

115TH CONGRESS
1ST SESSION

H. R.

.....
(Original Signature of Member)

To enact certain laws relating to trademarks and other intellectual property as subtitles III and IV of title 35, United States Code, and to redesignate title 35 as “Patents, Trademarks, and Other Intellectual Property”.

IN THE HOUSE OF REPRESENTATIVES

, 2017

Mr. GOODLATTE (for himself and Mr. CONYERS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enact certain laws relating to trademarks and other intellectual property as subtitles III and IV of title 35, United States Code, and to redesignate title 35 as “Patents, Trademarks, and Other Intellectual Property”.

1 *Be it enacted by the Senate and House of Representatives of the United*
2 *States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Purpose; restatement does not change meaning or effect of existing law.
- Sec. 3. Title heading and table of contents.
- Sec. 4. Subtitle I of title 35, United States Code.
- Sec. 5. Subtitle II of title 35, United States Code.
- Sec. 6. Enactment of subtitles III and IV of title 35, United States Code.

- Sec. 7. Conforming cross-references.
- Sec. 8. Transitional and savings provisions.
- Sec. 9. Repeals.

1 **SEC. 2. PURPOSE; RESTATEMENT DOES NOT CHANGE MEANING OR EF-**
 2 **FFECT OF EXISTING LAW.**

3 (a) PURPOSE.—The purposes of this Act are to enact certain laws relat-
 4 ing to trademarks and other intellectual property as subtitles III and IV
 5 of title 35, United States Code and to redesignate title 35 as “Patents,
 6 Trademarks, and Other Intellectual Property”.

7 (b) RESTATEMENT DOES NOT CHANGE MEANING OR EFFECT OF EXIST-
 8 ING LAW.—

9 (1) IN GENERAL.—The restatement of existing law enacted by this
 10 Act does not change the meaning or effect of the existing law. The re-
 11 statement consolidates various provisions that were enacted separately
 12 over a period of many year, reorganizing them, conforming style and
 13 terminology, modernizing obsolete language, and correcting drafting er-
 14 rors. These changes serve to remove ambiguities, contradictions, and
 15 other imperfections, but they do not change the meaning or effect of
 16 the existing law or impair the precedential value of earlier judicial deci-
 17 sions or other interpretations.

18 (2) RULE OF CONSTRUCTION.—

19 (A) IN GENERAL.—Notwithstanding the plain meaning rule or
 20 other rules of statutory construction, a change in wording made
 21 in the restatement of existing law enacted by this Act serves to
 22 clarify the existing law as indicated in paragraph (1), but not to
 23 change the meaning or effect of the existing law.

24 (B) REVISION NOTES.—Subparagraph (A) applies whether or not
 25 a change in wording is explained by a revisions note appearing in
 26 a congressional report accompanying this Act. If such a revision
 27 notes does appear, a court shall consider the revision note in inter-
 28 preting the change.

29 **SEC. 3. TITLE HEADING AND TABLE OF CONTENTS.**

30 Title 35, United States Code, is amended by striking the title heading
 31 and table of contents and inserting the following:

32 **“TITLE 35—PATENTS, TRADEMARKS,**
 33 **AND OTHER INTELLECTUAL PROPERTY**

| | |
|---|--------------|
| “Subtitle | Sec. |
| “I. UNITED STATES PATENT AND TRADEMARK OFFICE | 1 |
| “II. PATENTS | 100 |
| “III. TRADEMARKS | 501 |
| “IV. OTHER INTELLECTUAL PROPERTY PROVISIONS | 901”. |

1 **SEC. 4. SUBTITLE I OF TITLE 35, UNITED STATES CODE.**

2 Title 35, United States Code, is amended by striking the part heading
3 for part I and inserting the following:

4 **“Subtitle I—United States Patent and**
5 **Trademark Office”.**

6 **SEC. 5. SUBTITLE II OF TITLE 35, UNITED STATES CODE.**

7 (a) HEADING AND TABLE OF CONTENTS FOR PART II.—Title 35, United
8 States Code, is amended by striking the heading and table of contents for
9 part II and inserting the following:

10 **“Subtitle II—Patents**
“Division A—Patentability of Inventions and
Grant of Patents

| “Chap. | Sec. |
|---|------|
| “10. Patentability of Inventions | 100 |
| “11. Application for Patent | 111 |
| “12. Examination of Application | 131 |
| “13. Review of Patent and Trademark Office Decisions | 141 |
| “14. Issue of Patent | 151 |
| “15. Plant Patents | 161 |
| “16. Designs | 171 |
| “17. Secrecy of Certain Inventions and Filing Applications in Foreign Country. | 181 |
| “18. Patent Rights in Inventions Made With Federal Assistance ... | 200 |

**“Division B—Patents and Protection of Patent
Rights**

| | |
|--|-----|
| “25. Amendment and Correction of Patents | 251 |
| “26. Ownership and Assignment | 261 |
| “27. Government Interests in Patents | 266 |
| “28. Infringement of Patents | 271 |
| “29. Remedies for Infringement of Patent, and Other Actions | 281 |
| “30. Prior Act Citations to Office and Ex Parte Reexamination of Patents. | 301 |
| “31. Inter Partes Review | 311 |
| “32. Post-Grant Review | 321 |

“Division C—Patent Cooperation Treaty

| | |
|--------------------------------|-----|
| “35. Definitions | 351 |
| “36. International Stage | 361 |
| “37. National Stage | 371 |

**“Division D—The Hague Agreement Concerning
International Registration of Industrial Designs**

| | |
|--|-----|
| “38. International Design Applications | 381 |
|--|-----|

11 **“Division A—Patentability of Inventions and**
12 **Grant of Patents”.**

13 (b) DIVISION B.—Title 35, United States Code, is amended by striking
14 the heading for part III and inserting the following:

1 **“Division B—Patents and Protection of Patent**
2 **Rights”.**

3 (c) DIVISION C.—Title 35, United States Code, is amended by striking
4 the heading for part IV and inserting the following:

5 **“Division C—Patent Cooperation Treaty”.**

6 (d) DIVISION D.—Title 35, United States Code, is amended by striking
7 the heading for part V and inserting the following:

8 **“Division D—The Hague Agreement Concerning**
9 **International Registration of Industrial Designs”.**

10 **SEC. 6. ENACTMENT OF SUBTITLES III AND IV OF TITLE 35, UNITED**
11 **STATES CODE.**

12 Title 35, United States Code, is amended by adding at the end the follow-
13 ing:

14 **“Subtitle III—Trademarks**
“Division A—General Provisions

| | |
|--------------------------------------|------------|
| “Chap. | Sec. |
| “51. General Provisions | 501 |

“Division B—Domestic Registration

| | |
|---|------------|
| “61. Principal Register | 601 |
| “62. Supplemental Register | 631 |
| “63. Practice, Procedure, and Prohibitions | 651 |

“Division C—The Madrid Protocol

| | |
|---------------------------------------|------------|
| “81. The Madrid Protocol | 801 |
|---------------------------------------|------------|

15 **“Division A—General Provisions**
“CHAPTER 51—GENERAL PROVISIONS

| |
|---|
| “Sec. |
| “501. Definitions. |
| “502. Purposes of subtitle. |
| “503. Applicability to the United States and to States. |

16 **“§ 501. Definitions**

17 “In this subtitle:

18 “(1) ABANDON.—

19 “(A) IN GENERAL.—The term ‘abandon’, with reference to
20 abandonment of a mark by the owner of the mark, means to—

21 “(i) discontinue use of the mark with intent (which may be
22 inferred from circumstances) not to resume the use; or

23 “(ii) engage in a course of conduct (including acts of com-
24 mission and acts of omission) that causes the mark—

25 “(I) to become the generic name for the good or serv-
26 ice on or in connection with which the mark is used; or

27 “(II) otherwise to lose its significance as a mark.

1 “(B) PRIMA FACIE EVIDENCE.—For purposes of subparagraph
2 (A)(i), nonuse of a mark for 3 consecutive years is prima facie evi-
3 dence of abandonment of the mark.

4 “(C) TEST.—For purposes of subparagraph (A)(ii), purchaser
5 motivation is not a test for determining abandonment.

6 “(2) APPLICANT.—The term ‘applicant’ includes the legal represent-
7 atives, predecessors, and successors and assigns of an applicant.

