§ H.R. 4744

TITLE I----THE PRINCIPAL REGISTER

SECTION 1. Trade--marks used in commerce may be registered in the following manner:
(a) By filing in the Patent Office--
(1) a written application, verified by the applicant, in such form as may be prescribed by the Commissioner;
(2) a drawing of the trade--mark; and

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(3) such number of specimens or facsimiles of the trade--mark as actually used as may be required by the Commissioner.
(b) By paying into the Patent Office the sum of $15.
(c) By complying with such rules or regulations, not inconsistent with law, as may be prescribed by the Commissioner.
(d) If the applicant is not domiciled in the United States he shall designate by a written document filed in the Patent Office some person resident in the United States on whom may be served notices or process in proceedings affecting the trade--mark. Such notices or process may be served upon the person so designated by leaving a copy thereof at the last address so filed.

MARKS REGISTRABLE ON THE PRINCIPAL REGISTER

SEC. 2. No mark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration as a trade--mark on account of its nature unless it--
(a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which tends to disparage persons, living or dead, institutions, beliefs, or national symbols, or to bring them into contempt;
(b) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or

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municipality, or of any foreign nation, or any simulation thereof;
(c) Consists of or comprises the name, portrait, or signature of a living individual unless by his written
consent;
(d) Consists of or comprises a mark which so resembles a trade--mark previously registered by another under the Act of February 20, 1905, as amended, or upon the principal register provided by this Act, as to be likely, when applied to the goods of the applicant, to cause confusion or mistake or to deceive purchasers;
(e) Consists of a mark which, when applied to the goods of the applicant, has merely a descriptive or geographical, and no other, meaning, except as such marks may be registrable under section 4, or is merely the name of an individual and has no other meaning;
(f) Except as expressly excluded in paragraphs (a), (b), (c), and (d) of this section, nothing herein shall prevent the registration of any mark used by the applicant as a trade--mark which has become distinctive of the applicant's goods in commerce.

SERVICE AND CERTIFICATION MARKS REGISTRABLE

SEC. 3. Subject to the same provisions relating to the registration of trade--marks, so far as they may be applicable, service and certification marks used in commerce shall be registrable, in the same manner and with the same effect,

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and when registered they shall be entitled to the protection provided herein in the case of trade--marks. The Commissioner may establish a separate register for such marks. Applications and procedure under this section shall conform as nearly as practicable to those prescribed for the registration of trade--marks.

COLLECTIVE AND ASSOCIATION MARKS REGISTRABLE

SEC 4. Collective marks, including indications of regional origin, used by natural or juristic persons, and nations, States, municipalities, and the like, exercising legitimate control over the used of the trade--mark sought to be registered, even though not possessing an industrial or commercial establishment, shall be registrable under this Act.

USE BY RELATED COMPANIES

SEC. 5. Where the trade--mark sought to be registered is or may be used by subsidiary or related companies, or by the members of an association, such use shall be deemed exclusive in the holding or parent company or in the association; and use of registered trade--marks by companies subsidiary or related to the registrant or by the members of an association, shall not affect the validity of such trade--mark or of its registration.

DISCLAIMERS

SEC. 6. The Commissioner may require unregistrable matter to be disclaimed, but such disclaimer shall not preju-

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dice or affect the applicant's or owner's rights then existing or thereafter arising in the disclaimed matter, nor shall such disclaimer prejudice or affect the applicant's or owner's right of registration on another application of later date if, in the period intervening between the disclaimer and the later application, the disclaimed matter has become distinctive of the applicant's goods.

