under the conditions expressed herein to the extent necessary to give effect to any provision of such convention, treaty or reciprocal law, in addition to the rights to which any owner of a mark is otherwise entitled by this Act."

Subsection (e) of section 44 is amended by inserting after the article "a" in the second sentence the words "certification or a", and by striking from said second sentence the words "application for or".

SEC. 28. Section 45 is amended by striking the definition in the sixth paragraph in its entirety and inserting in lieu thereof the following:
"The terms 'applicant' and 'registrant' embrace the legal representatives, predecessors, successors an assigns of such applicant or registrant."
The ninth paragraph of said section, relating to the meaning of the terms "trade name" and "commercial name," is amended by inserting a comma between the words "commercial" and "agricultural."
The eleventh paragraph of said section, being the definition of "service mark," is amended by striking the definition in its entirety and inserting in lieu thereof:
"The term 'service mark' means a mark used in the sale of advertising of services to identify the services of one person and distinguish them from the services of others. Titles of radio and television programs, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor."
The thirteenth paragraph of said section, being the definition of "collective mark," is amended by striking the paragraph in its entirety and inserting in lieu thereof:
"The term 'collective mark' means a mark used by the members of a cooperative, an association, a union, or other collective group or organization, to identify the goods or services of such members and distinguish them from the goods or services of another."
The fifteenth paragraph of said section, relating to use in commerce, is amended by changing the period at the end of said paragraph, to a comma and adding the words "or the services are rendered in more than one State or in this and a foreign country and the person rendering the services engaged in commerce in connection therewith."

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The seventeenth paragraph of said section, relating to the meaning, of the term "colorable imitation," is amended by deleting the word "purchasers" at the end thereof.
The final paragraph of said section is amended by striking therefrom the word "commence" and inserting in lieu thereof the word "commerce."

SEC. 29. This Act shall take effect six months after its enactment.

STATEMENT
Hearings on this legislation were held before the Subcommittee on Patents. Trade--Marks, and Copyrights of the Committee on the Judiciary on March 25, 1954, and as a result thereof the amendment herewith set forth is recommended for favorable consideration of the senate.
It might be well to relate some of the history of the trade--mark laws of the United States which led up to the legislation now at hand.
On July 5, 1946, the trade--mark laws of the United States were revised by Public Law 489, 79th Congress (ch. 540. 2d sess., 60 Stat. 427), known as the Lanham Trade--Mark Act. The new Trade--Mark Act, which came into effect on July 5, 1947, 1 year after its enactment, completely rewrote the trade--mark laws of the United States and made a large number of substantial changes. This act has been in operation for a period of almost 7 years and during this period of operation, the desirability and need of a number of revisions has become evident.

Several years ago, representatives of some 26 legal and trade associations concerned with trade--mark matters were formed into a committee to study and recommend what changes in the Trade--Mark Act could be agreed upon to be desirable. A bill was introduced in the 82d Congress. S. 1957, incorporating proposed changes in the trade mark law recommended by this committee. This bill was widely circulated and further studied, and as a result of further suggestions, including discussions of proposals in the first bill, from individuals, associations, and Government departments, the present bill was introduced in this Congress July 31, 1953. This bill has also received considerable study and on January 20, 1954, an "amendment in the nature of a substitute" was introduced. Hearings were held on the bill and the proposed substitute in March of this year. Representatives of various associations interested in trade--mark matters appeared or wrote recommending enactment of the legislation. Suggestions were also received relating to details of the amendments.

The various Government departments interested also submitted reports of their views on the bill. The bill as reported has taken into account the various suggestions and comments received and has embodied therein most of the proposals for revision of the original bill on which there has been substantial agreement. Likewise, most of the comments or suggestions received from Government departments have been taken care of in the amended bill recommended.