8 “(3) CERTIFICATION MARK.—The term ‘certification mark’ means a
9 word, name, symbol, or device (or combination thereof) that is used by
10 a person other than its owner, or for which the owner files an applica-
11 tion to register on the principal register with a bona fide intention to
12 permit a person other than the owner to use in commerce—

13 “(A) to certify regional or other origin, material, mode of manu-
14 facture, quality, accuracy, or other characteristics of the good or
15 service of the person; or

16 “(B) to certify that the work or labor on the good or service
17 was performed by members of a labor organization or other orga-
18 nization.

19 “(4) COLLECTIVE MARK.—

20 “(A) IN GENERAL.—The term ‘collective mark’ means a trade-
21 mark or service mark—

22 “(i) that is used by the members of a cooperative, an asso-
23 ciation, or other collective group or organization; or

24 “(ii) for which a cooperative, association, or other collective
25 group or organization files an application to register on the
26 principal register with a bona fide intention to use the mark
27 in commerce.

28 “(B) INCLUSION.—The term ‘collective mark’ includes a mark
29 indicating membership in a labor organization, association, or
30 other organization.

31 “(5) COLORABLE IMITATION.—The term ‘colorable imitation’, with
32 reference to an imitation of a registered mark, includes an imitation
33 that so resembles the registered mark as to be likely to cause confu-
34 sion, cause mistake, or deceive.

35 “(6) COMMERCE.—The term ‘commerce’ means all commerce that
36 may lawfully be regulated by Congress.

37 “(7) COUNTERFEIT.—The term ‘counterfeit’, with reference to a
38 counterfeit of a registered mark, means a spurious mark that is iden-
39 tical to, or substantially indistinguishable from, the registered mark.

40 “(8) DILUTION BY BLURRING.—

1 “(A) IN GENERAL.—The term ‘dilution by blurring’ means an
2 association arising from the similarity between a mark or trade
3 name and a famous mark that impairs the distinctiveness of the
4 famous mark.

5 “(B) CONSIDERATIONS.—In determining whether a mark or
6 trade name is likely to cause dilution by blurring, all relevant fac-
7 tors may be considered, including the following:

8 “(i) The degree of similarity between the mark or trade
9 name and the famous mark.

10 “(i) The degree of inherent or acquired distinctiveness of
11 the famous mark.

12 “(iii) The extent to which the owner of the famous mark
13 is engaging in substantially exclusive use of the mark.

14 “(iv) The degree of recognition of the famous mark.

15 “(v) Whether the user of the mark or trade name intended
16 to create an association with the famous mark.

17 “(vi) Any actual association between the mark or trade
18 name and the famous mark.

19 “(9) DILUTION BY TARNISHMENT.—The term ‘dilution by
20 tarnishment’ means an association arising from the similarity between
21 a mark or trade name and a famous mark that harms the reputation
22 of the famous mark.

23 “(10) DOMAIN NAME.—The term ‘domain name’ means an alpha-
24 numeric designation that is registered with or assigned by a domain
25 name registration authority as part of an electronic address on the
26 internet.

27 “(11) DOMAIN NAME REGISTRATION AUTHORITY.—The term ‘do-
28 main name registration authority’ means a domain name registrar, reg-
29 istry, or other registration authority.

30 “(12) FAMOUS.—

31 “(A) IN GENERAL.—The term ‘famous’, with reference to a
32 mark, means being widely recognized by the general consuming
33 public of the United States as a designation of source of a good
34 or service of the mark’s owner.

35 “(B) CONSIDERATIONS.—In determining whether a mark pos-
36 sesses the requisite degree of recognition, all relevant factors may
37 be considered, including the following:

38 “(i) The duration, extent, and geographic reach of advertis-
39 ing and publicity of the mark, whether advertised or pub-
40 licized by the owner or 3d parties.

1 “(ii) The amount, volume, and geographic extent of sales
2 of the good or service offered under the mark.

3 “(iii) The extent of actual recognition of the mark.

4 “(iv) Whether the mark was registered on the principal
5 register or under the Act of March 3, 1881 (ch. 138, 21 Stat.
6 502), or the Act of February 20, 1905 (ch. 592, 33 Stat.
7 724).

8 “(13) INTERNET.—The term ‘internet’ has the meaning given the
9 term ‘Internet’ in section 230(f) of the Communications Act of 1934
10 (47 U.S.C. 230(f)).

11 “(14) MARK.—The term ‘mark’ includes a trademark, service mark,
12 collective mark, or certification mark.

13 “(15) NOTICE OF ALLOWANCE.—The term ‘notice of allowance’
14 means a notice of allowance issued under section 613(b)(2) of this title.

15 “(16) OFFICIAL GAZETTE.—The term ‘Official Gazette’ means the
16 Official Gazette of the United States Patent and Trademark Office
17 published by the Office.

18 “(17) PERSON; CERTAIN OTHER WORDS AND TERMS.—

19 “(A) IN GENERAL.—

20 “(i) INCLUSION.—The term ‘person’ and any other word or
21 term used to designate the applicant or other entitled to a
22 benefit or privilege or rendered liable under the provisions of
23 this subtitle includes a juristic person as well as a natural
24 person.

25 “(ii) JURISTIC PERSON.—The term ‘juristic person’ in-
26 cludes a firm, corporation, union, association, or other organi-
27 zation capable of suing and being sued in a court of law.

28 “(B) UNITED STATES.—The term ‘person’ includes the United
29 States, an agency or instrumentality of the United States, or an
30 individual, firm, or corporation acting for the United States and
31 with the authorization and consent of the United States.

32 “(C) STATE.—The term “person” includes a State, an instru-
33 mentality of a State, and an officer or employee of a State or in-
34 strumentality of a State acting in the official capacity of the offi-
35 cer or employee.

36 “(18) PRINCIPAL REGISTER.—The term ‘principal register’ means
37 the register provided under chapter 61.

38 “(19) REGISTERED MARK.—The term ‘registered mark’ means a
39 mark registered in the Office under—

40 “(A) this subtitle;

41 “(B) the Act of March 3, 1881 (ch. 138, 21 Stat. 502);

1 “(C) the Act of February 20, 1905 (ch. 592, 33 Stat. 724); or

2 “(D) the Act of March 19, 1920 (ch. 104, 41 Stat. 533).

3 “(20) REGISTRANT.—The term ‘registrant’ includes the legal rep-
4 representatives, predecessors, and successors and assigns of a registrant.

5 “(21) RELATED COMPANY.—The term ‘related company’ means a
6 person whose use of a mark is controlled by the owner of the mark
7 with respect to the nature and quality of a good or service on or in
8 connection with which the mark is used.

9 “(22) SERVICE MARK.—

10 “(A) IN GENERAL.—The term ‘service mark’ means a word,
11 name, symbol, or device (or combination thereof) that is used by
12 a person, or for which a person files an application to register on
13 the principal register with a bona fide intention to use the mark
14 in commerce, to—

15 “(i) identify and distinguish a service (including a unique
16 service) of 1 person from the services of others; and

17 “(ii) indicate the source of the service, even if the source
18 is unknown.

19 “(B) INCLUSIONS.—The term ‘service mark’ includes a title,
20 character name, or other distinctive feature of a radio or television
21 program without regard to whether the feature or program adver-
22 tises the goods of the sponsor of the program.

23 “(23) SUPPLEMENTAL REGISTER.—The term ‘supplemental register’
24 means the register provided under chapter 62.

25 “(24) TRADE NAME.—

26 “(A) IN GENERAL.—The term ‘trade name’ means a name used
27 by a person to identify the business or vocation of the person.

28 “(B) INCLUSION.—The term ‘trade name’ includes a commer-
29 cial name.

30 “(25) TRADEMARK.—The term ‘trademark’ includes a word, name,
31 symbol, or device (or combination thereof) that is used by a person,
32 or for which a person files an application to register on the principal
33 register with a bona fide intention to use the mark in commerce, to—

34 “(A) identify and distinguish a good (including a unique prod-
35 uct) of the person from a good manufactured or sold by another
36 person; and

37 “(B) indicate the source of the good, even if the source is un-
38 known.

39 “(26) UNITED STATES.—The term ‘United States’ includes all terri-
40 tory that is under the jurisdiction and control of the United States.

1 “(27) USE.—The term ‘use’, when used in the sense of use of a
2 mark, means the bona fide use of a mark made in the ordinary course
3 of trade and not made merely to reserve a right in the mark.

4 “(28) USE IN COMMERCE.—

5 “(A) IN GENERAL.—The term ‘use in commerce’ means the
6 bona fide use of a mark in the ordinary course of trade and not
7 merely to reserve a right in the mark.