CERTIFICATES

SEC. 7. (a) Certificates of registration of trade--marks shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall either be signed by the Commissioner or have his name printed thereon and attested by an assistant commissioner or by one of the law examiners duly designated by the Commissioner, and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that

purpose. The certificate shall state the date on which the application for registration was received in the Patent Office.
(b) The certificates of registration of a trade--mark upon the principal register provided by this Act shall be presumptive evidence of the validity of the trade--mark and of registrant's exclusive right thereto.
(c) Certificates of registration of trade--marks may be issued to the assignees of the applicant, but the
assignment

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must first be recorded in the Patent Office. In case of succession or change of ownership the Commissioner may, upon a proper showing at the request of the owner or successor and upon the payment of a fee of $10, issue to such owner or successor a new certificate of registration of the said trade--mark in the name of such owner or successor.
(d) The Commissioner, upon application of the registrant, may permit any registration under this or any previous Act to be canceled or for good cause to be amended or disclaimed in whole or in part, at any time: Provided. That when so amended it shall still contain registrable matter, and shall make appropriate entry upon the records of the Patent Office and upon the certificate of registration, or if said certificate is lost or destroyed upon a certified copy thereof.
(e) Copies of any records, books, papers, or drawings relating to trade--marks belonging to the Patent Office, and of certificates of registration, authenticated by the seal of the Patent Office and certified by the Commissioner or in his name by a chief of division duly designated by the Commissioner, shall be evidence in all cases wherein the originals would be evidence; and any person making application therefor and paying the fee required by law shall have such copies.
(f) Whenever a mistake in a trade--mark registration, incurred through the fault of the Patent Office, is clearly dis--

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closed by the records of the Office a certificate stating the fact and nature of such mistake, signed by the Commissioner and sealed with the seal of the Patent Office, may be issued, without charge, and recorded in the records of trade--marks and a printed copy thereof attached to each printed copy of the trade--mark registration, and such certificate shall thereafter be considered as part of the original, and every trade--mark registration, together with such certificate, shall have the same effect and operation in law on the trial of all actions or causes thereafter arising as if the same had been originally issued in such corrected form. All such certificates heretofore issued in accordance with the rules of the Patent Office and the trade--mark registrations to which they are attached shall have the same force and effect as if such certificates had been specifically authorized by statute.
(g) Whenever a mistake has been made in a trade--mark registration and a showing has been made that such mistake occurred in good faith through the fault of the applicant, the Commissioner is authorized to issue a certificate of correction upon the payment of a fee of $10, provided the correction is not such as to necessitate republication of the mark.

DURATION

SEC. 8. Each certificate of registration shall remain in force for twenty years and shall be effective throughout the United States, unless it be the sole name of an article, sub--

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stance, or service having patent protection, in which case the registration shall expire two years after the expiration of that patent.

RENEWAL

SEC. 9. On application of the registrant, certificates of registration may be renewed for like periods of twenty years from the end of the expiring period on payment of the renewal fees required by this Act if the registered trade--mark is still in use; and such application may be made at any time within six months before the expiration of the period for which the certificate of registration was issued or renewed, or may be made within three months after such expiration on payment of an additional fee of $5.

ASSIGNMENT

SEC. 10. A registered trade--mark shall be assignable either with or without the goodwill of the business. Assignments shall be by instruments in writing duly acknowledged. Acknowledgement shall be prima facie evidence of the execution of the assignment and when recorded in the Patent Office the record shall be prima-facie evidence of execution. An assignment shall be void as against any subsequent purchaser for a valuable consideration without notice, unless it is recorded in the Patent Office within three months from the date thereof or prior to such subsequent purchase. The Commissioner shall keep a record of assignments.

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SEC. 11. Any acknowledgement or verification shall be valid if it complies with the laws of the State or country where it is made.

PUBLICATION

SEC. 12. Upon the filing of an application for registration and payment of the fees herein provided, the Commissioner shall cause an examination to be made and, if on such examination it shall appear that the applicant is entitled to registration, the Commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office.

OPPOSITION

SEC. 13. Any person who would be damaged by the registration of a trade--mark may file a verified notice of opposition in the Patent Office stating the grounds therefor within thirty days after the publication in the Official Gazette of the trade--mark sought to be registered. For good cause shown, the time for filing notice of opposition may be extended by the Commissioner. An opposition may be filed by a duly authorized attorney, but such opposition shall be null and void unless verified by the opposer within a reasonable time after such filing.