The present bill makes a large number of amendments to the Trade--Mark Act of miscellaneous and varied character. Some of the amendments merely correct typographical errors which appeared in the original act, some amendments involve matters of clarification of meaning and coordination of style, some amendments make desirable changes in details of procedure, and a few of them make changes in substance which may be considered of more importance than the other

types of changes mentioned. All of the amendments are set forth at the end of this report, most of them are technical in nature, but following are comments on some which may not be of such character and may be regarded as amendments of a substantive nature.

Section 2(d) of the Trade--Mark Act contains a proviso relating to so--called concurrent registration of trade--marks, situations in which two or more persons who may have become entitled to use the same mark by reason of their lawful concurrent use may each be entitled to register the mark under suitable conditions and restrictions. One of the requirements before there can be such concurrent registrations is that the lawful use of one party must have begun before the filing of the application for registration of the other party, which requirement would apply even in the case of a registration applied for before the act of 1946 came into effect. The amendment to this subsection changes the limiting date specified in the act before which the lawful concurrent use must have begun; this date is changed from prior to the filing of the application to prior to the date of coming into force of the Trade--Mark Act of 1946, for those cases in which the application was filed before the act came into force.

Section 8 of the Trade--Mark Act requires the owner of a registration to file an affidavit showing that the mark is still in use, during the sixth year of the registration, otherwise the registration is canceled. The amendment to this section requires, instead, an affidavit stating that the mark is still in use in commerce on goods recited in the registration.

Section 9 of the act requires an affidavit of use when a registration is to be renewed at the end of its 20--years term. The requirements for this affidavit are revised to parallel the requirements for the affidavit required by section 8 of the act.

Section 14 of the act relating to cancellation of registrations contains a proviso authorizing the Federal Trade Commission to apply in the Patent Office to cancel certain registrations on certain grounds. This limited provision has not been used and is omitted as unnecessary in view of the Commission's broader powers in its own proceedings. The Federal Trade Commission raises no objection to this amendment.

Section 22 of the act of 1946 makes registrations on the principal register provided by the act constructive notice of the registrant's claim of ownership of the mark. This provision also applies to registrations granted under prior acts, by the terms of the section, and the section is amended so as to provide with respect to these old registrations that they shall not constitute constructive notice for any time prior to the date the act of 1946, the act which made them such, came into effect.

Section 23 of the act requires that in order for a mark to be eligible for registration on the supplemental register, it must have been in use for the year preceding the filing of the application. However, this section further provides that where an applicant requires domestic registration as a basis for foreign protection of his mark, upon a proper showing that he has begun the lawful use of his mark in foreign commerce, the Commissioner may waive the requirement for a full year's use and may grant registration forthwith. The bill proposes to amend section 23 of the act to eliminate the requirement that the mark be in use in foreign commerce before the Commissioner can waive the requirement for a full year's use in order to be eligible

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for registration. This proposal does not eliminate the fundamental requirement that the mark actually be in use before it can be registered, but the section as amended merely provides for waiving the length of time of use.

Section 33(b) recites in paragraph 7 as a defense to a suit for trade--mark infringement on certain registered marks according to one interpretation (and there have been different interpretations by a Member of Congress and a Senator when the act was being passed, see Congressional Record for June 25, 1946, p. 7650 and June 28, 1946, p. 7989) "That the mark has been or is being used to violate the antitrust laws." This provision is omitted since the defense of unclean hands, under which violation of the antitrust laws would be included, would in any case be available whenever appropriate under the general principles of equity. It should be noted that such a provision does not appear in the patent statute, but the defense of unclean hands, including violation of the antitrust laws, is available in patent suits and has been applied by the courts. Furthermore, action under the antitrust laws, either by the Government or by a private person for triple damages, is also always available when the anti--trust laws have been violated. The Committee wants it understood that the deletion in paragraph 7 is not intended to deprive any person of the defense of unclean hands but is done only because such defense is deemed available.

Section 35 of the act is amended to add a paragraph providing that the court may in exceptional cases award reasonable attorney fees to the prevailing party in a suit. This parallels a similar provision in the patent statute.

