

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

1988—Pub. L. 100-667 substituted “the registration, in whole or in part, may modify the application or registration by limiting the goods or services specified therein, may otherwise restrict or rectify with respect to the register” for “or restrict”, and “may refuse” for “or may refuse”, and inserted provisions that no final judgment be entered before mark is registered if applicant cannot prevail without establishing constructive use.

#### 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 and rights under prior acts, see notes set out under section 1051 of this title.

#### CONSTRUCTION OF 2020 AMENDMENT

Pub. L. 116-260, div. Q, title II, §228(b), Dec. 27, 2020, 134 Stat. 2210, provided that:

“(1) AUTHORITY BEFORE DATE OF ENACTMENT.—The amendments made by subsection (a) [amending this section and sections 1070 and 1092 of this title] shall not be construed to mean that the Director lacked the authority to reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board before the date of enactment of this Act [Dec. 27, 2020].

“(2) AUTHORITY WITH RESPECT TO PARTICULAR DECISIONS.—The amendments made by subsection (a) shall not be construed to require the Director to reconsider, modify, or set aside any particular decision of the Trademark Trial and Appeal Board.”

[“Director” as used in section 228(b) of Pub. L. 116-260, set out above, means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, see section 222 of Pub. L. 116-260, set out as a note 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.

### § 1069. Application of equitable principles in inter partes proceedings

In all inter partes proceedings equitable principles of laches, estoppel, and acquiescence, where applicable may be considered and applied.

(July 5, 1946, ch. 540, title I, §19, 60 Stat. 434; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 100-667, title I, §119, Nov. 16, 1988, 102 Stat. 3941.)

#### AMENDMENTS

1988—Pub. L. 100-667 struck out at end “The provisions of this section shall also govern proceedings heretofore begun in the Patent and Trademark Office and not finally determined.”

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

#### 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

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.

### § 1070. Appeals to Trademark Trial and Appeal Board from decisions of examiners

An appeal may be taken to the Trademark Trial and Appeal Board from any final decision of the examiner in charge of the registration of marks upon the payment of the prescribed fee. The Director may reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board under this section.

(July 5, 1946, ch. 540, title I, §20, 60 Stat. 435; Pub. L. 85-609, §1(b), Aug. 8, 1958, 72 Stat. 540; Pub. L. 116-260, div. Q, title II, §§225(d)(1), 228(a)(2), Dec. 27, 2020, 134 Stat. 2207, 2210.)

#### AMENDMENT OF SECTION

*Pub. L. 116-260, div. Q, title II, §225(d)(1), (g), Dec. 27, 2020, 134 Stat. 2207, 2208, provided that, effective upon the expiration of the 1-year period beginning on Dec. 27, 2020, and applicable to any mark registered before, on, or after that effective date, this section is amended by inserting “or a final decision by an examiner in an ex parte expungement proceeding or ex parte reexamination proceeding” after “registration of marks”. See 2020 Amendment note below.*

#### PRIOR PROVISIONS

Act Feb. 20, 1905, ch. 592, §§8, 13, 33 Stat. 726, 728.

#### AMENDMENTS

2020—Pub. L. 116-260, §228(a)(2), inserted “The Director may reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board under this section.” at end.

Pub. L. 116-260, §225(d)(1), inserted “or a final decision by an examiner in an ex parte expungement proceeding or ex parte reexamination proceeding” after “registration of marks”.

1958—Pub. L. 85-609 substituted “Trademark Trial and Appeal Board” for “Commissioner in person” and “fee” for “fees”, and struck out “of interferences or” after “examiner in charge”.

#### EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 225(d)(1) of div. Q of Pub. L. 116-260 effective upon the expiration of the 1-year period beginning on Dec. 27, 2020, and applicable to any mark registered before, on, or after that effective date, see section 225(g) of div. Q of Pub. L. 116-260, set out as a note under section 1064 of this title.