

“there has been no final decision adverse to registrant’s claim of ownership of such mark for such goods or services, or to registrant’s right to register the same or to keep the same on the register; and”.

Par. (2). Pub. L. 111-146, §3(b)(3), inserted “United States” before “Patent and Trademark Office”.

1999—Pub. L. 106-113 substituted “Director” for “Commissioner” in par. (3) and in two places in concluding provisions.

1988—Pub. L. 100-667, in introductory provisions, substituted “paragraphs (3) and (5)” for “subsections (c) and (e)”, in par. (3) “paragraphs” for “subsections”, and in par. (4) “the generic name for the goods or services or a portion thereof, for which it is registered” for “the common descriptive name of any article or substance, patented or otherwise”.

1982—Pub. L. 97-247 substituted “registration” for “the publication” in provision preceding par. (1).

1975—Par. (2). Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office”.

1962—Pub. L. 87-772 substituted “(c) and (e) of section 1064” for “(c) and (d) of section 1064” in provision preceding par. (1), and struck out “or trade name” after “in a mark” in par. (4).

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-247 effective six months after Aug. 27, 1982, see section 17(c) of Pub. L. 97-247, set out as a note under section 294 of Title 35, Patents.

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.

§ 1066. Interference; declaration by Director

Upon petition showing extraordinary circumstances, the Director may declare that an interference exists when application is made for the registration of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely when used on or in connection with the goods or services of the applicant to cause confusion or mistake or to deceive. No interference shall be declared between an application and the registration of a mark the right to the use of which has become incontestable.

(July 5, 1946, ch. 540, title I, §16, 60 Stat. 434; Pub. L. 87-772, §11, Oct. 9, 1962, 76 Stat. 771; Pub.

L. 97-247, §11, Aug. 27, 1982, 96 Stat. 321; Pub. L. 100-667, title I, §117, Nov. 16, 1988, 102 Stat. 3941; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(b)(1)(B)], Nov. 29, 1999, 113 Stat. 1536, 1501A-583.)

PRIOR PROVISIONS

Act Feb. 20, 1905, ch. 592, §7, 33 Stat. 726.

AMENDMENTS

1999—Pub. L. 106-113 substituted “Director” for “Commissioner”.

1988—Pub. L. 100-667 substituted “used on or in connection with the goods or services” for “applied to the goods or when used in connection with the services”.

1982—Pub. L. 97-247 substituted “Upon petition showing extraordinary circumstances, the Commissioner may declare that an interference exists when application is made for the registration of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely when applied to the goods or when used in connection with the services of the applicant to cause confusion or mistake or to deceive” for “Whenever application is made for the registration of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely when applied to the goods or when used in connection with the services of the applicant to cause confusion or mistake or to deceive, the Commissioner may declare that an interference exists”.

1962—Pub. L. 87-772 struck out “purchasers” after “or to deceive”.

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.

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§ 1067. Interference, opposition, and proceedings for concurrent use registration or for cancellation; notice; Trademark Trial and Appeal Board

(a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.