CANCELATION

SEC. 14. Whenever any person is damaged by the registration of a trade--mark, he may, within five years from

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the date of registration, apply to cancel the registration thereof. If the registered trade--mark has been abandoned or its registration was obtained fraudulently, application for its cancelation may be made at anytime.

SEC. 15. After the period for cancelation of the registration of a trade--mark has expired, and except as provided by sections 14, 21, and 41 of this Act, the exclusive right of the registrant to use his trade--mark in commerce shall be incontestable.

INTERFERENCE

SEC. 16. Whenever application is made for the registration of a trade--mark which so resembles a trade--mark previously registered by another, or for the registration of which another has previously made application, as to be likely in the opinion of the Commissioner, when applied to the goods of the applicant, to cause confusion or mistake or to deceive purchasers, the Commissioner may declare that an interference exists.

SEC. 17. In every case of interference, opposition to registration, or petition to cancel a registered trade--mark, the Commissioner shall give notice to all parties and shall direct the examiner in charge of interferences to determine the issues according to the established rights of the parties.

SEC. 18. Appeal may be taken to the Commissioner in person from the decision of the examiner of
interferences.

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Appeals may also be taken to the Commissioner in person from the decision of the examiner in charge of trade--marks.

SEC. 19. The Commissioner may refuse to register the opposed mark, may cancel the registration of a registered trade--mark, or may refuse to register both of two interfering marks, or may register the trade--mark for the person entitled thereto.

SEC. 20. If an applicant for registration of a trade--mark, or a party to an interferences as to a trade--mark, or party who has filed opposition to the registration of a trade--mark, or party to an application for the cancelation of the registration of a trade--mark, is dissatisfied with the decision of the Commissioner of Patents, he may appeal to the United States Court of Customs and Patent Appeals on complying with the conditions required in case of an appeal from the decision of the Commissioner by an applicant for a patent or a party to an interference as to an

invention, and the same rules of practice and procedure shall govern in every stage of such proceedings as far as the same may be applicable. The same right of review shall be accorded to parties to opposition and cancelation proceedings.
The provisions of section 4915 of the Revised Statutes shall apply in trade--mark cases.

SEC. 21. In case of honest concurrent user or of other special circumstances which, in the opinion of the reviewing

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court, make it proper so to do, the court may authorize and direct more than one registration of the same or of similar trade--marks, for the same or like goods or services, subject to such conditions and limitations, if any, as to mode or place of use or otherwise as the court may direct.

REGISTRATION IS NOTICE

SEC. 22. Registration of a trade--mark under this Act is notice of the registrant's claim of ownership thereof.

TITLE II----THE SUPPLEMENTAL REGISTER

SEC. 23. In addition to the principal register, the Commissioner shall keep a continuation of the register provided in paragraph (b) of section 1 of the Act of March 19, 1920, entitled "An Act to give effect to certain provisions of the convention for the protection of trade--marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, and for other purposes", to be called the supplemental register. All marks not registrable on the principal register herein provided, except those declared to be unregistrable under paragraphs (a), (b), (c), and (d) of section 2 of this Act, which have been in bona fide use for not less than one year in commerce by the proprietor thereof, upon or in connection with any goods of such proprietor, may be registered on the supplemental register upon payment of a fee of $15 to the Commissioner of Patents and compliance with such

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formalities as the said Commissioner may require Provided. That a trade--mark which so resembles a known trade--mark owned and used in commerce by another, as to be likely, when applied to the goods of the applicant, to cause confusion or mistake or to deceive purchasers, shall not be placed on this register: And provided further. That where the trade--mark so to be registered is or may be used by subsidiary or related companies or by members of an association, such use shall be deemed exclusive in the holding or parent company or in the association, for the purposes of the application and for all other purposes; and use of registered trade--marks by companies subsidiary or related to the registrant or by the members of an association, shall not affect the validity of such trade--mark or of its registration.
For the purposes of this register, a mark may include a trade--mark, symbol, label, package, configuration of goods, name, word, slogan, or phrase.
Collective marks, including indications of regional origin, 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, shall be registrable under this section: Provided further. That upon a proper showing by the applicant that he has begun the bona fide use of his mark in foreign commerce and that he

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requires domestic registration as a basis for foreign protection of his mark, the Commissioner may waive the requirement of a full year's use and may grant registration forthwith.