8 “(B) WHEN MARK IN USE IN COMMERCE.—A mark is consid-
9 ered to be in use in commerce when—

10 “(i) in the case of a good—

11 “(I)(aa) the mark is placed in any manner on the
12 good, containers of the good, displays associated with the
13 good or its containers, or tags or labels affixed to the
14 good or its containers; or

15 “(bb) if the nature of the good makes such placement
16 impracticable, the mark is placed on documents associ-
17 ated with the good or with sales of the good; and

18 “(II) the good is sold or transported in commerce; and

19 “(ii) in the case of a service—

20 “(I)(aa) the mark is used or displayed in the sale or
21 advertising of the service; and

22 “(bb) the service is rendered in commerce; or

23 “(II)(aa) the service is rendered in more than 1 State,
24 or in the United States and a foreign country; and

25 “(bb) the person rendering the service is engaged in
26 commerce in connection with the service.

27 **“§ 502. Purposes of subtitle**

28 “The purposes of this subtitle are—

29 “(1) to regulate commerce by making actionable the deceptive and
30 misleading use of marks in that commerce;

31 “(2) to protect registered marks used in that commerce from inter-
32 ference by State or territorial legislation;

33 “(3) to protect persons engaged in that commerce against unfair
34 competition;

35 “(4) to prevent fraud and deception in that commerce by the use of
36 reproductions, copies, counterfeits, or colorable imitations of registered
37 marks; and

38 “(5) to provide rights and remedies stipulated by treaties and con-
39 ventions respecting trademarks, trade names, and unfair competition
40 entered into between the United States and foreign countries.

1 **“§ 503. Applicability to the United States and to States**

2 “(a) UNITED STATES.—

3 “(1) IN GENERAL.—The United States, an agency or instrumentality
4 of the United States, and an individual, firm, or corporation acting for
5 the United States and with the authorization and consent of the United
6 States shall be subject to this subtitle in the same manner and to the
7 same extent as a nongovernmental entity.

8 “(2) WAIVER OF SOVEREIGN IMMUNITY.—The United States, all
9 agencies and instrumentalities of the United States, and all individuals,
10 firms, corporations, and other persons acting for the United States and
11 with the authorization and consent of the United States are not im-
12 mune from suit in Federal or State court by a person (including a gov-
13 ernmental or nongovernmental entity) for a violation under this sub-
14 title.

15 “(b) STATES.—

16 “(1) IN GENERAL.—A State, an instrumentality of a State, and an
17 officer or employee of a State or instrumentality of a State acting in
18 the official capacity of the officer or employee shall be subject to this
19 subtitle in the same manner and to the same extent as a nongovern-
20 mental entity.

21 “(2) WAIVER OF SOVEREIGN IMMUNITY.—A State, instrumentality of
22 a State, or officer or employee of a State or instrumentality of a State
23 acting in an official capacity is not immune, under the 11th amend-
24 ment to the Constitution or under any other doctrine of sovereign im-
25 munity, from suit in Federal court by a person (including a govern-
26 mental or nongovernmental entity) for a violation under this subtitle.

27 “(c) AVAILABLE REMEDIES.—In a suit against a person described in sub-
28 section (a)(2) or (b)(2), remedies are available for the violation to the same
29 extent as the remedies are available for the violation in a suit against a per-
30 son other than a person described in subsection (a)(2) or (b)(2), including—

31 “(1) injunctive relief under section 656 of this title;

32 “(2) actual damages, profits, costs, and an attorney’s fee under sec-
33 tion 657 of this title;

34 “(3) destruction of infringing articles under section 658 of this title;

35 “(4) the remedies provided for under sections 654, 659, 660, 663
36 and 664 of this title; and

37 “(5) other remedies provided under this subtitle.

38 **“DIVISION B—DOMESTIC REGISTRATION**

| | |
|---|------------|
| “Chap. | Sec. |
| “61. Principal Register | 601 |
| “62. Supplemental Register | 631 |
| “63. Practice, Procedure, and Prohibitions | 651 |

1 **“CHAPTER 61—PRINCIPAL REGISTER**

“Sec.

- “601. Request for registration.
 “602. Marks registrable on principal register; concurrent registration.
 “603. Service marks registrable.
 “604. Collective marks and certification marks registrable.
 “605. Use by related companies.
 “606. Disclaimer of unregistrable matter.
 “607. Certificates of registration.
 “608. Duration.
 “609. Renewal of registration.
 “610. Assignment.
 “611. Execution of acknowledgments and verifications.
 “612. Examination and publication.
 “613. Opposition to registration.
 “614. Cancellation of registration.
 “615. Incontestability of right to use mark under certain conditions.
 “616. Interference.
 “617. Determination by Trademark Trial and Appeal Board.
 “618. Application of equitable principles in inter partes proceedings.
 “619. Appeals to Trademark Trial and Appeal Board from decisions of examiners.
 “620. Judicial review.
 “621. Registration as constructive notice of claim of ownership.

2 **“§ 601. Request for registration**

- 3 “(a) APPLICATION FOR REGISTRATION OF TRADEMARK.—
- 4 “(1) PAYMENT OF FEE AND FILING OF APPLICATION.—The owner
- 5 of a mark used in commerce may request registration of the mark on
- 6 the principal register by—
- 7 “(A) paying the prescribed fee; and
- 8 “(B) filing in the Office—
- 9 “(i) an application and a verified statement, in such form
- 10 as the Director may prescribe; and
- 11 “(ii) such number of specimens or facsimiles of the mark
- 12 as used as the Director may require.
- 13 “(2) CONTENTS OF APPLICATION.—The application shall—
- 14 “(A) specify—
- 15 “(i) the applicant’s domicile and citizenship;
- 16 “(ii) the date of the applicant’s 1st use of the mark;
- 17 “(iii) the date of the applicant’s 1st use of the mark in
- 18 commerce; and
- 19 “(iv) the good or service in connection with which the mark
- 20 is used; and
- 21 “(B) include a drawing of the mark.
- 22 “(3) VERIFICATION OF STATEMENT.—The statement shall be verified
- 23 by the applicant and specify that—
- 24 “(A) the individual making the verification believes that the in-
- 25 dividual, or the juristic person in whose behalf the individual

1 makes the verification, is the owner of the mark sought to be reg-
2 istered;

3 “(B) to the best of the verifier’s knowledge and belief, the facts
4 recited in the application are accurate;

5 “(C) the mark is in use in commerce; and

6 “(D) to the best of the verifier’s knowledge and belief, no other
7 person has the right to use that mark in commerce either in the
8 identical form of the mark or in such near resemblance to that
9 form as to be likely, when used on or in connection with a good
10 or service of the other person, to cause confusion, cause mistake,
11 or deceive, except that, in the case of an application that claims
12 concurrent use, the applicant shall—

13 “(i) state exceptions to the claim of exclusive use; and

14 “(ii) specify, to the extent of the verifier’s knowledge—

15 “(I) any concurrent use by another person;

16 “(II) each good or service on or in connection with
17 which, and each area in which, each concurrent use ex-
18 ists;

19 “(III) the periods of each use; and

20 “(IV) each good or service and each area for which the
21 applicant desires registration.

22 “(4) COMPLIANCE WITH REGULATIONS.—

23 “(A) IN GENERAL.—The applicant shall comply with such regu-
24 lations as the Director may prescribe.

25 “(B) REQUIREMENTS FOR APPLICATION AND FILING DATE.—

26 The Director shall prescribe regulations establishing the require-
27 ments for the application and for obtaining a filing date under this
28 subsection.

29 “(b) APPLICATION BEFORE USE IN COMMERCE.—

30 “(1) PAYMENT OF FEE AND FILING OF APPLICATION.—A person
31 that has a bona fide intention, under circumstances showing the good
32 faith of the person, to use a mark in commerce may request registra-
33 tion of the mark on the principal register by—

34 “(A) paying the prescribed fee; and

35 “(B) filing in the Office an application and a verified statement
36 in such form as the Director may prescribe.

37 “(2) CONTENTS OF APPLICATION.—The application shall—

38 “(A) specify—

39 “(i) the applicant’s domicile and citizenship; and

40 “(ii) each good or service in connection with which the ap-
41 plicant has a bona fide intention to use the mark; and

1 “(B) include a drawing of the mark.

2 “(3) VERIFICATION OF STATEMENT.—The statement shall be verified
3 by the applicant and specify that—

4 “(A) the applicant believes that the applicant is entitled to use
5 the mark in commerce;

6 “(B) the applicant has a bona fide intention to use the mark
7 in commerce;

8 “(C) to the best of the applicant’s knowledge and belief, the
9 facts recited in the application are accurate; and

10 “(D) to the best of the applicant’s knowledge and belief, no
11 other person has the right to use the mark in commerce either in
12 the identical form of the mark or in such near resemblance to that
13 form as to be likely, when used on or in connection with a good
14 or service of the other person, to cause confusion, cause mistake,
15 or deceive.

