

(July 5, 1946, ch. 540, title VI, §38, 60 Stat. 440; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949.)

PRIOR PROVISIONS

Act Feb. 20, 1905, ch. 592, §25, 33 Stat. 730.

AMENDMENTS

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office”.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of Commerce, with certain exceptions, to Secretary of Commerce, with power to delegate, see Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1121. Jurisdiction of Federal courts; State and local requirements that registered trademarks be altered or displayed differently; prohibition

(a) The district and territorial courts of the United States shall have original jurisdiction and the courts of appeal of the United States (other than the United States Court of Appeals for the Federal Circuit) shall have appellate jurisdiction, of all actions arising under this chapter, without regard to the amount in controversy or to diversity or lack of diversity of the citizenship of the parties.

(b) No State or other jurisdiction of the United States or any political subdivision or any agency thereof may require alteration of a registered mark, or require that additional trademarks, service marks, trade names, or corporate names that may be associated with or incorporated into the registered mark be displayed in the mark in a manner differing from the display of such additional trademarks, service marks, trade names, or corporate names contemplated by the registered mark as exhibited in the certificate of registration issued by the United States Patent and Trademark Office.

(July 5, 1946, ch. 540, title VI, §39, formerly §§39 and 39a, 60 Stat. 440; Pub. L. 97-164, title I, §148, Apr. 2, 1982, 96 Stat. 46; Pub. L. 97-296, Oct. 12, 1982, 96 Stat. 1316; Pub. L. 100-667, title I, §131, Nov. 16, 1988, 102 Stat. 3946; Pub. L. 105-330, title II, §201(a)(10), Oct. 30, 1998, 112 Stat. 3070.)

CODIFICATION

Pub. L. 100-667, §131(b)(1), transferred section 39a of act July 5, 1946, which was classified to section 1121a of this title, to subsec. (b) of this section.

In subsec. (a), the words “and the United States Court of Appeals for the District of Columbia” following “the Courts of Appeal of the United States” have been deleted as superfluous in view of section 41 of Title 28, Judiciary and Judicial Procedure, which includes the District of Columbia within the eleven judi-

cial circuits of the United States. The word “and” has been inserted preceding “the courts of appeal of the United States” to preserve the conjunctive sense of the sentence.

PRIOR PROVISIONS

Acts Feb. 20, 1905, ch. 592, §17, 33 Stat. 728; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-330 substituted “courts” for “circuit courts” before “of appeal of the United States”.

1988—Subsec. (a). Pub. L. 100-667, §131(a), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 100-667, §131(b), redesignated section 1121a of this title as subsec. (b) of this section and substituted “service marks” for “servicemarks” in two places.

1982—Pub. L. 97-164 inserted “(other than the United States Court of Appeals for the Federal Circuit)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-330 effective Oct. 30, 1998, and applicable only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark, see section 201(b) of Pub. L. 105-330, set out as a note under section 1051 of this title.

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 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

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.

§ 1121a. Transferred

CODIFICATION

Section, act July 5, 1946, ch. 540, title VI, §39a, as added Oct. 12, 1982, Pub. L. 97-296, 96 Stat. 1316, which prohibited State and local requirements that registered trademarks be altered or displayed differently, was transferred to subsec. (b) of section 39 of act July 5, 1946, by section 131(b)(1) of Pub. L. 100-667 and is classified to section 1121(b) of this title.

§ 1122. Liability of United States and States, and instrumentalities and officials thereof

(a) Waiver of sovereign immunity by the United States

The United States, all agencies and instrumentalities thereof, and all individuals, firms, corporations, other persons acting for the United States and with the authorization and consent of the United States, shall not be immune from suit in Federal or State court by any person, including any governmental or non-governmental entity, for any violation under this chapter.

(b) Waiver of sovereign immunity by States

Any State, instrumentality of a State or any officer or employee of a State or instrumental-