Act of June 10, 1938

AN ACT To authorize the registration of certain collective trade--marks

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Trade--mark Act of February 20, 1905, as amended, is amended by adding at the end thereof the following new paragraph:
"By similar procedure, any natural or juristic person, including nations, States, municipalities, and the like, which exercise legitimate control over the use of a collective mark, may apply for and obtain registration of such mark."

SEC. 2. Section 1 (b) of the Trade--mark Act of March 19, 1920, as amended, is amended to read as follows:
"(b) All other marks not registrable under the Act of February 20, 1905, as amended, except those specified in paragraphs (a) and (b) of section 5 of that Act, including collective marks of natural or juristic persons, and nations, States, municipalities, and the like, exercising legitimate control over the use of the trade--mark sought to be registered even though not possessing an industrial or commercial establishment, which have been in bona fide use for not less than one year in interstate or foreign commerce, or commerce with the Indian tribes by the proprietor thereof, upon or in connection with any goods of such proprietor upon which a fee of $15 has been paid to the Commissioner of Patents and such formalities as required by the said Commissioner have been complied with: Provided, That trade--marks which are identical with a known trade--mark owned and used in interstate and foreign commerce, or commerce with the Indian tribes, by another and appropriated to merchandise of the same descriptive properties or which so nearly resemble a known trade--mark owned and used in interstate and foreign commerce, or commerce with the Indian tribes by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers, shall not be placed on this register.

SEC. 3. Section 4 of the Trade--mark of February 20, 1905, as amended, is further remanded by deleting therefrom the following: "Provided, further, That subject to the provisions of section 5 of said Trade--mark Act (U.S.C., title 15, sec. 85) registration of a collective mark may be issued to an association to which it belongs, which association is located in any such foreign country and whose existence is not contrary to the law of such country, even if it does not possess an industrial or commercial establishment".

SEC. 4. Registrations heretofore granted under that portion of section 4 of the Trade--mark Act of February 20, 1905, as amended, repealed by section 3 of this act, shall hereafter have the same force and effect as if granted under section 1 of this Act, and applications pending under such portion of such section 4 shall be considered in accordance with the provisions of section 1 of this Act.

SEC. 5. Section 29 of the Trade--mark Act of February 20, 1905, is amended to read as follows:
"SEC. 29. In construing this Act the following rules must be observed, except where the contrary intent is plainly apparent from the context thereof: The United States includes and embraces all territory which is under the jurisdiction and control of the United States. The word 'States' includes and embraces the District of Columbia, the Territories of the United States, and such other territory as shall be under the jurisdiction and control of the United

States. The terms 'person' and 'owner', and any other word or term used to designate the applicant or other entitled to a benefit or privilege or rendered liable under the provisions of this Act, include a firm, corporation, or association as well as a natural person. The term 'juristic person' includes a firm, corporation, association or similar organization capable of suing and being used in a court of law. The terms 'applicant' and 'registrant' embrace the successors and assigns of such applicant or registrant. The term 'trade--mark' includes any mark which is entitled to registration under the terms of this Act, and whether registered or not, and a trade--mark shall be deemed to be 'affixed' to an article when it is placed in any manner in or upon either the article itself or the receptable or package or upon the envelope or other thing in, by, or with which the goods are packed or enclosed or otherwise prepared for sale or distribution."