16 “(4) OTHER REQUIREMENTS.—Except in the case of an application
17 under section 665 of this title, a mark shall not be registered until the
18 applicant meets the requirements of paragraphs (6) and (7).

19 “(5) COMPLIANCE WITH REGULATIONS.—

20 “(A) IN GENERAL.—The applicant shall comply with such regu-
21 lations as the Director may prescribe.

22 “(B) REQUIREMENTS FOR APPLICATION AND FILING DATE.—
23 The Director shall prescribe regulations establishing the require-
24 ments for the application and for obtaining a filing date under this
25 subsection.

26 “(6) AMENDMENT OF APPLICATION AFTER USE OF MARK IN COM-
27 MERCE.—At any time during examination of an application filed under
28 this subsection, an applicant that has made use of the mark in com-
29 merce may claim the benefits of that use for purposes of this subtitle
30 by amending the application to bring the application into conformity
31 with the requirements of subsection (a).

32 “(7) STATEMENT OF USE.—

33 “(A) IN GENERAL.—

34 “(i) TIME WITHIN WHICH STATEMENT MUST BE FILED.—
35 Not later than 6 months after the date on which the notice
36 of allowance with respect to a mark is issued under section
37 613(b)(2) of this title to an applicant under this subsection,
38 the applicant shall file in the Office, with such number of
39 specimens or facsimiles of the mark as used in commerce as
40 the Director may require, and payment of the prescribed fee,
41 a verified statement that specifies—

1 “(I) that the mark is in use in commerce;

2 “(II) the date of the 1st use of the mark in commerce
3 by the applicant; and

4 “(III) each good or service specified in the notice of
5 allowance on or in connection with which the mark is
6 used in commerce.

7 “(ii) REGISTRATION.—Subject to examination and accept-
8 ance of the statement of use—

9 “(I) the mark shall be registered in the Office;

10 “(II) a single certificate of registration shall be issued
11 covering all goods and services specified in the statement
12 of use for which the mark is entitled to registration; and

13 “(III) notice of registration shall be published in the
14 Official Gazette.

15 “(iii) EXAMINATION.—Examination of the statement of use
16 may include an examination of the factors described in sec-
17 tion 602(b) of this title.

18 “(iv) NOTICE OF REGISTRATION.—The notice of registra-
19 tion shall specify each good or service for which the mark is
20 registered.

21 “(B) EXTENSION OF FILING PERIOD.—

22 “(i) IN GENERAL.—On written request of the applicant be-
23 fore the expiration of the 6-month period provided under sub-
24 paragraph (A), the Director shall extend, for 1 additional 6-
25 month period, the time for filing the statement of use under
26 that subparagraph.

27 “(ii) ADDITIONAL EXTENSION FOR GOOD CAUSE.—

28 “(I) IN GENERAL.—In addition to an extension under
29 clause (i), on written request of the applicant showing
30 good cause, made before the expiration of the last exten-
31 sion granted under this subparagraph, the Director may
32 further extend the time for filing the statement of use
33 under subparagraph (A) for periods aggregating not
34 more than 24 months.

35 “(II) REGULATIONS.—The Director shall prescribe
36 regulations stating guidelines for determining what con-
37 stitutes good cause for purposes of subclause (I).

38 “(iii) VERIFIED STATEMENT.—A request for an extension
39 under this subparagraph shall be accompanied by a verified
40 statement that—

1 “(I) states that the applicant has a continued bona
2 fide intention to use the mark in commerce; and

3 “(II) specifies each good or service identified in the
4 notice of allowance on or in connection with which the
5 applicant has a continued bona fide intention to use the
6 mark in commerce.

7 “(iv) FEE.—A request for an extension under this subpara-
8 graph shall be accompanied by payment of the prescribed fee.

9 “(C) NOTIFICATION OF ACCEPTANCE OR REFUSAL.—The Direc-
10 tor shall notify an applicant that files a statement of use—

11 “(i) the acceptance or refusal of the statement of use; and

12 “(ii) if the statement of use is refused, the reasons for the
13 refusal.

14 “(D) AMENDMENT.—An applicant may amend the statement of
15 use.

16 “(E) RESULT OF FAILURE TO FILE STATEMENT.—

17 “(i) IN GENERAL.—A failure to timely file a verified state-
18 ment of use under subparagraph (A) or an extension request
19 under subparagraph (B) shall result in abandonment of the
20 application unless the applicant shows to the satisfaction of
21 the Director that the delay in responding was unintentional.

22 “(ii) UNINTENTIONAL DELAY.—In a case of unintentional
23 delay, the Director may extend the time for filing for a period
24 not to exceed the period specified in subparagraphs (A) and
25 (B) for filing a statement of use.

26 “(e) SERVICE OF NOTICES AND PROCESS.—

27 “(1) DESIGNATION OF AGENT.—An applicant not domiciled in the
28 United States may designate by a document filed in the Office the
29 name and address of a person residing in the United States on which
30 may be served notices and process in proceedings affecting the mark.

31 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
32 (1)—

33 “(A) may be served on a person designated under paragraph (1)
34 by leaving with the person or mailing to the person a copy of the
35 notice or process at the address specified in the last designation
36 filed; or

37 “(B) if the person cannot be found at that address, or if the
38 applicant does not make a designation under paragraph (1), may
39 be served on the Director.

1 **“§ 602. Marks registrable on principal register; concurrent**
2 **registration**

3 “(a) IN GENERAL.—Except as provided in this section, the Director shall
4 not refuse registration on the principal register of a mark by which a good
5 or service of the applicant may be distinguished from the goods or services
6 of other persons on account of the nature of the mark.

7 “(b) GROUNDS FOR REFUSAL.—

8 “(1) IN GENERAL.—Registration of a mark may be refused if the
9 mark consists of or comprises—

10 “(A) immoral, deceptive, or scandalous matter;

11 “(B) matter that may disparage, falsely suggest a connection
12 with, or bring into contempt or disrepute a person (living or dead),
13 institution, belief, or national symbol; or

14 “(C) a geographical indication that—

15 “(i) when used on or in connection with a wine or spirit,
16 identifies a place other than the origin of the wine or spirit;
17 and

18 “(ii) is 1st used on or in connection with the wine or spirit
19 by the applicant on or after January 1, 1996.

20 “(2) FLAGS, COATS OF ARMS, AND OTHER INSIGNIA.—Registration
21 of a mark may be refused if the mark consists of or comprises—

22 “(A) the flag or coat of arms or other insignia of the United
23 States, a State or municipality, or a foreign country; or

24 “(B) any simulation of such an insignia.

25 “(3) IDENTIFIED INDIVIDUALS.—Registration of a mark may be re-
26 fused if the mark consists of or comprises—

27 “(A) a name, portrait, or signature identifying a particular liv-
28 ing individual, except by the written consent of the individual; or

29 “(B) the name, signature, or portrait of a deceased President
30 of the United States during the life of the widow or widower of
31 the President, except by the written consent of the widow or wid-
32 ower.

33 “(4) LIKELIHOOD OF CONFUSION, MISTAKE, OR DECEPTION.—

34 “(A) IN GENERAL.—Subject to subparagraph (B), registration
35 of a mark may be refused if the mark consists of or comprises a
36 mark that so resembles a registered mark, or a mark or trade
37 name previously used in the United States by another person and
38 not abandoned, as to be likely, when used on or in connection with
39 a good or service of the applicant, to cause confusion, cause mis-
40 take, or deceive.

41 “(B) CONCURRENT REGISTRATION.—

1 “(i) IN GENERAL.—The Director may issue concurrent reg-
2 istrations of a mark described in subparagraph (A) as pro-
3 vided in clause (ii) or (iii).