Section 42 of the act relates to the prohibition of importation of goods bearing infringing marks. In addition to technical amendments two paragraphs are added to this section to

exempt from the prohibition against importation imports bearing registered marks when there exists between the company owning the registration and the foreign company any branch factory, parent--subsidiary, agency, licensee, partnership, or similar relationship; and to exempt from the prohibition against importation goods bearing registered trade--marks when such goods are entered under the tourists exemption provided in the Tariff Act or temporarily under bond under section 308 of the Tariff Act of 1930. These paragraphs were proposed by the Department of the Treasury and are concurred in by the other departments interested.

Section 44(b) of the act relating to rights of foreign nationals is clarified and amended slightly so as to further insure that Americans will obtain trade--mark rights in foreign countries through reciprocity. The Department of States approves this amendment.

Section 45 of the act contains definitions and several are amended. The definition of service mark is revised so as to provide that a title of a radio or television program may be registered as a service mark despite the fact that it may advertise the goods of the sponsor. The definition of use in commerce is revised in connection with service marks.
As stated, various departments interested filed reports on the bill. The Patent Office raised a number of objections to particular provisions and made a number of suggestions. Practically all of these have been adopted and the Patent Office now has no objection to any

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provision. The Department of justice specifically objected to five provisions of the original bill. Two of the provisions objected to have been amended in a manner satisfactory to the Department of Justice and two of the provisions objected to have been eliminated entirely. Only one of them has been retained; this is the amendment to section 33 (b) mentioned earlier in this report, for the reason that the objection seems to be based on conjecture only and there are adequate existing remedies as has been pointed out.
A review of all of the foregoing would seem to indicate a great majority of the amendments to the Lanham Trade--Mark Act as set forth in the instant legislation are procedural and technical in nature to which there does not appear to be any disagreement. As to the remaining substantive amendments to the Lanham Trade--Mark Act, there is substantial agreement by all concerned except as to the amendment to section 33 (b). The committee, therefore, concludes after study of the hearings and reports submitted by the interested agencies and which reports are on file with the committee that the bill S. 2540, as amended, is meritorious and, therefore, recommends it for favorable consideration by the Senate.
[Changes in existing law section OMITTED]

[The following material is extracted from the Congressional Record Volume 100 beginning at page 14067]

REGISTRATION OF TRADE--MARKS
The bill (S. 2540) to amend the act entitled "An act to provide for the registration and protection of trade--marks used in commerce, to carry out the provisions of international conventions, and for other purposes." approved July 5, 1946, was announced as next in order.

Mr. MORSE. Mr. President, may we have an explanation of this bill?

Mr. WILEY. Mr. President, the proposed legislation is to make certain amendments to the Lanham Trade--Mark Act, which went into effect on July 5, 1947. That act has been in operation now for almost 7 years and during this period of time the desirability and need for a

number of revisions has become evident. Hearings were held on this matter and the interested agencies were requested to report thereon. As a result of the hearings, conferences were held between representatives of the agencies; individual trade--mark lawyers, and the coordinating committee of the trade--mark association, which for years past has been working on this matter. With few exceptions, the conferences resulted in agreement and a substitute bill, which is the bill now before the Senate, was ordered reported. It is the opinion of the committee that, with the exception of 1 or 2 individual objections, this bill is noncontroversial and does improve the Lanham Trade--Mark Act. It is

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therefore recommended that this legislation be considered favorably.

Mr. SMATHERS. Mr. President, will the Senator from Wisconsin yield?
Mr. WILEY. I yield.
Mr. SMATHERS. Has the Patent Office approved this measure?
Mr. WILEY. I am so informed.
Mr. SMATHERS. Has the Department of Justice approved it?
Mr. WILEY. I understand there is one exception.
Mr. SMATHERS. Is that exception considered a major exception?
Mr. WILEY. I am informed that it is not.
Mr. SMATHERS. The bill has been unanimously reported by the committee; has it not?
Mr. WILEY. Yes.
The PRESIDING OFFICER. Is there objection to the present consideration of the bill? There being no objection, the Senate proceeded to consider the bill (S. 2540) to amend the act entitled "An act to
provide for the registration and protection of trade--marks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:
That paragraph (1) of subsection (a) of section I of the act entitled "An act to provide for the registration and protection of trade--marks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946 (60 Stat. 427), as amended, is amended by striking the words "as might be calculated to deceive" and inserting in lieu thereof "as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive", and by striking the words "or services" from the proviso thereof.

