SR 2107

Calendar No. 2073

87TH CONGRESS 2d Session

SENATE REPORT No.2107

REGISTRATION AND PROTECTION OF TRADEMARKS SEPTEMBER 18, 1962.--Ordered to be printed

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

REPORT
[To accompany H.R. 4333]
The Committee on the Judiciary, to which was referred the bill (H.R. 4333) 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 certain international conventions, and for other purposes", approved July 5, 1946, as amended, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE
The purpose of this legislation is to make a number of miscellaneous changes in the Trademark Act of 1946 so as to clarify the meaning of several of its provisions. The provisions of the bill affect details of registration, administrative and court procedure, internal organization of the Patent Office regarding trademark matters, and refinements in language that experience has shown to be desirable. It also corrects typographical errors in the Trademark Act of 1946.

STATEMENT
The facts and legislative history regarding this legislation are contained in House Report 1108, and are as follows:

[OMITTED, See HR 1108]

[8]
The chairman of the Subcommittee on Patents. Trademark, and Copyrights of this committee also received a communication from the Federal Trade Commission, dated November 29, 1961, in which it was proposed that the jurisdiction of the Commission be expanded to permit the Commission to petition for cancellation of registered marks which become, prior or subsequent to registration, the common descriptive name of an article or substance. After consideration, the committee concurs in the judgment of the House Committee on the Judiciary that it is not appropriate at this time to include substantive changes of such nature inasmuch as H.R. 4333 is in large part a housekeeping measure designed to make minimal substantive changes in the trademark law.

After a review of the facts and after study of the various governmental reports, heretofore identified, the committee concurs in the action of the House of Representatives and recommends that the bill be given favorable consideration.
The agency reports referred to herein are attached and made a part of this report, as follows:

FEDERAL TRADE COMMISSION
Washington, D.C., November 29, 1961.

Hon. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Patents. Trademarks and Copyrights.
Committee on the Judiciary U.S. Senate.
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written in anticipation of consideration by your committee of a bill to amend the Trademark Act.

[9]
H.R. 4333, 87th Congress, 1st session, passed by the House of Representatives on September 18, 1961.
The Federal Trade Commission submitted a report under date of August 11, 1961, a copy of which is enclosed herewith, to the House Committee on the Judiciary, in which it suggested for the consideration of that committee two proposed amendments.
The first of these pertained to an amendment to section 14(c) of the Trademark Act which would enable the Commission to cancel a registered trademark which was descriptive at the time of registration as well as one that acquired this characteristic after registration. The second amendment related to wording of the proviso to section 14 of the Trademark Act.
The Commission's reasons for sponsoring these amendments are set forth in its report to the House committee. The House committee did not consider these amendments because, as stated in its report, the committee was of the opinion that they were substantive in nature and the subject bill was in large part of "housekeeping measure."
The Commission respectfully requests your committee to consider these amendments in connection with its study of H.R. 4333 or any companion bill which may be introduced in the Senate. As was stated in its report to the House committee, the Commission believes that adoption of these amendments would correct the effects of prior interpretations of the Trademark Act that are regarded as unduly restrictive.
After the House of Representatives passed H.R. 4333, a conference was held by representatives of the Federal Trade Commission and Patent Office, and counsel for the subcommittee of the House committee on the Judiciary, which considered H.R. 4333, It was the consensus of the conference that the objective of the first amendment could be accomplished if the word "becomes" in the first line of section 14(c) of the Trademark Act is changed to "is."
The total effect of such a change would make the first ground for cancellation, as set forth in section 14(c) of the Trademark Act, read: "(c) at any time, if the registered mark is the common descriptive name of an article or substance." This method of removing the timing implication was suggested at the conference by the representatives of the Patent Office, and it was agreed by all that such a change is simpler than the amendment which was proposed originally by the

Commission in its report to the House committee. We recommend this new language of the amendment to your committee.
As to the second proposed amendment, the reasons for its enactment are detailed in the Commission's report of August 11. In that report the Commission also advocated a third amendment which referred to the definition of "Service Mark." Since it would pertain to a matter not directly within the jurisdiction of the Commission, we are not asking your committee to consider it.
Should the committee desire any further report from the Commission as to the first two amendments, we will be happy to supply it. By direction of the Commission:
Paul Rand Dixon, Chairman.

[OMITTED, see HR 1108, 9-14]

87th Congress, 1st Session

IN THE HOUSE OF REPRESENTATIVES MARCH 21, 1961

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

A BILL
To carry into effect a provision of the Convention of Paris for the Protection of Industrial Property as revised at Lisbon, Portugal, October 31, 1958.