CANCELATION

SEC. 24. Marks for the supplemental register shall not be published for or be subject to opposition, but shall be published on registration. Whenever any person shall deem himself injured by the inclusion of a trade--mark on this register, he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The Commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question, and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the mark at or since the date of his application for registration thereof, or that the mark is not used by the registrant or has been abandoned, and the examiner shall so decide, the Commissioner shall cancel the registration. Appeal may be taken to the Commissioner in person from the decision of the examiner in charge of interferences, but the decision of the Commissioner shall not be appealable.

DURATION AND RENEWAL

SEC. 25. Registrations on the supplemental register shall remain in force for twenty years unless sooner canceled.

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Such registrations may be renewed as provided in section 9 of this Act. GENERAL PROVISIONS

SEC. 26. The provisions of paragraphs (a), (c), (e), (f), and (g) of section 7, the provisions of section 10(except the provision for assignment without the good will of the business), and the provisions of sections 11and 22 of this Act, are hereby made applicable to registrations on the supplemental register.

SEC. 27. Registration on the supplemental register, or under the Act of March 19, 1920, or expiration under section 25 hereof, shall not preclude registration on the principal register established by this Act.

SEC. 28. Registration on the supplemental register shall not be filed in the Department of the Treasury or be used to stop importations.

TITLE III----NOTICE OF REGISTRATION

SEC. 29. It shall be the duty of the registrant to accompany a trade--mark registered under the Act of February20, 1905, or under section 1 (b) of the Act of March 19, 1920, or under this Act, with the words "Registered in U.S. Patent Office" or "Reg. U.S. Pat. Off.", or with the letter R enclosed within a circle, thus, R, if by reason of the nature or size of the article or package to which the mark is affixed to otherwise it is impracticable to use either form of

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wording herein prescribed; and in any suit for infringement under this Act by a registrant failing so to mark, no profits and no damages shall be recovered: Provided, however. That the foregoing requirement as to notice shall be deemed fulfilled in respect to goods of foreign origin if the marks thereon which are registered in the United States carry the words or indications of registration legally used or required to be used in the country of origin of the goods.

TITLE IV----CLASSIFICATION

SEC. 30. The Commissioner may establish a classification of merchandise, for convenience of Patent Office administration, but not to limit or extend the applicant's rights. The applicant may register his trade--mark in one application for any or all of the goods included in one class, upon which he has actually used the mark.

TITLE V----FEES AND CHARGES

SEC. 31. Fees payable to the Patent Office under this Act shall be as follows: On filing each original application for registration of a trade--mark in either the principal or the supplemental register, $15; on filing each application for renewal, $15; and on filing each application for renewal after expiration of the registration, an additional fee of $5; on filing notice of opposition or petition for cancelation, $10; on appeal from the examiner in charge of trade--marks to the Commissioner, $20; on appeal from the examiner in

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charge of interferences to the Commissioner, $20; for manuscript copies, for every one hundred words or fraction the roof, 10 cents; for each printed copy of registration and drawing, 10 cents; for comparing other copies, 5 cents for every one hundred words or fraction thereof; for certifying in any case, additional, 75cents; for each additional registration or application which may be included under a single certificate, 25 cents additional; for recording every assignment or other paper, $3; for each additional registration or application included, or involved in one writing where more than one is so included or involved, additional, 50 cents.
The Commissioner is authorized to refund fees paid by mistake or in excess.

TITLE VI----REMEDIES

SEC. 32. Any person who shall without the consent of the registrant thereof reproduce, counterfeit, copy, or colorably imitate any trade--mark on either register provided by this Act, and shall affix such reproduction, counterfeit, copy, or colorable imitation to merchandise of such a character that the use thereof is likely to cause confusion or mistake or to deceive purchasers, or to labels, signs, prints, packages, wrappers, receptacles, or advertisements

intended to be used upon or in connection with the sale of such merchandise, and shall use or have used such reproduction, counterfeit, copy, or colorable imitation in commerce, shall

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be liable in a civil action by the registrant for any or all of the remedies hereinafter provided.

