Superseded by: 98th, HR 3422

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98TH CONGRESS
1ST SESSION

H. R. 3824

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1983

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

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A BILL

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technical Amendments to the Federal Court Improvements Act".

SEC. 2. Section 1292(b) of title 28, United States Code, is amended by inserting "which would have jurisdiction of an appeal of such action" after "The Court of Appeals".

SEC. 3. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended in the fourth sentence by insert-

ing ", within 60 days after the determination is made," after "appeal such determination".

SEC. 4. (a) Sections 142, 143, and 144 of title 35, United States Code, are amended to read as follows:

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"§ 143. Proceedings on appeal

"With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit certified copies of all the necessary papers and evidence designated by the appellant and any additional papers and evidence designated by the Commissioner or another party. In an ex parte case, the Commissioner may appear in court by his representative and present the position of the Patent and Trademark Office. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"§ 144. Decision on appeal

"The United States Court of Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the evidence produced before the Patent and Trademark Office and transmitted to the court under section 143 of this title. 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 and Trademark Office and shall govern the further proceedings in the case.".

(b) Paragraphs (2), (3), and (4) of subsection (a) of section 21 of 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 (15 U.S.C. 1071(a) (2), (3), and (4)), are amended to read as follows:

"(2) When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"(3) The Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit certified copies of all of the necessary papers and evidence designated

by the appellant and any additional papers and evidence designated by the Commissioner or another party. In an ex parte case, the Commissioner may appear in court by his representative and present the position of the Patent and Trademark Office. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"(4) The United States Court of Appeals for the Federal Circuit shall review the decision from which the appeal is taken on the evidence produced before the Patent and Trademark Office and transmitted to the court under paragraph (3) of this subsection. 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 and Trademark Office and shall govern the further proceedings in the case.".

(c) This section shall apply to proceedings pending in the Patent and Trademark Office and to appeals pending in the United States Court of Appeals for the Federal Circuit.

SEC. 5. Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982, was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act, so serve under that section as in effect on the date of the enact-

ment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia.

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