SEC. 2. Subsection (d) of section 2 is amended by striking the language beginning with the word "confusion", first appearance, and ending with the word "herewith" at the end of said subsection and inserting in lieu thereof the following: "confusion, or to cause mistake, or to deceive: Provided. That when the Commissioner determines that confusion, mistake or deception is not likely to result from the continued use by more than one person of the same or similar marks under conditions and limitations as to the mode or place of use of the marks or the goods in connection with which such marks are used, concurrent registration may be granted to such persons when they have become entitled to use such marks as a result of their concurrent lawful use in commerce prior to (i) the earliest of the filing dates of the applications pending under this act; or (ii) the application filing date of a registration granted under this act; or (iii) July 5, 1947, in the case of registrations previously granted under the act of March 3, 1881, or February 20,1905, and continuing in full force and effect on that date; or (iv) July 5, 1947, in the case of applications under the Act of February 20, 1905,

pending on July 5, 1947. Concurrent registrations may also be granted by the Commissioner when a court of competent jurisdiction has finally determined that more than one person is entitled to use the same or similar marks in commerce. In the grant of concurrent registrations, the Commissioner shall prescribe conditions and limitations of the grant as to the mode or place of use of the mark or the goods in connection with which such mark is registered to the respective persons."

SEC. 3. Section 6 is amended by striking the entire section and inserting in lieu thereof the following:
"SEC. 6. (a) The Commissioner may require the applicant to disclaim an unregistrable component of a mark sought to be registered. The applicant may voluntarily disclaim a component of a mark otherwise registrable. The applicant may voluntarily disclaim a component of a mark sought to be registered.
"(b) No disclaimer heretofore or hereafter made, or made under paragraph (d) of section 7 of this act, shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or his rights of registration on another application if the disclaimed matter be or shall have become distinctive of his goods or services."

SEC. 4. Subsection (a) of section 7 is amended by striking therefrom the word "either"; by striking the words "name printed" and inserting in lieu thereof the words "signature placed", by striking the words "assistant commissioner or by one of the law examiners duly" and inserting in lieu thereof the words "officer of the Patent Office": and by striking the words "and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose" and inserting in lieu thereof the words "and a record thereof shall be kept in the Patent Office."
Subsection (d) of section 7 is amended by striking the entire subsection and inserting in lieu thereof the following: "Upon application of the registrant the Commissioner may permit any registration to be surrendered for cancellation, and upon cancellation the Commissioner shall make appropriate entry upon the records of the Patent Office. Upon application of the registrant and payment of the prescribed fee, the Commissioner for good cause may permit any registration to be amended or to be disclaimed in part: Provided. That the amendment or disclaimer does not alter materially the character of the mark. The Commissioner shall make appropriate entry upon the records of the Patent Office and upon the certificate of registration or, if said certificate is lost or destroyed, upon a certified copy thereof."

SEC. 5. Subsection (a) of section 8 is amended by striking the word "showing", first appearance, and inserting in lieu thereof the word "stating"; and after the word "use" inserting the words "in commerce on goods recited in the registration"; and striking the word "its", second appearance, and inserting in lieu thereof the word "any."
Subsection (b) of section 8 is amended by striking the word "showing", first appearance, and inserting in lieu thereof the word "stating"; and after the word "use" inserting the words "in commerce on goods recited in the registration"; and by striking the word "its" and inserting in lieu thereof the word "any."

