85TH CONGRESS
2D SESSION

S. 4254

IN THE SENATE OF THE UNITED STATES

AUGUST 8, 1958

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:

FINAL ACTION

"(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) expressing his intent to use in commerce a particular mark. Such declaration shall contain a drawing of the mark with respect to which the declaration is made, and a specification of the goods in connection with which it is intended that such mark be used, as well as of the mode or manner in which it is intended that such mark be used in connection with such goods. Not more than one such declaration for the same mark in the same class may be filed by any declarant or its related company. Unless there is a registration or pending application for registration of the same mark for the same goods or services, the Commissioner shall promptly publish in the Official Gazette (1) the mark, and if the mark consists of or includes a design, a brief description thereof, (2) the goods or services specified, and (3) the name and address of the declarant.

"(2) During the six months period immediately following the date the Commissioner has published a mark pursuant to this subsection, no application for the registration of such mark under the preceding provisions of this section on the part of any person, other than the person as a consequence of whose declaration such mark was so published (or the person who is the successor to such person's entire business),

shall be acted upon by the Commissioner. In acting upon any such application filed within such period by the person as a consequence of whose declaration such mark was so published (or by the person who is the successor to such person's entire business), any use in commerce of such mark by any other person which commences during such period shall be disregarded, and if such mark is registered by the Commissioner no declaration with respect to the same mark which was filed by any other person prior to the time such mark is registered shall confer any right under this Act upon the person filing any such declaration.

"(3) More than one person may file a declaration under this subsection with respect to a particular mark, and the Commissioner shall publish such mark each time a declaration is filed with respect to it, if such declaration meets the requirements prescribed in paragraph (1), but the second and each succeeding publication of such mark shall not take place until six months after the date of the last preceding publication of such mark, notwithstanding the fact that such second and succeeding publications may have been based upon declarations filed prior to the dates such publications take place."

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".

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