§ 1095. Registration on principal register not precluded

Registration of a mark on the supplemental register, or under the Act of March 19, 1920, shall not preclude registration by the registrant on the principal register established by this chapter. Registration of a mark on the supplemental register shall not constitute an admission that the mark has not acquired distinctiveness.

(July 5, 1946, ch. 540, title II, §27, 60 Stat. 436; Pub. L. 100–667, title I, §124, Nov. 16, 1988, 102 Stat. 3943.)

REFERENCES IN TEXT

Act of March 19, 1920, referred to in text, is act Mar. 19, 1920, ch. 104, §§1–9, 41 Stat. 533, which was generally classified to sections 121 to 128 of this title, and which was repealed insofar as inconsistent with this chapter by act July 5, 1946, ch. 540, §46(a), 60 Stat. 444.

AMENDMENTS

1988—Pub. L. 100–667 inserted at end ''Registration of a mark on the supplemental register shall not constitute an admission that the mark has not acquired distinctiveness.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–667 effective one year after Nov. 16, 1988, see section 136 of Pub. L. 100–667, set out as a note under section 1051 of this title.

REPEAL AND EFFECT ON EXISTING RIGHTS

Repeal of inconsistent provisions, effect of this chapter on pending proceedings and existing registrations and rights under prior acts, see notes set out under section 1051 of this title.

§ 1096. Registration on supplemental register not used to stop importations

Registration on the supplemental register or under the Act of March 19, 1920, shall not be filed in the Department of the Treasury or be used to stop importations.

(July 5, 1946, ch. 540, title II, §28, 60 Stat. 436.)

REFERENCES IN TEXT

Act of March 19, 1920, referred to in text, is act Mar. 19, 1920, ch. 104, §§1–9, 41 Stat. 533, which was generally classified to sections 121 to 128 of this title, and which was repealed insofar as inconsistent with this chapter by act July 5, 1946, ch. 540, §46(b), 60 Stat. 444.

REPEAL AND EFFECT ON EXISTING RIGHTS

Repeal of inconsistent provisions, effect of this chapter on pending proceedings and existing registrations and rights under prior acts, see notes set out under section 1051 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§ 1111. Notice of registration; display with mark; recovery of profits and damages in infringement suit

Notwithstanding the provisions of section 1072 of this title, a registrant of a mark registered in the Patent and Trademark Office, may give notice that his mark is registered by displaying with the mark the words ''Registered in U.S. Patent and Trademark Office'' or ''Reg. U.S. Pat. & Tm. Off.'' or the letter R enclosed within a circle, thus ®; and in any suit for infringement under this chapter by such a registrant failing to give such notice of registration, no profits and no damages shall be recovered under the provisions of this chapter unless the defendant had actual notice of the registration.

(July 5, 1946, ch. 540, title III, §29, 60 Stat. 436; Pub. L. 87–772, §15, Oct. 9, 1962, 76 Stat. 773; Pub. L. 93–596, §§1, 2, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 100–667, title I, §125, Nov. 16, 1988, 102 Stat. 3943.)

PRIOR PROVISIONS

Acts Feb. 20, 1905, ch. 592, §28, 33 Stat. 730; Mar. 19, 1920, ch. 104, §§5, 6, 41 Stat. 534, 535.

AMENDMENTS

1988—Pub. L. 100–667 struck out ''as used'' after ''with the mark''.

1975—Pub. L. 93–596 substituted ''Patent and Trademark Office, may give notice that his mark is registered by displaying with the mark as used the words 'Registered in U.S. Patent and Trademark Office' or 'Reg. U.S. Pat. & Tm. Off.' '' for ''Patent Office, may give notice that his mark is registered by displaying with the mark as used the words 'Registered in U.S. Patent Office' or 'Reg. U.S. Pat. Off.' ''.

1962—Pub. L. 87–772 substituted ''in the Patent Office, may'' for ''under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register established by this chapter, shall'', and ''to give such notice of registration,'' for ''so to mark goods bearing the registered mark, or by a registrant under the Act of March 19, 1920, or by the registrant of a mark on the supplemental register provided by this chapter''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–667 effective one year after Nov. 16, 1988, see section 136 of Pub. L. 100–667, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93–596, §4, Jan. 2, 1975, 88 Stat. 1949, provided that: ''This Act [amending this section, sections 1051, 1052, 1057, 1058, 1060, 1062, 1063, 1065, 1067, 1069, 1071, 1092, 1112, 1113, 1116 to 1120, 1123, and 1127 of this title, and sections 2 to 4, 6 to 8, 10, 11, 21 to 26, 31 to 33, 41, 104, 119, 121, 122, 135, 142 to 144, 146, 152, 153, 253 to 255, 261, 288, and 293 of Title 35, Patents, and enacting provisions set out as a note under section 1 of title 35] shall become effective upon enactment [Jan. 2, 1975]. However, any registrant may continue to give notice of his registration in accordance with section 29 of the Trademark Act of 1946 (60 Stat. 427), as amended Oct. 9, 1962 (76 Stat. 769) [this section], as an alternative to notice in accordance with section 29 of the Trademark Act as amended by section 2 of this Act, regardless of whether his mark was registered before or after the effective date of this Act.''

REPEAL AND EFFECT ON EXISTING RIGHTS

Repeal of inconsistent provisions, effect of this chapter on pending proceedings and existing registrations and rights under prior acts, see notes set out under section 1051 of this title.

§ 1112. Classification of goods and services; registration in plurality of classes

The Director may establish a classification of goods and services, for convenience of Patent and Trademark Office administration, but not to limit or extend the applicant's or registrant's rights. The applicant may apply to register a mark for any or all of the goods or services on or in connection with which he or she is using or has a bona fide intention to use the mark in commerce: *Provided*, That if the Director by reg-