SEC. 6. Section 9 is amended by striking the entire section and inserting in lieu thereof the following:"
SEC. 9. (a) Each registration may be renewed for periods of 20 years from the end of the expiring period upon payment of the prescribed fee and the filing of an application therefor accompanied by an affidavit by the registrant setting forth those goods recited in the registration on which the mark is still in use in commerce or showing that any nonuse in

commerce is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and such application may be made at any time within 6 months before the expiration of the period for which the certificate of registration was issued or renewed, or it may be made within 3 months after such expiration on payment of the additional fee herein provided.
"(b) If the Commissioner refuses to renew the registration, he shall notify the registrant of his refusal and the reasons therefor.
"(c) An applicant for renewal not domiciled in the United States shall be subject to and comply with the provisions of section 1 (d) hereof."

SEC. 7. Section 10 is amended by changing the colon following the word "conducted" to a period and striking the words "Provided. That any assigned registration may be canceled at any time if the registered mark is being used by, or with the permission of, the assignee so as to misrepresent the source of the goods or services in connection with which the mark is used."

SEC. 8. Subsection (a) of section 12 is amended by changing the period at the end thereof to a colon and inserting after the colon the following: "Provided. That in the case of an applicant claiming concurrent use, or in the case of an application to be placed in an interference, as provided for in section 16 of this act, the mark, if otherwise registrable, may be published subject to the determination of the rights of the parties to such proceedings."
Subsection (b) of section 12 is amended by inserting after the word "months", second appearance, the following:", or such shorter time not less than 30 days as may be prescribed by or under regulations of the Commissioner,".
Subsection (c) of section 12 is amended by striking therefrom the word "stated", and inserting in lieu thereof the word "recited"; and by striking therefrom the first word of the last sentence and inserting in lieu thereof the words "Marks published under this."
Section 12 is further amended by adding a new subsection (d) as follows:
"(d) The Commissioner is authorized to maintain a public search file containing reproductions or descriptions of all marks for which applications for registration are pending, together with the name and address of the applicant, the date of filing of the application, the goods or services and class for which registration is sought, the claimed dates of first use of the mark, and the name and address of the applicant's attorney."

SEC. 9. Section 13 is amended by adding at the end thereof the following sentence: "A notice of opposition may be amended under such conditions as may be prescribed by the Commissioner."

SEC. 10. Section 14 is amended by striking said section in its entirety and inserting in lieu thereof the following:

SEC. 14. A verified petition to cancel a registration of a mark, stating the ground relied upon, may, upon payment of the prescribed fee, be filed by any person who believes that he is or will be damaged by the registration of a mark on the principal register established by this act, or under the act of March 3, 1881, or the act of February 20, 1905--
"(a) within 5 years from the date of registration of the mark under this act; or
"(b) within 5 years from the date of the publication under section 12 (c) hereof of a mark registered under the act of March 3, 1881, or the act of February 20, 1905; or
"(c) at any time if the registered mark becomes the common descriptive name of an article or substance, or has been abandoned or its registration was obtained fraudulently or contrary to

the provisions of section 4 or of subsections (a), (b), or (c) of section 2 of this act for a registration hereunder, or contrary to similar prohibitory provisions of said prior acts for a registration thereunder, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services in connection with which the mark is used; or

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"(d) at any time if the mark was registered under the act of March 3, 1881, or the act of February 20, 1905, and has not been published under the provisions of subsection (c) of section 12 of this act; or
"(e) at any time in the case of a certification mark on the ground that the registrant (1) does not control, or is not able legitimately to exercise control over, the use of such mark, or (2) engages in the production or marketing of any goods or services to which the certification mark is applied, or (3) permits the use of the certification mark for purposes other than to certify, or (4) discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies."

SEC. 11. Section 15 is amended by striking "or trade name" and, "patented or otherwise" from paragraph No. (4).

SEC. 12. Section 16 is amended by striking therefrom the word "purchasers."

