Supersedes 98 HR 4460

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98TH CONGRESS
2D SESSION

H. R. 6285

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 1984

Mr. KASTENMEIER (for himself, Mr. RODINO, Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. DEWINE, Mr. KINDNESS, and Mr. SAWYER) 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 canceled or considered abandoned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Trademark Amendments Act of 1984".

SEC. 2. Section 14 of the Act of July 5, 1946 (15 U.S.C. 1064) (commonly known as the Trademark Act of 1946), 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 the relevant public understands the trademark to function as a mark or as a common descriptive name.''.

SEC. 3. (a) Section 45 of the Act of July 5, 1946 (15 U.S.C. 1127), is amended by striking out the paragraph which begins to read ''The term 'trademark' '' 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.''.

(b) Section 45 of the Act of July 5, 1946, is further amended by striking out the first sentence of the paragraph which begins to read ''The term 'service mark' '' and inserting in lieu thereof the following:

''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.''.

(c) 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: "Purchaser motivation shall not be a test for determination of abandonment under this subsection.".

SEC. 4. The amendments made by this Act shall not affect any action pending on the date of the enactment of this Act and shall not affect any mark which, before such date of enactment, was finally determined to have been abandoned.

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