A BILL

To clarify the circumstances under which a trademark may be canceled or considered abandoned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 14 of the Act of July 5, 1946 (commonly known as the Trademark Act of 1946 (15 Y.S.C. 1064), is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section, a registered mark shall not be deemed to be the common descriptive name of a product merely because the mark is used to identify a unique product or service. The exclusive test for determining whether a registered trademark has become a common descriptive name shall be whether a majority of the revelent public understands the trademark to function as a mark or as a common descriptive name".

SEC. 2. (a) Section 45 of the Act of July 5, 1946 *(15 U.S.C. 1127),* is amended by striking out "The term 'trademark' " and all that follows through "goods of the sponser." and inserting in lieu thereof the following:

"The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used to identify and distinguish the goods of one manufacturer or merchant, including unique goods, from those manufactured or sold by others and to indicate that the goods come from a single source, even if that source is unknown.

"The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of others and to indicate that the services come from a single source, even if that source is unknown."

(b) Section 45 of the Act of July 5, 1946, is further amended by adding after the period at the end of subsection (b) in the paragraph which begins to read "A mark shall be deemed 'abandoned' " the following: "The exclusive test for whether a mark has lost its significance as an indication of origin shall be whether the majority of the relevant public so understands the mark."

SEC. 3. Section 1295(a)(1) of title 28, United States Code, is amended by striking out "or trademarks."

98th Congress, 2d Session

To amend title 18 of the United States Code to strengthen the laws against counterfeiting trademarks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1984

Mr. HUGHES (for himself, Mr. SAWYER, Mr. SCHUMER, Mr. MORRISON of Connecticut, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. SHAW, Mr. SENSENBRENNER, and Mrs. JOHNSON) introduced the following bill; which was referred to the Committee on the Judiciary