SEC. 13. Section 18 is amended by striking therefrom in the first sentence the words "In such proceedings the" and inserting in lieu thereof the word "The"; and by inserting in the first sentence after the word "may", first appearance, a comma and the following: "in the appropriate proceedings.": and by striking the word "may", second, third, and fourth appearances.

SEC. 14. Section 21 is amended by striking the entire section, and inserting in lieu thereof the following:

SEC. 21.(a) (1) An applicant for registration of a mark, party to an interference proceeding, party to an opposition proceeding, party to an application to register as a lawful concurrent user, party to a cancellation proceeding, a registrant who has filed an affidavit as provided in section 8, or an applicant for renewal, who is dissatisfied with the decision of the Commissioner, may appeal to the United States Court of Customs and Patent Appeals thereby waiving his right to proceed under section 21 (b) hereof: Provided. That such appeal shall be dismissed if any adverse party to the proceeding, other than the Commissioner, shall, within 20 days after the appellant has filed notice of appeal according to section 21 (a) (2) hereof, files notice with the Commissioner that he elects to have all further proceedings conducted as provided in section 21 (b) hereof.
Thereupon the appellant shall have 30 days thereafter within which to file a civil action under said section 21 (b), in default of which the decision appealed from shall govern the further proceedings in the case.
"(2) When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and shall file in the Patent Office, his reasons of appeal, specifically set forth in writing, within such time after the date of the decision appealed from, not less than 60 days, as the Commissioner appoints.
"(3) The court shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto. The Commissioner shall transmit to the

court certified copies of all the necessary original papers and evidence in the case specified by the appellant and any additional papers and evidence specified by the appellee, and in an ex parte case the Commissioner shall furnish the court with the grounds of the decision of the Patent Office, in writing, touching all the points involved by the reasons of appeal.
"(4) The court, on petition, shall hear and determine such appeal on the evidence produced before the Patent Office, and the decision shall be confined to the points set forth in the reasons of appeal. Upon its determination, the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern the further proceedings in the case.
"(b) (1) Whenever a person authorized by section 21 (a) hereof to appeal to the United States Court of Customs and Patent Appeals is dissastified with the decision of the Commissioner, said person may, unless appeal has been taken to said Court of Customs and Patent Appeals, have remedy be a civil action if commenced within such time after such decision, not less than 60 days, as the Commissioner appoints or as provided in section 21 (a). The court may adjudge that an applicant is entitled to a registration upon the application involved, that a registration involved should be canceled, or such other matter as the issues in the proceeding require, as the facts in the case may appear. Such adjudication shall authorize the Commissioner to take any necessary action, upon compliance with the requirements of law.
"(2) The Commissioner shall not be made a party to an inter partes proceeding under this subsection, but he shall be notified of the filing of the complaint by the clerk of the court in which it is filed and shall have the right to intervene in this action.
"(3) In all cases where there is no adverse party, a copy of the complaint shall be served on the Commissioner; and all the expenses of the proceedings shall be paid by the party bringing them, whether the final decision is in his favor or not. In suits brought hereunder, the record in the Patent Office shall be admitted on motion of any party, upon such terms and conditions as to costs, expenses, and the further cross--examination of the witness as the court imposes, without prejudice to the right of any party to take further testimony. The testimony and exhibits of the record in the Patent Office, when admitted, shall have the same effect as if originally taken and produced in the suit.
"(4) Where there is an adverse party, such suit may be instituted against the party in interest as shown by the records of the Patent Office at the time of the decision complained of but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court of the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs."

SEC. 15. Section 22 is amended by changing the period at the end thereof to a colon and adding the words "Provided. That registration of marks under the act of March 3, 1881, or the act of February 20, 1905, shall not constitute constructive notice for any time prior to July 5, 1947."

SEC. 16. Section 23 is amended by striking from the last paragraph thereof the words "has begun the lawful use of his mark in foreign commerce and that he."