4 “(ii) ISSUANCE ON DETERMINATION OF DIRECTOR.—If the
5 Director determines that confusion, mistake, or deception is
6 not likely to result from the continued use by more than 1
7 person of the same or similar marks under conditions and
8 limitations concerning the mode or place of use of the marks
9 or the good or service on or in connection with which the
10 marks are used, the Director may issue concurrent registra-
11 tions to those persons if—

12 “(I) the persons have become entitled to use the
13 marks as a result of the concurrent lawful use in com-
14 merce by the persons before—

15 “(aa) the earliest of the filing dates of the pend-
16 ing applications or of any registration issued under
17 this subtitle;

18 “(bb) July 5, 1947, in the case of a registration
19 issued under the Act of March 3, 1881 (ch. 138, 21
20 Stat. 502), or the Act of February 20, 1905 (ch.
21 592, 33 Stat. 724), and continuing in full force and
22 effect on July 5, 1947; or

23 “(cc) July 5, 1947, in the case of an application
24 filed under the Act of February 20, 1905 (ch. 592,
25 33 Stat. 724), and registered after July 5, 1947; or

26 “(II) the owner of the application or registration con-
27 sents to the grant of a concurrent registration to the ap-
28 plicant.

29 “(iii) ISSUANCE ON DETERMINATION OF COURT.—The Di-
30 rector may issue concurrent registrations if a court of com-
31 petent jurisdiction makes a final determination that more
32 than 1 person is entitled to use the same or similar marks
33 in commerce.

34 “(iv) CONDITIONS AND LIMITATIONS.—In issuing concu-
35 rent registrations, the Director shall prescribe conditions and
36 limitations concerning—

37 “(I) the mode or place of use of the mark; or

38 “(II) the good or service on or in connection with
39 which the mark is registered to the respective persons.

40 “(5) MERELY DESCRIPTIVE, OR DECEPTIVELY MISDESCRIPTIVE,
41 MATTER.—Registration of a mark may be refused if the mark—

1 “(A) when used on or in connection with a good or service of
2 the applicant, is merely descriptive, or is deceptively misdescrip-
3 tive, of the good or service;

4 “(B) when used on or in connection with a good or service of
5 the applicant, is primarily geographically descriptive of the good
6 or service, except as indications of regional origin may be registra-
7 ble under section 604 of this title;

8 “(C) when used on or in connection with a good or service of
9 the applicant, is primarily geographically deceptively misdescriptive
10 of the good or service, except that this subparagraph does not pre-
11 clude the registration of a mark that, when used on or in connec-
12 tion with a good or service of the applicant—

13 “(i) is primarily geographically deceptively misdescriptive of
14 the good or service; and

15 “(ii) became distinctive of the good or service in commerce
16 before December 8, 1993;

17 “(D) is primarily merely a surname; or

18 “(E) comprises any matter that, as a whole, is functional.

19 “(c) REGISTRATION OF DISTINCTIVE MARK.—

20 “(1) IN GENERAL.—Except as excluded under paragraphs (1) to (4)
21 of subsection (b) and subparagraphs (C) and (E) of subsection (b)(5),
22 this subtitle does not preclude the registration of a mark used by an
23 applicant that has become distinctive of the applicant’s good or service
24 in commerce.

25 “(2) PRIMA FACIE EVIDENCE.—The Director may accept as prima
26 facie evidence that a mark has become distinctive, as used on or in con-
27 nection with the applicant’s good or service in commerce, proof of sub-
28 stantially exclusive and continuous use of the mark as a mark by the
29 applicant in commerce during the 5-year period before the date on
30 which the claim of distinctiveness is made.

31 “(d) MARK THAT WOULD CAUSE DILUTION BY BLURRING OR DILUTION
32 BY TARNISHMENT.—In the case of a mark that would be likely to cause
33 dilution by blurring or dilution by tarnishment—

34 “(1) the mark may be refused registration only pursuant to a pro-
35 ceeding brought under section 613 of this title; and

36 “(2) registration of the mark may be canceled pursuant to a proceed-
37 ing brought under section 614 or 632 of this title.

38 **“§ 603. Service marks registrable**

39 “(a) IN GENERAL.—Subject to the provisions of this subtitle relating to
40 the registration of trademarks, so far as the provisions are applicable, a

1 service mark shall be registrable in the same manner and with the same
2 effect as a trademark.

3 “(b) PROTECTION.—When registered, a service mark is entitled to the
4 protection provided under this subtitle in the case of a trademark.

5 “(c) APPLICATIONS; PROCEDURE.—Applications and procedure under this
6 section shall conform as nearly as practicable to those prescribed for the
7 registration of trademarks.

8 **“§ 604. Collective marks and certification marks registrable**

9 “(a) IN GENERAL.—Subject to the provisions of this subtitle relating to
10 the registration of trademarks, so far as the provisions are applicable, a col-
11 lective mark or certification mark (including any indication of regional ori-
12 gin) shall be registrable under this subtitle in the same manner and with
13 the same effect as a trademark, by a person, or by a foreign country, State,
14 municipality, or other governmental entity, that exercises legitimate control
15 over the use of the mark sought to be registered, even though the person
16 or governmental entity does not possess an industrial or commercial estab-
17 lishment.

18 “(b) PROTECTION.—

19 “(1) IN GENERAL.—When registered, a collective mark or certifi-
20 cation mark is entitled to the protection provided under this subtitle
21 in the case of a trademark.

22 “(2) EXCEPTION.—A certification mark is not entitled to the protec-
23 tion provided under this subtitle if the certification mark is used to rep-
24 resent falsely that the owner or a user of the certification mark makes
25 or sells a good or performs a service on or in connection with which
26 the certification mark is used.

27 “(c) APPLICATIONS; PROCEDURE.—Applications and procedure under this
28 section shall conform as nearly as practicable to those prescribed for the
29 registration of trademarks.

30 **“§ 605. Use by related companies**

31 “(a) IN GENERAL.—In a case in which a registered mark or a mark
32 sought to be registered is or may be used legitimately by related companies,
33 the use shall inure to the benefit of the registrant or applicant for registra-
34 tion.

35 “(b) NO EFFECT ON VALIDITY.—The use of a mark as described in sub-
36 section (a) shall not affect the validity of the mark or of its registration
37 so long as the mark is not used to deceive the public.

38 “(c) 1ST USE.—If 1st use of a mark by a person is controlled by the
39 registrant or applicant for registration of the mark with respect to the na-
40 ture and quality of a good or service, the 1st use shall inure to the benefit
41 of the registrant or the applicant, as the case may be.

1 **“§ 606. Disclaimer of unregistrable matter**

2 “(a) COMPULSORY DISCLAIMER.—The Director may require an applicant
3 to disclaim an unregistrable component of a mark otherwise registrable.

4 “(b) VOLUNTARY DISCLAIMER.—An applicant may voluntarily disclaim a
5 component of a mark sought to be registered.

6 “(c) RIGHTS NOT PREJUDICED OR AFFECTED.—A disclaimer (including
7 a disclaimer made under section 607(e) of this title) does not prejudice or
8 affect—

9 “(1) the applicant’s or registrant’s rights existing on the date of a
10 disclaimer or thereafter arising in the disclaimed matter; or

11 “(2) the applicant’s or registrant’s right of registration on another
12 application, if the disclaimed matter is distinctive or becomes distinc-
13 tive of a good or service of the applicant or registrant.

14 **“§ 607. Certificates of registration**

15 “(a) ISSUANCE AND CONTENTS.—

16 “(1) IN GENERAL.—A certificate of registration of a mark registered
17 on the principal register—

18 “(A) shall be issued in the name of the United States, under
19 the seal of the Office; and

20 “(B) shall be signed by the Director or have the signature of
21 the Director placed on the certificate.

22 “(2) RECORD.—A record of a certificate of registration shall be kept
23 in the Office.

24 “(3) CONTENTS.—A certificate of registration shall—

25 “(A) reproduce the mark;

26 “(B) state that the mark is registered on the principal register
27 under this subtitle;

28 “(C) state the date of the 1st use of the mark and the date of
29 the 1st use of the mark in commerce;

30 “(D) specify each good or service for which the mark is reg-
31 istered; and

32 “(E) state—

33 “(i) the number and date of the registration;

34 “(ii) the term of the registration;

35 “(iii) the date on which the application for registration was
36 received in the Office; and

37 “(iv) any conditions and limitations that are imposed in the
38 registration.

39 “(b) PRIMA FACIE EVIDENCE OF VALIDITY.—A certificate of registration
40 of a mark on the principal register is prima facie evidence of—

1 “(1) the validity of the registered mark and of the registration of
2 the mark;

3 “(2) the owner’s ownership of the mark; and

4 “(3) the owner’s exclusive right to use the registered mark in com-
5 merce on or in connection with each good or service specified in the
6 certificate, subject to conditions or limitations stated in the certificate.