SEC. 33. The several courts vested with jurisdiction of civil actions arising under this Act shall have power to grant injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a trade--mark registered under this Act. Any such injunction granted upon hearing, after notice to the defendant, by any district said injunction is made, transfer without delay to said court served on the parties against whom such injunction is granted anywhere in the United States where they may be found, and shall be operative, and may be enforced by
proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other district court, or judge thereof, in the United States, or by the district court of the District of Columbia, or a judge thereof. The said courts, or judges thereof, shall have jurisdiction to enforce said injunction, as herein provided, as fully as if the injunction had been granted by the district court in which it is sought to be enforced. The clerk of the court or judge granting the injunction shall, when required to do so by the court before which application to enforce said injunction is made, transfer without delay to said court

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a certified copy of all papers on file in his office, upon which said injunction was granted.

SEC. 34. Whenever the plaintiff shall have established his right to relief in any civil action arising under this Act, he shall be entitled to recover (1) defendant's profits, (2) any damages sustained by the plaintiff, and (3) the costs of the action. The court shall assess such profits and damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed. In assessing damages the court may, according to the circumstances of the case, include in the judgment any sum above the amount found as actual damages, not exceeding three times such amount, such sum to constitute compensation and not a penalty.

SEC. 35. In any civil action arising under this Act, in which the plaintiff shall have established his rights to relief, the court may order that all labels, signs, prints, packages, wrappers, receptacles, or advertisements in the possession of the defendant, bearing the trade--mark of the plaintiff or any reproduction, counterfeit, copy, or colorable imitation thereof, and all plates, molds, matrices, or other means of making the same, shall be delivered up and destroyed.

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SEC. 36. Whenever there are interfering registered trade--marks, any person interested in any one of them may have relief against the interfering registrant, and all persons interested under him, by civil action against the said registrant; and the court, on notice to adverse parties and other due proceedings had according to the rules of civil procedure, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the

trade--mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancelation.

SEC. 37. Any person who shall procure registration of a trade--mark, or entry thereof, in the office of the Commissioner of Patents by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable in a civil action by any person injured thereby for any damages sustained inconsequence thereof.

SEC. 38. The district and territorial courts of the United States and the district court of the District of Columbia shall have original jurisdiction, and the circuit courts of appeal of the United States and the circuit court of appeals of the District of Columbia shall have appellate jurisdiction, of all civil actions arising under this Act respecting trade--marks registered in accordance with the provisions of this Act,

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without regard to the amount in controversy or to diversity or lack of diversity of the citizenship of the parties.

SEC. 39. Writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this Act in the same manner as provided for patent cases by the Act creating the circuit courts of appeal.

SEC. 40. The Commissioner of Patents is authorized to make rules and regulations, not inconsistent with law, for the conduct of proceedings in reference to the registration of trade--marks under this Act.

SEC. 41. Nothing in this Act shall entitle the registrant to interfere with or restrain the use by any person of the same trade--mark or of a similar trade--mark for the same or like goods or services when such person by himself or his predecessors in business has continuously used such trade--mark from a date prior to the use or registration, whichever is the earlier, by the registrant or his predecessors.

CRIMINAL OFFENSES

SEC. 42. Knowingly to introduce or deliver for introduction or to receive in commerce any counterfeit of any registered trade--mark or knowingly to transport such counterfeit in commerce shall be a misdemeanor punishable by a fine not exceeding $1,000 or imprisonment not exceeding six months, or both such fine and imprisonment.

