

87TH CONGRESS  
1ST SESSION

# S. 150

---

IN THE SENATE OF THE UNITED STATES

JANUARY 5 (legislative day, JANUARY 4), 1961

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

- 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 pro-  
4 vide for the registration and protection of trademarks used  
5 in commerce, to carry out the provisions of international  
6 conventions, 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:

1       “(e) 1. Any person may, upon the payment of the pre-  
2 scribed fee, file with the Commissioner, in such form as may  
3 be prescribed by the Commissioner, a declaration (which  
4 shall be verified by the declarant or by a member of the firm  
5 or an officer of the corporation or association declaring) ex-  
6 pressing his intent to use a particular mark in commerce.  
7 Such declaration shall contain a specification of the goods or  
8 services in connection with which it is intended that such  
9 mark be used and shall be accompanied by a drawing of the  
10 mark. Each declaration shall be limited to goods or services  
11 in one class and not more than one such declaration for the  
12 same mark in the same class may be filed by any declarant  
13 or its related company in any five-year period. The Com-  
14 missioner shall promptly publish in the Official Gazette (1)  
15 the mark, (2) the goods or services specified, (3) the name  
16 and address of the declarant, and (4) the date of filing the  
17 declaration.

18       “2. If, (1) within nine months from the date of filing  
19 the said declaration, an application for registration of the  
20 mark is filed by declarant as required by section 1(a)  
21 through (d) hereof, and if (2) pursuant to said applica-  
22 tion, the mark is subsequently registered, or is found registra-  
23 ble except for the question of priority, then for the purposes  
24 of this Act, the registrant or applicant filing said application  
25 shall be accorded priority as against any other person except

1 a person who either (a) prior to the publication of the mark  
2 of said declaration, has commenced use of the mark or a  
3 mark or trade name which is so similar to the mark of said  
4 registrant or applicant as to be likely to cause confusion,  
5 mistake, or deception of purchasers, or (b) prior to the  
6 filing of said declaration has filed a declaration of intent to  
7 use such a mark, provided that the first filed declaration  
8 is followed by an application for registration pursuant to  
9 clause (1) of this subparagraph 2, or (c) has acquired a  
10 right of priority pursuant to section 44 (d) based on a for-  
11 eign application filed prior to the filing of said declaration.

12 "3. No rights in or to a declaration under this paragraph  
13 (e) are assignable prior to the filing of an application pur-  
14 suant to the provisions of subparagraph 2 of this paragraph  
15 (e), but thereafter said declarant's rights in and to said  
16 declaration and all rights thereunder inure to the benefit of  
17 the assignee of any such application or any registration  
18 granted thereon."

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

23 SEC. 3. Paragraph (5) of subsection (b) of section 33  
24 is amended by inserting after the word "under" the words  
25 "subsection (e) of section 1 or".

87TH CONGRESS  
1ST SESSION

S. 150

---

---

## 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

---

---

By Mr DIRKSEN

---

---

JANUARY 5 (legislative day, JANUARY 4), 1961  
Read twice and referred to the Committee on the  
Judiciary