7 “(c) APPLICATION CONSTITUTES CONSTRUCTIVE USE.—Contingent on
8 the registration of a mark on the principal register, the filing of an applica-
9 tion to register the mark—

10 “(1) is constructive use of the mark; and

11 “(2) confers a right of priority, nationwide in effect, on or in connec-
12 tion with each good or service specified in the registration against any
13 person except a person that—

14 “(A) has a mark that has not been abandoned; and

15 “(B) before the filing—

16 “(i) used the mark;

17 “(ii) filed an application to register the mark, which appli-
18 cation is pending or has resulted in registration of the mark;

19 or

20 “(iii)(I) filed a foreign application to register the mark on
21 the basis of which the person has acquired a right of priority;
22 and

23 “(II) timely files an application under section 665(d) of
24 this title to register the mark, which application is pending
25 or has resulted in registration of the mark.

26 “(d) ISSUANCE TO ASSIGNEE.—

27 “(1) IN GENERAL.—A certificate of registration of a mark may be
28 issued to an assignee of the applicant only after the assignment is re-
29 corded in the Office.

30 “(2) NEW CERTIFICATE OF REGISTRATION.—In case of assignment
31 of a mark, the Director, at the request of the assignee and on a proper
32 showing and payment of the prescribed fee, shall issue to the assignee
33 a new certificate of registration of the mark in the name of the as-
34 signee and for the unexpired part of the original period.

35 “(e) CANCELLATION OR AMENDMENT.—

36 “(1) CANCELLATION.—On application of the owner, the Director
37 may permit a registration to be surrendered for cancellation.

38 “(2) AMENDMENT OR DISCLAIMER.—On application of the owner
39 and payment of the prescribed fee, the Director for good cause may
40 permit a registration to be amended or to be disclaimed in part, so long

1 as the amendment or disclaimer does not alter materially the character
2 of the mark.

3 “(3) RECORDATION.—Cancellation, amendment, or disclaimer of a
4 registration under this subsection shall be entered in the records of the
5 Office. Amendment or disclaimer of a registration under this subsection
6 also shall be entered on the certificate of registration.

7 “(f) COPIES OF RECORDS AND REGISTRATIONS.—

8 “(1) AVAILABILITY OF COPIES.—On application by a person and
9 payment of the prescribed fee, the Director shall provide the person a
10 copy of a registration or of any other record belonging to the Office
11 that relates to a mark.

12 “(2) COPIES AS EVIDENCE.—A copy of a registration or other record
13 described in paragraph (1), when authenticated by the seal of the Of-
14 fice and certified by the Director or an employee of the Office des-
15 ignated by the Director, shall be evidence in any case in which the
16 original would be evidence.

17 “(g) CORRECTION OF MISTAKE BY OFFICE.—

18 “(1) IN GENERAL.—If a material mistake in a registration, incurred
19 through the fault of the Office, is clearly disclosed by the records of
20 the Office—

21 “(A)(i) the Director, without charge, shall issue and record a
22 certificate stating the fact and nature of the mistake; and

23 “(ii) a printed copy of the certificate shall be attached to each
24 printed copy of the registration; or

25 “(B) the Director, without charge, may issue a new certificate
26 of registration.

27 “(2) EFFECT.—A corrected registration has the same effect as if the
28 certificate had originally been issued in the corrected form.

29 “(3) CERTIFICATES OF CORRECTION ISSUED ADMINISTRATIVELY.—
30 A certificate of correction issued under the rules of the Office before
31 July 5, 1946, and the registration to which the certificate is attached
32 have the same effect as if the certificate and its issuance had been au-
33 thorized by statute.

34 “(h) CORRECTION OF MISTAKE BY APPLICANT.—If a mistake is made in
35 a registration and a showing is made that the mistake occurred in good
36 faith through the fault of the applicant, the Director, on payment of the
37 prescribed fee, may issue a certificate of correction or a new certificate of
38 registration if the correction does not involve a change in the registration
39 that would require republication of the mark.

40 **“§ 608. Duration**

41 “(a) TIME PERIODS FOR AFFIDAVITS.—

1 “(1) IN GENERAL.—A registration remains in force for 10 years, ex-
2 cept that the Director shall cancel the registration of a mark unless
3 the owner of the registration files in the Office, within the following
4 time periods, affidavits that meet the requirements of subsection (b):

5 “(A) Within the 1-year period immediately preceding the expira-
6 tion of 6 years following the date of registration under this sub-
7 title or the date of the publication under section 612(d) of this
8 title.

9 “(B) Within the 1-year period immediately preceding the expira-
10 tion of 10 years following the date of registration, and each suc-
11 cessive 10-year period following the date of registration.

12 “(2) GRACE PERIOD FOR FILING.—The owner of a registration may
13 file each of the affidavits required under paragraph (1) within a 6-
14 month grace period immediately following the expiration of the applica-
15 ble period established under paragraph (1), together with the fee de-
16 scribed in subsection (b) and the additional grace period surcharge pre-
17 scribed by the Director.

18 “(b) REQUIREMENTS FOR AFFIDAVIT.—Each of the affidavits referred to
19 in subsection (A) shall—

20 “(1)(A) state that the mark is in use in commerce;

21 “(B) set forth the goods and services recited in the registration on
22 or in connection with which the mark is in use in commerce;

23 “(C) be accompanied by such number of specimens or facsimiles
24 showing current use of the mark in commerce as the Director may re-
25 quire; and

26 “(D) be accompanied by the fee prescribed by the Director; or

27 “(2)(A) set forth the goods and services recited in the registration
28 on or in which the mark is not in use in commerce;

29 “(B) include a showing that any nonuse is due to special circum-
30 stances that excuse such nonuse and is not due to any intention to
31 abandon the mark; and

32 “(C) be accompanied by the fee prescribed by the Director.

33 “(c) DEFICIENT AFFIDAVIT.—If an affidavit filed within the period set
34 forth in subsection (a) is deficient (including that the affidavit was not filed
35 in the name of the owner of the registration), the deficiency may be cor-
36 rected after the statutory time period, within the time prescribed after noti-
37 fication of the deficiency. The correcting affidavit shall be accompanied by
38 the additional deficiency surcharge prescribed by the Director.

39 “(d) ATTACHMENT OF NOTICE OF AFFIDAVIT REQUIREMENT.—Special
40 notice of the requirement for affidavits under this section shall be attached

1 to each certificate of registration and each notice of publication under sec-
2 tion 612(d) of this title.

3 “(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL OF AFFIDAVIT.—The
4 Director shall notify an owner that files an affidavit under this section of—

5 “(1) the Director’s acceptance or refusal of the affidavit; and

6 “(2) in the case of a refusal, the reasons for the refusal.

7 “(f) SERVICE OF NOTICES AND PROCESS.—

8 “(1) DESIGNATION OF AGENT.—An owner not domiciled in the
9 United States may designate by a document filed in the Office the
10 name and address of a person residing in the United States on which
11 may be served notices and process in proceedings affecting the mark.

12 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
13 (1)—

14 “(A) may be served on a person designated under paragraph (1)
15 by leaving with the person or mailing to the person a copy of the
16 notice or process at the address specified in the last designation
17 filed; or

18 “(B) if the person cannot be found at that address, or if the
19 owner does not make a designation under paragraph (1), may be
20 served on the Director.

21 **“§ 609. Renewal of registration**

22 “(a) IN GENERAL.—Subject to section 608 of this title, on payment of
23 the prescribed fee and the filing of a written application in such form as
24 the Director may prescribe, a registration may be renewed for a period of
25 10 years at the end of each successive 10-year period following the date of
26 registration.

27 “(b) APPLICATION.—An application under subsection (a) may be made—

28 “(1) at any time within 1 year before the end of each successive 10-
29 year period for which the registration was issued or renewed; or

30 “(2) on payment of a surcharge in addition to the prescribed fee,
31 within a grace period of 6 months after the end of any such 10-year
32 period.

33 “(c) DEFICIENT APPLICATION.—If an application filed under this section
34 is deficient, the deficiency may be corrected within the time prescribed after
35 notification of the deficiency, on payment of a surcharge prescribed for cor-
36 recting the deficiency.

37 “(d) NOTIFICATION OF REFUSAL TO RENEW.—If the Director refuses to
38 renew the registration, the Director shall notify the registrant of the Direc-
39 tor’s refusal and the reasons for the refusal.

40 “(e) SERVICE OF NOTICES AND PROCESS.—

1 “(1) DESIGNATION OF AGENT.—A registrant not domiciled in the
2 United States may designate by a document filed in the Office the
3 name and address of a person residing in the United States on which
4 may be served notices and process in proceedings affecting the mark.

