Superseded by 98 HR 6285

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98TH CONGRESS
1ST SESSION

H. R. 4460

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1983

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

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A BILL

To clarify the circumstances under which a trademark may be cancelled 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 U.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 relevant 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 sponsor." 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 one person, including unique services, from 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".

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