

## Calendar No. 473

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2192**

To make certain technical corrections to the Trademark Act of 1946.

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## IN THE SENATE OF THE UNITED STATES

JUNE 18, 1998

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 16, 1998

Reported by Mr. HATCH, without amendment

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**A BILL**

To make certain technical corrections to the Trademark Act of 1946.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TECHNICAL CORRECTIONS TO TRADEMARK**  
4 **ACT OF 1946.**

5 (a) IN GENERAL.—The Act entitled “An Act to pro-  
6 vide for the registration and protection of trademarks used  
7 in commerce, to carry out the provisions of certain inter-  
8 national conventions, and for other purposes”, approved

1 July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred  
2 to as the Trademark Act of 1946), is amended as follows:

3 (1) Section 1 (15 U.S.C. 1051) is amended—

4 (A) in subsection (a)(1)(A), by striking  
5 “goods in connection” each place it appears and  
6 inserting “goods on or in connection”; and

7 (B) in subsection (d)(1)—

8 (i) by inserting “and,” after “specify-  
9 ing the date of the applicant’s first use of  
10 the mark in commerce”; and

11 (ii) by striking “and, the mode or  
12 manner in which the mark is used on or in  
13 connection with such goods or services”.

14 (2) Section 2 (15 U.S.C. 1052) is amended—

15 (A) in subsection (e)—

16 (i) in paragraph (3) by striking “or”  
17 after “them,”; and

18 (ii) by inserting before the period at  
19 the end the following: “, or (5) comprises  
20 any matter that, as a whole, is functional”;  
21 and

22 (B) in subsection (f), by striking “para-  
23 graphs (a), (b), (c), (d), and (e)(3)” and insert-  
24 ing “subsections (a), (b), (c), (d), (e)(3), and  
25 (e)(5)”.

1           (3) Section 7(a) (15 U.S.C. 1057(a)) is amend-  
2 ed in the first sentence by striking the second period  
3 at the end.

4           (4) Section 10 (15 U.S.C. 1060) is amended—

5                 (A) at the end of the first sentence, by  
6 striking the comma before the period; and

7                 (B) in the third sentence, by striking the  
8 second period at the end.

9           (5) Section 14(3) (15 U.S.C. 1064(3)) is  
10 amended by inserting “or is functional,” before “or  
11 has been abandoned”.

12           (6) Section 23(c) (15 U.S.C. 1091(c)) is  
13 amended by striking “or device” and inserting “, de-  
14 vice, any matter that as a whole is not functional,”.

15           (7) Section 26 (15 U.S.C. 1094) is amended by  
16 striking “7(c),” and inserting “, 7(c),”.

17           (8) Section 31 (15 U.S.C. 1113) is amended—

18                 (A) by striking—

19 **“§ 31. Fees”;**

20                 and

21                 (B) by striking “(a)” and inserting “SEC.  
22 31. (a)”.

23           (9) Section 32(1) (15 U.S.C. 1114(1)) is  
24 amended by striking “As used in this subsection”  
25 and inserting “As used in this paragraph”.

1           (10) Section 33(b) (15 U.S.C. 1115(b)) is  
2 amended—

3           (A) by redesignating paragraph (8) as  
4 paragraph (9); and

5           (B) by inserting after paragraph (7) the  
6 following:

7           “(8) That the mark is functional; or”.

8           (11) Section 39(a) (15 U.S.C. 1121(a)) is  
9 amended by striking “circuit courts” and inserting  
10 “courts”.

11           (12) Section 42 (15 U.S.C. 1124) is amended  
12 by striking “the any domestic” and inserting “any  
13 domestic”.

14           (13) The Act is amended by striking “trade-  
15 mark” each place it appears in the text and the title  
16 and inserting “trademark”.

17           (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the date of enactment of  
19 this Act, and shall apply only to any civil action filed or  
20 proceeding before the United States Patent and Trade-  
21 mark Office commenced on or after such date relating to  
22 the registration of a mark.

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