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TITLE VII----IMPORTATION FORBIDDEN OF GOODS BEARING INFRINGING MARKS OR
NAMES, FALSE DESIGNATIONS OF ORIGIN, OR FALSE DESCRIPTION

SEC 43. (a) Any merchandise, whatever may be its source or origin, which shall bear any registered trade--mark or any infringement thereof, except a mark registered under section 1 (b) of the Act of March 19, 1920, or in the supplemental register provided by this Act, shall not be imported into the United States or admitted to entry at any customhouse of the United States unless the written consent of the registrant to such importation or entry be first had and obtained or unless such offending mark be removed or obliterated; and, if brought into the United States in violation of the provision of this section, any person selling, offering for sale, or dealing in such merchandise shall be amenable, at the suit of the registrant, to the liabilities for infringement provided in this Act and, in addition, be required to export or destroy such merchandise or to remove or obliterate such infringing trade--mark therefrom, and such merchandise shall be subject to seizure and forfeiture for violation of the customs laws. In order to aid the officers of the customs in enforcing this paragraph, the registrant may require a copy of the certificate of registration of his trade--mark to be recorded in books which shall be kept for

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this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs.
(b) Any merchandise, whatever may be its source or origin, which shall bear the name or a simulation thereof of any domestic manufacture or manufacturer or trader, or of any manufacturer or trader located in any foreign country which by treaty, convention, or law affords similar privileges to citizens of the United States, shall not be imported into the United States or admitted to entry at any customhouse of the United States unless the written consent of such manufacturer or trader to such importation or entry be first had and obtained, or unless such offending name be removed or obliterated, and if brought into the United States in violation of the provisions of this section, any person selling, offering for sale, or dealing in such merchandise may be enjoined from dealing therein and in addition be required to export or destroy such merchandise or to remove or obliterate such name therefrom, and the merchandise shall be subject to seizure and forfeiture for violation of the customs laws. In order to aid the officers of the customs in enforcing this paragraph, any such domestic or foreign manufacturer or trader may require a statement of his busi-

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ness or commercial name and the locality where his business is located and where his goods are manufactured to be recorded in books which shall be kept for this purpose in the Department of the Treasury under such regulations as the Secretary of the Treasury shall prescribe, and thereupon the Secretary of the Treasury shall cause one or more copies of such record to be transmitted to each collector or other proper officer of customs.
(c) The owner, importer, or consignee of merchandise refused entry or seized under paragraphs (a) and
(b) of this section may have relief against the registrant, manufacturer, or trader by a summary proceeding in any court of original jurisdiction, in the district where such merchandise is held or where such registrant, manufacturer, or trader or a designated representative is an inhabitant or may be found, or, if the registrant is a foreigner and no such designation has been filed, then in the District of Columbia, and after such notice and

upon such proceedings as the court may direct the court may determine whether the plaintiff for any reason has the right to import such merchandise under the names or marks which it bears.
(d) A decree or order of such court for the plaintiff, upon being certified to the collector of the port where the merchandise is held, shall be warrant to such collector to

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release the merchandise from arrest or seizure or forfeiture under this section.
(e) An order or decree for either party, whether interlocutory or final, shall be appealable within thirty days, and the court making such order or decree may, in its discretion, suspend the operation thereof pending appeal.

TITLE VIII----FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN

SEC 44. (a) Any person who shall affix, apply, or annex, or use in connection with any article or articles of merchandise, or any container or containers of the same, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such merchandise to enter into commerce, and any person who shall knowingly cause or procure the same to be transported in commerce or shall knowingly deliver the same to any carrier to be transported, shall be liable to a civil action at the suit of any person doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or of any association of such persons or of any person who is or is likely to be damaged by the use of any false description or representation, or at the suit of any association of such persons.

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(b) Any article marked or labeled in contravention of the provisions of this section shall not be imported into the United States or admitted to entry at any customhouse of the United States. The owner, importer, or consignee of merchandise refused entry in any customhouse under this section may have any recourse by protest or appeal that is given under the customs revenue laws or may have the remedy given by this Act incases involving merchandise refused entry or seized.