5 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
6 (1)—

7 “(A) may be served on a person designated under paragraph (1)
8 by leaving with the person or mailing to the person a copy of the
9 notice or process at the address specified in the last designation
10 filed; or

11 “(B) if the person cannot be found at that address, or if the
12 registrant does not make a designation under paragraph (1), may
13 be served on the Director.

14 **“§ 610. Assignment**

15 “(a) IN GENERAL.—

16 “(1) ASSIGNABILITY.—A registered mark or a mark for which an ap-
17 plication to register has been filed shall be assignable with—

18 “(A) the goodwill of the business in which the mark is used; or

19 “(B) the part of the goodwill of the business that is connected
20 with the use of and symbolized by the mark.

21 “(2) APPLICATION BEFORE USE IN COMMERCE.—

22 “(A) IN GENERAL.—An application to register a mark under
23 section 601(b) of this title is not assignable before the filing of—

24 “(i) an amendment under section 601(b)(6) of this title to
25 bring the application into conformity with section 601(a) of
26 this title; or

27 “(ii) a verified statement of use under section 601(b)(7) of
28 this title.

29 “(B) EXCEPTION.—An application to register a mark under sec-
30 tion 601(b) of this title may be assigned to a successor to the
31 business of the applicant, or to the portion of the business to
32 which the mark pertains, before a filing under subparagraph (A)
33 if that business is ongoing and existing.

34 “(3) GOODWILL.—In an assignment authorized by this section, it is
35 not necessary to include the goodwill of the business connected with the
36 use of and symbolized by—

37 “(A) another mark used in the business; or

38 “(B) the name or style under which the business is conducted.

39 “(4) INSTRUMENT OF ASSIGNMENT.—An assignment shall be made
40 by an executed instrument in writing.

41 “(5) ACKNOWLEDGMENT AND RECORD AS PRIMA FACIE EVIDENCE.—

1 “(A) ACKNOWLEDGMENT.—Acknowledgment is prima facie evi-
2 dence of the execution of an assignment.

3 “(B) RECORD.—When the prescribed information reporting an
4 assignment is recorded in the Office, the record is prima facie evi-
5 dence of the execution of the assignment.

6 “(6) VOIDING OF ASSIGNMENT.—An assignment is void against a
7 subsequent purchaser for valuable consideration without notice unless
8 the prescribed information reporting the assignment is recorded in the
9 Office—

10 “(A) not later than 3 months after the date of the assignment;

11 or

12 “(B) before the subsequent purchase.

13 “(7) RECORD OF INFORMATION.—The Director shall maintain a
14 record of information on assignments in such form as the Director may
15 prescribe.

16 “(b) SERVICE OF NOTICES AND PROCESS.—

17 “(1) DESIGNATION OF AGENT.—An assignee not domiciled in the
18 United States may designate by a document filed in the Office the
19 name and address of a person residing in the United States on which
20 may be served notices and process in proceedings affecting the mark.

21 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
22 (1)—

23 “(A) may be served on a person designated under paragraph (1)
24 by leaving with the person or mailing to the person a copy of the
25 notice or process at the address specified in the last designation
26 filed; or

27 “(B) if the person cannot be found at that address, or if the
28 assignee does not make a designation under paragraph (1), may
29 be served on the Director.

30 **“§ 611. Execution of acknowledgments and verifications**

31 “An acknowledgment or verification required under this subtitle—

32 “(1)(A) may be made before an individual in the United States au-
33 thorized by law to administer oaths; or

34 “(B) when made in a foreign country, may be made before—

35 “(i) a diplomatic or consular officer of the United States; or

36 “(ii) an official authorized to administer oaths in the foreign
37 country whose authority is proved by—

38 “(I) a certificate of a diplomatic or consular officer of the
39 United States; or

1 “(II) an apostille of an official designated by a foreign
2 country which, by treaty or convention, accords like effect to
3 apostilles of designated officials in the United States; and

4 “(2) shall be valid if the acknowledgment or verification complies
5 with the laws of the State or country in which the acknowledgment or
6 verification is made.

7 **“§ 612. Examination and publication**

8 “(a) IN GENERAL.—On filing of an application for registration and pay-
9 ment of the prescribed fee, the Director shall refer the application to the
10 examiner in charge of the registration of marks for examination.

11 “(b) DETERMINATION OF WHEN APPLICANT IS ENTITLED TO REGISTRA-
12 TION.—

13 “(1) IN GENERAL.—If the examiner determines that the applicant is
14 entitled to registration, or would be entitled to registration on the ac-
15 ceptance of the statement of use required by section 601(b)(7) of this
16 title, the Director shall publish the mark in the Official Gazette.

17 “(2) CONCURRENT USE OR INTERFERENCE.—In the case of an ap-
18 plication in which the applicant claims concurrent use or of an applica-
19 tion that is to be placed in an interference under section 616 of this
20 title, the mark, if otherwise registrable, may be published subject to the
21 determination of the rights of the parties in a proceeding under section
22 617 of this title.

23 “(c) DETERMINATION OF WHEN APPLICANT IS NOT ENTITLED TO REG-
24 ISTRATION.—

25 “(1) NOTICE OF INITIAL REFUSAL.—If the examiner determines that
26 an applicant is not entitled to registration, the examiner shall notify
27 the applicant of the determination that the applicant is not entitled to
28 registration and of the reasons for the determination.

29 “(2) REPLY OR AMENDMENT.—The applicant has 6 months in which
30 to reply or amend the application, which shall then be reexamined.

31 “(3) ADDITIONAL PROCEDURE.—The procedure under paragraphs
32 (1) and (2) may be repeated until—

33 “(A) the examiner finally refuses registration of the mark; or

34 “(B) the applicant does not, within the 6-month period specified
35 in paragraph (2)—

36 “(i) reply to the latest notice;

37 “(ii) amend the application; or

38 “(iii) appeal the determination of nonentitlement.

39 “(4) CONSTRUCTIVE ABANDONMENT.—If the applicant fails to reply,
40 amend, or appeal, the application shall be deemed to be abandoned un-
41 less the applicant shows to the satisfaction of the Director that the

1 delay in responding was unintentional, in which case the Director may
2 extend the time for reply, amendment, or appeal.

3 “(d) REPUBLICATION OF MARKS REGISTERED UNDER PRIOR ACTS.—

4 “(1) FILING OF AFFIDAVIT.—Before a registration of a mark under
5 the Act of March 3, 1881 (ch. 138, 21 Stat. 502), or the Act of Feb-
6 ruary 20, 1905 (ch. 592, 33 Stat. 724), expires, the registrant, on pay-
7 ment of the prescribed fee, may file with the Director an affidavit
8 that—

9 “(A) specifies each good or service specified in the registration
10 on which the mark is in use in commerce; and

11 “(B) states that the registrant claims the benefits of this sub-
12 title for the mark.

13 “(2) PUBLICATION; NOTIFICATION.—The Director shall—

14 “(A) publish notice of the filing with a reproduction of the mark
15 in the Official Gazette; and

16 “(B) notify the registrant of the publication and of the require-
17 ment for the affidavit of use or nonuse under section 608(b) of
18 this title.

19 “(3) NONAPPLICABILITY OF SECTION 613.—A mark published under
20 this subsection is not subject to section 613 of this title.

21 **“§ 613. Opposition to registration**

22 “(a) FILING.—

23 “(1) IN GENERAL.—Not later than 30 days after the publication of
24 a mark under section 612(b) of this title, on payment of the prescribed
25 fee, a person that believes that the person would be damaged by the
26 registration of the mark on the principal register (including the reg-
27 istration of any mark that would be likely to cause dilution by blurring
28 or dilution by tarnishment) may file in the Office an opposition that
29 states each ground for opposition.

30 “(2) EXTENSION.—

31 “(A) IN GENERAL.—On written request before expiration of the
32 30-day period, the Director shall extend the time for filing opposi-
33 tion for an additional 30 days.

34 “(B) FURTHER EXTENSIONS.—If requested before the expira-
35 tion of an extension, the Director, for good cause, may grant fur-
36 ther extensions of the time for filing opposition.

37 “(C) NOTIFICATION OF APPLICANT.—The Director shall notify
38 the applicant of each extension of time for filing opposition.

39 “(3) AMENDMENT.—A person that files an opposition may amend
40 the opposition under such conditions as the Director may prescribe.

