

86TH CONGRESS  
1ST SESSION

# S. 1063

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 1959

MR DIRKSEN introduced the following bill, which was read twice and referred to the Committee on the Judiciary

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## 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.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the first section of the Act entitled "An Act to provide  
4       for the registration and protection of trademarks used in  
5       commerce, to carry out the provisions of international con-  
6       ventions, and for other purposes", approved July 5, 1946  
7       (60 Stat. 427), is amended by adding at the end thereof  
8       the following new subsection:

FINAL ACTION

1       “(e) (1) Any person may, upon the payment of the  
2 prescribed fee, file with the Commissioner, in such form as  
3 may be prescribed by the Commissioner, a declaration  
4 (which shall be verified by the declarant) expressing his  
5 intent to use in commerce a particular mark. Such declara-  
6 tion shall contain a drawing of the mark with respect to  
7 which the declaration is made, and a specification of the  
8 goods in connection with which it is intended that such mark  
9 be used, as well as of the mode or manner in which it is  
10 intended that such mark be used in connection with such  
11 goods. Not more than one such declaration for the same  
12 mark in the same class may be filed by any declarant or its  
13 related company. Unless there is a registration or pending  
14 application for registration of the same mark for the same  
15 goods or services, the Commissioner shall promptly publish  
16 in the Official Gazette (1) the mark, and if the mark con-  
17 sists of or includes a design, a brief description thereof, (2)  
18 the goods or services specified, and (3) the name and  
19 address of the declarant.

20       “(2) During the six months period immediately follow-  
21 ing the date the Commissioner has published a mark pursuant  
22 to this subsection, no application for the registration of such  
23 mark under the preceding provisions of this section on the  
24 part of any person, other than the person as a consequence  
25 of whose declaration such mark was so published (or the per-  
26 son who is the successor to such person’s entire business),

1 shall be acted upon by the Commissioner. In acting upon any  
2 such application filed within such period by the person as a  
3 consequence of whose declaration such mark was so pub-  
4 lished (or by the person who is the successor to such person's  
5 entire business), any use in commerce of such mark by any  
6 other person which commences during such period shall be  
7 disregarded, and if such mark is registered by the Commis-  
8 sioner no declaration with respect to the same mark which  
9 was filed by any other person prior to the time such mark  
10 is registered shall confer any right under this Act upon the  
11 person filing any such declaration.

12 “(3) More than one person may file a declaration under  
13 this subsection with respect to a particular mark, and the  
14 Commissioner shall publish such mark each time a declaration  
15 is filed with respect to it, if such declaration meets the re-  
16 quirements prescribed in paragraph (1), but the second and  
17 each succeeding publication of such mark shall not take place  
18 until six months after the date of the last preceding publica-  
19 tion of such mark, notwithstanding the fact that such second  
20 and succeeding publications may have been based upon decla-  
21 rations filed prior to the dates such publications take place.”

22 SEC. 2. The first sentence of section 31 of such Act is  
23 amended by striking out “On filing”, and inserting in lieu  
24 thereof “On filing each declaration under section 1 (e)  
25 hereof, \$15; on filing”.

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By Mr DIRKSEN

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