SEC. 17. Section 24 is amended by inserting in the second sentence thereof, following the word "time", the following:", upon payment of the prescribed fee and the filing of a verified petition stating the grounds therefore,".

SEC. 18. Section 26 is amended by inserting the words "the proviso of section 2 (d)," after the words "advantages of."

SEC. 19. Section 28 is amended by inserting after the numerals "1920," the words "shall not constitute constructive notice and."

SEC. 20. Section 29 is amended by inserting the words "on or in connection with the goods or services' following the word "used"; by striking the words "mark goods bearing the registered mark" and inserting in lieu thereof the words "give such notice of registration."

SEC. 21. Section 30 is amended by striking therefrom all of said section except the first sentence thereof and inserting in lieu of the matter stricken the following: "The applicant may file an application to register a mark for any or all of the goods and services upon or in connection with which he is actually using the mark: Provided. That when such goods or services fall within a plurality of classes, a fee equaling the sum of the fees for filing an application in each class shall be paid, and the Commissioner may issue a single certificate for such mark."

SEC. 22. Section 31 is amended by inserting after the ninth semicolon the words "for filing petition to revive an abandoned application. $10,"; by striking the comma following the word "disclaimer" in the final clause of the same paragraph and inserting in lieu thereof the word "or", and by striking from said final clause the following:, "surrender, or cancellation."

SEC. 23. Subsection (1) of section 32 is amended by striking the entire subsection and inserting in lieu thereof the following:
"Any person who shall, without the consent of the registrant--
"(a) use in commerce and reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or
"(b) reproduce, counterfeit, copy, or colorably imitate a registered mark and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, shall be liable in a civil action by the registrant for the remedies hereinafter provided. Under subsection (b) hereof, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to deceive, or to cause confusion, or to cause mistake.
Paragraph (b) of subsection (2) of section 32 is amended by striking the word "Published" and inserting in lieu thereof the word "publisher."

SEC. 24. Subsection (b) of section 33 is amended by striking therefrom the word "certificate", second appearance, and inserting in lieu thereof "affidavit filed under the provisions of said section 15."
Paragraph (3) of subsection (b) of section 33 is amended by striking therefrom the words "has been assigned and", and by striking therefrom the word "assignee" and inserting in lieu thereof the words "registrant of a person in privity with the registrant."

Paragraph (5) of subsection (b) of section 33 is amended by striking therefrom the word "the" following the words "date prior to" and inserting in lieu thereof the words "registration of the mark under this act or", and by striking therefrom "(a) or" following the word "subsection."
Paragraph (6) of subsection (b) of section 33 is amended by inserting the words "registration under this act or" after the word "the", second appearance: by striking therefrom "(a) or" following the word "subsection", first appearance: by striking from the proviso the words "only where the said mark has been published pursuant to subsection (c) of section 12 and shall apply"; by striking the words "the date of" following the words "prior to" in the said proviso and inserting in lieu thereof "such registration or such", and by striking therefrom the words

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"subsection (a) or (c) of" following the word "under" in said proviso.
Paragraph (7) of subsection (b) of section 33 is amended by striking said paragraph in its entirety.

SEC. 25. Section 35 is amended by striking therefrom "31 (1) (b)" and inserting in lieu thereof "32"; and by adding at the end thereof a new paragraph as follows: "The court in exceptional cases may award reasonable attorney fees to the prevailing party"