TITLE IX----INTERNATIONAL CONVENTIONS

SEC 45. (a) Persons national of, or domiciled in, or having a bona fide and effective business or commercial establishment in any country, which is party to the International Convention for the Protection of Industrial Property, concluded at Paris on March 20, 1883, or to any subsequent revision thereof, as well as to any convention between American republics concerning the protection of trade--marks and trade names and the repression of unfair competition, to which the United States is also a party, shall be entitled to the benefits and subject to the provisions of this Act except as provided in the following paragraphs of this section.
(b) No registration of a trade--mark in the United States by a person described in paragraph (a) of this section shall be perfected until such trade--mark has been regis--

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tered in the country of origin of the applicant, except when such country makes no such requirement of nationals or residents of the United States or the applicant alleges use in commerce.
For the purposes of this section, the country of origin of the applicant is the country in which he has a bona fide and effective industrial or commercial establishment and, in the case of associations, the country in which the association has its domicile or its principal office.
(c) An application for registration of a trade--mark under sections 1 or 23 of this Act filed by a person described in paragraph (a) of this section who has previously duly filed an application for registration of the same trade--mark in one of the countries described in paragraph (a) shall be accorded the same force and effect as would be accorded to the same application if filed in the United States on the same date on which the application was first filed in such foreign country; Provided. That--
(1) the application in the United States is filed within six months from the date on which the application was first filed in the foreign country;
(2) the application conforms as nearly as practicable to the requirements of this Act, but use in commerce need not be alleged;

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(3) the applicant files a certified copy of the application filed in the foreign country: And provided further. That--
(4) the rights acquired by third parties before the day of the first application in the foreign country shall in no way be affected by the registration obtained on the application under this paragraph; and
(5) nothing in this paragraph shall entitle the foreign applicant to sue for infringement of his trade--mark prior to the date on which his trade--mark was registered in this country unless the registration is based on use in commerce.
(d) A trade--mark duly registered in the country of origin of the foreign applicant and not registrable under section 2 of this Act may be registered in the supplemental register herein provided. The application shall be accompanied by a certified copy of the registration in the country of origin of the applicant.
(e) The registration of a trade--mark under the provisions of paragraphs (b), (c), and (d) of this section by a person described in paragraph (a) shall be independent of the registration in the country of origin and the duration, validity, or transfer in the United States of such registration shall be governed by the provisions of this Act.

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(f) Trade names of persons described in paragraph (a) of this section used in commerce shall be protected in accordance with the provisions of this Act.
(g) All acts of unfair competition in commerce are declared to be unlawful and the provisions of sections32 to 35 inclusive shall be applicable thereto.
(b)(h) Citizens or residents of the United States shall have the same benefits as are granted by this section to persons described in paragraph (a) hereof.

TITLE X----CONSTRUCTION AND DEFINITIONS

SEC 46. In the construction of this Act, unless the contrary is plainly apparent from the context--
The United States includes and embraces all territory which is under its jurisdiction and control. The word "commerce" means all commerce which may lawfully be regulated by Congress. The term "person" 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 includes a juristic person, firm, corporation, association, or other legal entity as well as natural person. The term "juristic person" includes a firm, corporation, association or similar organization capable of suing and being sued in a court of law.

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The terms "applicant" and "registrant" embrace the legal representatives and successors and assigns of such applicant or registrant.
The term "Commissioner" means the Commissioner of Patents.
The term "related company" means any individual, partnership, or person within the definition above where by stock ownership, contractual relationship, or otherwise, the nature and quality of the goods upon which the mark is used is controlled by the registrant.
The term "trade--mark" includes any mark which is entitled to registration under the terms of this Act and whether registered or not. "Service marks" are marks so used as to distinguish the user's services of any nature from the similar services of others. "Certification marks" are marks indicating that the goods in connection with which they are used are certified as to origin, material, mode of manufacture, quality, accuracy, or other characteristic. There may be included in the category of certification marks the marks of labor unions and other associations.
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 or its container or display or upon tags or labels or is otherwise used in the advertisement or sale thereof.

