

§ 1054. Collective marks and certification marks registrable

Subject to the provisions relating to the registration of trademarks, so far as they are applicable, collective and certification marks, including indications of regional origin, shall be registrable under this chapter, in the same manner and with the same effect as are trademarks, by persons, and nations, States, municipalities, and the like, exercising legitimate control over the use of the marks sought to be registered, even though not possessing an industrial or commercial establishment, and when registered they shall be entitled to the protection provided in this chapter in the case of trademarks, except in the case of certification marks when used so as to represent falsely that the owner or a user thereof makes or sells the goods or performs the services on or in connection with which such mark is used. Applications and procedure under this section shall conform as nearly as practicable to those prescribed for the registration of trademarks.

(July 5, 1946, ch. 540, title I, § 4, 60 Stat. 429; Pub. L. 100-667, title I, § 106, Nov. 16, 1988, 102 Stat. 3938; Pub. L. 106-43, § 6(b), Aug. 5, 1999, 113 Stat. 220.)

PRIOR PROVISIONS

Acts Feb. 20, 1905, ch. 592, § 1, 33 Stat. 724; May 4, 1906, ch. 2081, § 1, 34 Stat. 168; Feb. 18, 1909, ch. 144, 35 Stat. 628; Apr. 11, 1930, ch. 132, § 4, 46 Stat. 155; June 10, 1938, ch. 332, § 1, 52 Stat. 638.

AMENDMENTS

1999—Pub. L. 106-43 substituted “trademarks” for “trade-marks” wherever appearing.

1988—Pub. L. 100-667 substituted “origin,” for “origin used in commerce,” and “except in the case of certification marks when” for “except when” and struck out after first sentence “The Commissioner may establish a separate register for such collective marks and certification marks.”

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.

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.

§ 1055. Use by related companies affecting validity and registration

Where a registered mark or a mark sought to be registered is or may be used legitimately by related companies, such use shall inure to the benefit of the registrant or applicant for registration, and such use shall not affect the validity of such mark or of its registration, provided such mark is not used in such manner as to de-

ceive the public. If first use of a mark by a person is controlled by the registrant or applicant for registration of the mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of the registrant or applicant, as the case may be.

(July 5, 1946, ch. 540, title I, § 5, 60 Stat. 429; Pub. L. 100-667, title I, § 107, Nov. 16, 1988, 102 Stat. 3938.)

AMENDMENTS

1988—Pub. L. 100-667 inserted at end “If first use of a mark by a person is controlled by the registrant or applicant for registration of the mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of the registrant or applicant, as the case may be.”

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.

§ 1056. Disclaimer of unregistrable matter

(a) Compulsory and voluntary disclaimers

The Director may require the applicant to disclaim an unregistrable component of a mark otherwise registrable. An applicant may voluntarily disclaim a component of a mark sought to be registered.

(b) Prejudice of rights

No disclaimer, including those made under subsection (e) of section 1057 of this title, shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or his right of registration on another application if the disclaimed matter be or shall have become distinctive of his goods or services.

(July 5, 1946, ch. 540, title I, § 6, 60 Stat. 429; Pub. L. 87-772, § 3, Oct. 9, 1962, 76 Stat. 769; Pub. L. 100-667, title I, § 108, Nov. 16, 1988, 102 Stat. 3938; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(b)(1)(B)], Nov. 29, 1999, 113 Stat. 1536, 1501A-583.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-113 substituted “Director” for “Commissioner”.

1988—Subsec. (b). Pub. L. 100-667 substituted “subsection (e)” for “paragraph (d)”.

1962—Pub. L. 87-772, among other changes, provided that an applicant may voluntarily disclaim a component of a mark sought to be registered.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

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