SEC. 26. (a) Section 42 is amended by striking therefrom the initial word "That" and by capitalizing the then initial word "No": by striking the word "the" following the words "simulate the name of"; by striking the words "manufacture, or" following the word "domestic", first appearance; by striking the word "trade.", each appearance; by striking the words "in accordance with the provisions of this act" following the word "registered", first appearance, and inserting in lieu thereof the words "on the principal register, or under the act of March 3, 1881, or under the act of February 20, 1905."; and by striking therefrom the words, "issued in accordance with the provisions of this act," and inserting in lieu thereof the words "on the principal register, or under the act of March 3, 1881, or under the act of February 20, 1905."
(b) Section 42 is further amended by designating the matter now therein as subsection (a) and by adding new subsections (b) and (c) to read as follows:
"(b) For the purpose of this section a foreign mark which is identical with a mark recorded under subsection (a) hereof shall not be deemed to copy or simulate the said recorded mark when used by a person having a branch--factory, parent--subsidiary, agency, licensee, partnership, or similar relationship with the owner of the registration.
"(c) Articles entered free of duty under any of the exemptions provided for Section 321 and paragraphs 1632, 1747, and 1798 of the Tariff Act of 1930, as amended, and articles entitled to temporary entry under bond as provided for in section 308 of the Tariff Act of 1930 shall not be excluded from importation under subsection (a) hereof."
(c) Section 526 of the Tariff Act of 1930 (U.S.C., 1952 edition, title 19, sec. 1526) is repealed.

SEC. 27. Subsection (b) of section 44 is amended by striking said subsection in its entirety and inserting in lieu thereof the following:
"(b) Any person whose country of origin is a party to any convention or treaty relating to trade--marks, trade or commercial names, or the repression of unfair competition, to which the United States is also a party, or extends reciprocal rights to nationals of the United States by law, shall be entitled to the benefits of this section under the conditions expressed herein

to the extent necessary to give effect to any provision of such convention, treaty or reciprocal law, in addition to the rights to which any owner of a mark is otherwise entitled by this act."
Subsection (e) of section 44 is amended by inserting after the article "a" in the second sentence the words "certification or a": and by striking from said second sentence the words "application for or."

SEC. 28. Section 45 is amended by striking the definition in the sixth paragraph in its entirely and inserting in lieu thereof the following:
"The terms 'applicant' and 'registrant' embrace the legal representatives, predecessors, successors, and assigns of such applicant or registrant."
The ninth paragraph of said section, relating to the meaning of the terms "trade name" and "commercial name", is amended by inserting a comma between the words "commercial" and "agricultural."
The 11th paragraph of said section, being the definition of "service mark", is amended by striking the definition in its entirety and inserting in lieu thereof:
"The term 'service mark' means a mark used in the sale of advertising of services to identify the services of one person and distinguish them from the services of others. Titles of radio and television programs, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor."
The 13th paragraph of said section, being the definition of "collective mark", is amended by striking the paragraph in its entirety and inserting in lieu thereof:
"The term 'collective mark' means a mark used by the members of a cooperative, an association, a union, or other collective group or organization, to identify the goods or services of such members and distinguish them from the goods or services of another."
The 15th paragraph of said section, relating to use in commerce, is amended by changing the period at the end of said paragraph, to a comma and adding the words "or the services are rendered in more than one State or in this and a foreign country and the person rendering the services is engaged in commerce in connection therewith."
The 17th paragraph of said section, relating to the meaning of the term "colorable imitation", is amended by deleting the word "purchasers" at the end thereof.
The final paragraph of said section is amended by striking therefrom the word "commence" and inserting in lieu thereof the word "commerce."

SEC. 29. This act shall take effect 6 months after its enactment.
The amendment was agreed to.

MR. WILEY. Mr. President, certain suggestions with regard to the proposed legislation were made by the Department of the Treasury insofar as the original Senate bill 2540 was concerned. Those amendments were made in the bill, as suggested. It is now my information that the Treasury Department desires that its suggestions be deleted from the bill as reported. I therefore offer an amendment to the committee amendment, as follows:
On page 36, commencing with line 13, strike out all down to and including line 4 on page 37.

THE PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin to the committee amendment.
The amendment to the amendment was agreed to.
The bill was ordered to be engrossed for a third reading, read the third time, and passed.
[100 Cong. Rec. 14067--70 (1954).]

85th Congress, 1st Session
IN THE HOUSE OF REPRESENTATIVESJULY 19, 1957
Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL
To amend the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes." approved July 5, 1946, with respect to proceedings in Patent Office.