87TH CONGRESS
1ST SESSION

S. 150

IN THE SENATE OF THE UNITED STATES

JANUARY 5 (legislative day, JANUARY 4), 1961

MR. DIRKSEN introduced the following bill, which was read twice and 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 the Patent Office

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of 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 (60 Stat 427), is amended by adding at the end thereof the following new subsection:

"(e) 1. Any person may, upon the payment of the prescribed fee, file with the Commissioner, in such form as may be prescribed by the Commissioner, a declaration (which shall be verified by the declarant or by a member of the firm or an officer of the corporation or association declaring) expressing his intent to use a particular mark in commerce. Such declaration shall contain a specification of the goods or services in connection with which it is intended that such mark be used and shall be accompanied by a drawing of the mark. Each declaration shall be limited to goods or services in one class and not more than one such declaration for the same mark in the same class may be filed by any declarant or its related company in any five-year period. The Commissioner shall promptly publish in the Official Gazette (1) the mark, (2) the goods or services specified, (3) the name and address of the declarant, and (4) the date of filing the declaration.

"2. If, (1) within nine months from the date of filing the said declaration, an application for registration of the mark is filed by declarant as required by section 1(a) through (d) hereof, and if (2) pursuant to said application, the mark is subsequently registered, or is found registrable except for the question of priority, then for the purposes of this Act, the registrant or applicant filing said application shall be accorded priority as against any other person except

a person who either (a) prior to the publication of the mark of said declaration, has commenced use of the mark or a mark or trade name which is so similar to the mark of said registrant or applicant as to be likely to cause confusion, mistake, or deception of purchasers, or (b) prior to the filing of said declaration has filed a declaration of intent to use such a mark, provided that the first filed declaration is followed by an application for registration pursuant to clause (1) of this subparagraph 2, or (c) has acquired a right of priority pursuant to section 44(d) based on a foreign application filed prior to the filing of said declaration.

"3. No rights in or to a declaration under this paragraph (e) are assignable prior to the filing of an application pursuant to the provisions of subparagraph 2 of this paragraph (e), but thereafter said declarant's rights in and to said declaration and all rights thereunder inure to the benefit of the assignee of any such application or any registration granted thereon."

SEC. 2. The first sentence of section 31 of such Act is amended by striking out "On filing" and inserting in lieu thereof "On filing each declaration under section 1(e) hereof, $15; on filing".

SEC. 3. Paragraph (5) of subsection (b) of section 33 is amended by inserting after the word "under" the words "subsection (e) of section 1 or".

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