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A trade--mark shall be deemed to be "abandoned"--
(a) When its use has been discontinued with intent not to resume. Intent to abandon may be inferred from circumstances. Discontinuance of use for two years shall be prima facie abandonment.
(b) When any conduct of the registrant causes the trade--mark to lose its significance as an indication of origin; or
(c) The term "colorable imitation" includes any mark which so resembles a trade--mark registered under this Act as to be likely to cause confusion or mistake or to deceive purchasers.
Words used in the singular include the plural, and vice versa.
The intent of this Act is to regulate commerce within the control of Congress by making actionable the deceptive and misleading use of trade--marks in such commerce; to protect persons engaged in such commerce against unfair competition; to prevent fraud and deception in such commerce by the use of reproductions, copies, counterfeits, or colorable imitations of trade--marks registered in accordance with the terms of this Act; and to provide rights and remedies stipulated by treaties and conventions respecting trade--marks and unfair competition entered into between the United States and foreign nations.

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TITLE XI----REPEAL OF PREVIOUS ACTS

SEC. 47. This Act shall be in force and take effect sixty days from its enactment, but shall not affect any suit, proceeding, or appeal then pending. All Acts and parts of Acts inconsistent herewith are hereby repealed, including the following, namely: The Act of Congress approved March 3, 1881, entitled "An Act to authorize the registration of trade--marks and protect the same"; the Act approved August 5, 1882, entitled "An Act relating to the registration of trade--marks"; the Act of February 20, 1905 (U. S. C., title 15, secs. 81 to109, inclusive), entitled "An Act to authorize the registration of trade--marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same", and the amendments thereto by the Acts of May 4, 1906 (U.S.C., title 15, secs. 131 and 132; 34 Stat. 169), March 2, 1907 (34Stat. 1251, 1252). February 18, 1909 (35 Stat. 627, 628), February 18, 1911 (36 Stat. 918), March 3, 1911(36 Stat. 1167), January 8, 1913 (37 Stat. 649), June 7, 1924 (43 Stat. 647), March 4, 1925 (43 Stat. 1268,1269), March 2, 1929 (45 Stat. 1476), April 11, 1930 (46 Stat. 155), and June 20, 1936 (49 Stat. 1539); Act June 10, 1938 (Public. Numbered 586, Seventy--fifth Congress, ch. 332, third session); the Act of March 19,1920 (U. S. C., title 15, secs. 121 to 128, inclusive), entitled "An Act to give effect to certain

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provisions of the convention for the protection of trade--marks and commercial names made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, and for other purposes"; and the amendments thereto, including Act June 10, 1938 (Public, Numbered 586, Seventy--fifth Congress, ch. 332, third session); and section 526 of the Tariff Act of 1930 (U.S.C., title 19, sec. 1536), except that this repeal shall not affect the validity of registrations under said Acts, respectively, or rights or remedies thereunder.
Registrations now existing under the Act of February 20, 1905, shall continue in full force and effect for the unexpired term thereof and may be renewed under the provisions of section 9 of this Act. Such registration shall be subject to and shall be entitled to the benefit of the provisions of this Act relating to marks registered on the principal register established by this Act.
Registrations now existing under the Act of March 19, 1920, shall expire in twenty years from the date of registration and may not be renewed unless renewal is required to support foreign registrations. In that event renewal may be effected under the provisions of section 9 of this Act. Such registrations shall be subject to and entitled to the benefit of the provisions of this Act relating to marks registered on the supplemental register established by this Act. Marks registered under previous Acts may, if eligible, also be registered under this Act.

SEC. 49. Section 4 of the Act of January 5, 1905 (U.S.C., title 36, sec. 4), as amended, entitled "An Act to incorporate the National Red Cross", and section 7 of the Act of June 15, 1916 (U.S.C., title 36, sec. 27), entitled "An Act to incorporate the Boy Scouts of America, and for other purposes", and the Act of June 20, 1936 (U. S. C., title 22, sec. 248), entitled "An Act to prohibit the commercial use of the coat of arms of the Swiss Confederation", are not repealed or affected by this Act.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 1939
Mr. LANHAM introduced the following bill; which was referred to the Committee on Patents

A BILL
To provide for the registration of trade--marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.