1 “(b) UNSUCCESSFUL OPPOSITION.—Unless registration is successfully op-
2 posed—

3 “(1)(A) a mark entitled to registration on the principal register
4 based on an application filed under section 601(a) of this title or pur-
5 suant to section 665 of this title shall be registered in the Office;

6 “(B) a certificate of registration shall be issued; and

7 “(C) notice of the registration shall be published in the Official Ga-
8 zette; or

9 “(2) if the applicant applied for registration under section 601(b) of
10 this title, a notice of allowance shall be issued to the applicant.

11 **“§ 614. Cancellation of registration**

12 “(a) IN GENERAL.—On payment of the prescribed fee, a person that be-
13 lieves that the person is or will be damaged (including as a result of a likeli-
14 hood of dilution by blurring or dilution by tarnishment) by the registration
15 of a mark on the principal register or under the Act of March 3, 1881 (ch.
16 138, 21 Stat. 502), or the Act of February 20, 1905 (ch. 592, 33 Stat.
17 724), may, not later than the time specified in subsection (b), file with the
18 Director a petition to cancel the registration of the mark that states each
19 ground for cancellation.

20 “(b) TIME FOR FILING.—A petition under subsection (a) shall be filed—

21 “(1)(A) in the case of a registration under this subtitle, not later
22 than 5 years after the date of registration of the mark under this sub-
23 title; or

24 “(B) in the case of a registration under the Act of March 3, 1881
25 (ch. 138, 21 Stat. 502), or the Act of February 20, 1905 (ch. 592,
26 33 Stat. 724)—

27 “(i) not later than 5 years after the date of publication of the
28 mark under section 612(d) of this title; or

29 “(ii) at any time if the mark has not been published under sec-
30 tion 612(d) of this title;

31 “(2) at any time if—

32 “(A) the registered mark becomes the generic name for a good
33 or service for which the mark is registered;

34 “(B) the registered mark is functional;

35 “(C) the registered mark has been abandoned;

36 “(D)(i) in the case of a registration under this subtitle, the reg-
37 istration was obtained fraudulently or contrary to section 604 of
38 this title or paragraph (1), (2), or (3) of subsection (b) of section
39 602 of this title; or

40 “(ii) in the case of a registration under the Act of March 3,
41 1881 (ch. 138, 21 Stat. 502), or the Act of February 20, 1905

1 (ch. 592, 33 Stat. 724), the registration was obtained contrary to
2 similar prohibitory provisions of the applicable Act; or

3 “(E) the registered mark is being used by, or with the permis-
4 sion of, the registrant so as to misrepresent the source of a good
5 or service on or in connection with which the mark is used; or

6 “(3) in the case of a certification mark, at any time on the ground
7 that the registrant—

8 “(A) does not control, or is not able legitimately to exercise con-
9 trol over, the use of the mark;

10 “(B) engages in the production or marketing of a good or serv-
11 ice to which the certification mark is applied;

12 “(C) permits the use of the certification mark for purposes
13 other than to certify; or

14 “(D) discriminately refuses to certify or to continue to certify
15 a good or service of a person that maintains the standards or con-
16 ditions that the mark certifies.

17 “(c) REGISTERED MARK AS GENERIC NAME.—

18 “(1) FEWER THAN ALL GOODS OR SERVICES.—If a registered mark
19 becomes the generic name for fewer than all of the goods or services
20 for which the registered mark is registered, a person may file at any
21 time a petition under subsection (a) to cancel the registration for any
22 good or service for which the mark has become the generic name.

23 “(2) TEST FOR DETERMINATION.—

24 “(A) IN GENERAL.—The primary significance of a registered
25 mark to the relevant public, and not purchaser motivation, shall
26 be the test for determining whether a registered mark has become
27 the generic name of a good or service on or in connection with
28 which the registered mark has been used.

29 “(B) UNIQUE GOOD OR SERVICE.—A registered mark shall not
30 be determined to be the generic name for a good or service solely
31 because the registered mark is also used as a name of or to iden-
32 tify a unique good or service.

33 “(d) PETITION BY FEDERAL TRADE COMMISSION.—

34 “(1) GROUNDS.—The Federal Trade Commission may file a petition
35 to cancel a mark registered on the principal register on a ground speci-
36 fied in paragraph (2) or (3) of subsection (b).

37 “(2) NO FEE.—The Federal Trade Commission shall not be required
38 to pay a filing fee.

39 “(e) USE OF MARK IN ADVERTISING OR PROMOTION.—

40 “(1) NO PROHIBITION.—Subsection (b)(3) does not prohibit a reg-
41 istrant from using its certification mark in advertising or promoting

1 recognition of the certification program or of a good or service meeting
2 the certification standards of the registrant.

3 “(2) NO GROUND FOR CANCELLATION.—The use of a certification
4 mark as described in paragraph (1) is not a ground for cancellation
5 under subsection (b)(3) so long as the registrant does not produce,
6 manufacture, or sell any certified good or service to which its identical
7 certification mark is applied.

8 **“§ 615. Incontestability of right to use mark under certain**
9 **conditions**

10 “(a) IN GENERAL.—Except on a ground for which application to cancel
11 may be filed at any time under paragraph (2) or (3) of section 614(b) of
12 this title, and except to the extent to which the use of a mark registered
13 on the principal register infringes a valid right acquired under the law of
14 a State or territory by use of a mark or trade name continuing from a date
15 before the date of registration of the mark under this subtitle, the right of
16 an owner to use the registered mark in commerce for a good or service on
17 or in connection with which the registered mark has been in continuous use
18 for 5 consecutive years subsequent to the date of the registration and is still
19 in use in commerce, is incontestable if—

20 “(1) there has been no final decision adverse to—

21 “(A) the owner’s claim of ownership of the mark for the good
22 or service; or

23 “(B) the owner’s right to register the mark or to keep the mark
24 on the register;

25 “(2) there is no proceeding involving the rights described in para-
26 graph (1)(B) pending in the Office or in a court and not finally dis-
27 posed of; and

28 “(3) not later than 1 year after the expiration of any 5-year period
29 subsequent to registration, the registrant files with the Director an af-
30 fidavit that—

31 “(A) specifies each good or service specified in the registration
32 on or in connection with which the mark—

33 “(i) was in continuous use for that 5-year period; and

34 “(ii) is still in use in commerce; and

35 “(B) verifies the matters specified in paragraphs (1) and (2).

36 “(b) NO INCONTESTABLE RIGHT FOR GENERIC NAME.—An incontestable
37 right shall not be acquired in a mark that is the generic name for any good
38 or service for which the mark is registered.

39 “(c) APPLICABILITY TO MARK REGISTERED UNDER PRIOR ACT.—Sub-
40 ject to the conditions specified in this section, an incontestable right with
41 respect to a mark registered under this subtitle shall apply to a mark reg-

1 istered under the Act of March 3, 1881 (ch. 138, 21 Stat. 502), or the Act
2 of February 20, 1905 (ch. 592, 33 Stat. 724), on the filing of the affidavit
3 required under subsection (a)(3) not later than 1 year after the expiration
4 of any 5-year period of continuous use after the date of publication of the
5 registered mark under section 612(d) of this title.

6 “(d) NOTICE.—The Director shall notify a registrant that files an affida-
7 vit under this section of the filing.

8 **“§ 616. Interference**

9 “(a) IN GENERAL.—On petition showing extraordinary circumstances, the
10 Director may declare that an interference exists if application is made for
11 registration of a mark that so resembles a mark previously registered by
12 another person, or for the registration of which another person has pre-
13 viously made application, as to be likely when used on or in connection with
14 a good or service of the applicant to cause confusion, cause mistake, or de-
15 ceive.

16 “(b) INCONTESTABLE RIGHT TO USE.—Interference shall not be declared
17 between an application and the registration of a mark to which the right
18 to use the mark has become incontestable.

19 **“§ 617. Determination by Trademark Trial and Appeal** 20 **Board**

21 “(a) IN GENERAL.—In a case of interference, opposition to registration,
22 application to register as a lawful concurrent user, or application to cancel
23 the registration of a mark, the Director shall—

24 “(1) give notice to all parties; and

25 “(2) direct a Trademark Trial and Appeal Board to determine the
26 respective rights of registration.

27 “(b) MEMBERS OF TRADEMARK TRIAL AND APPEAL BOARD.—A Trade-
28 mark Trial and Appeal Board shall include—

29 “(1) the Director;

30 “(2) the Deputy Director;

31 “(3) the Commissioner for Patents;

32 “(4) the Commissioner for Trademarks; and

33 “(5) administrative trademark judges appointed by the Secretary of
34 Commerce, in consultation with the Director.

35 “(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may
36 deem the appointment of an administrative trademark judge who, before
37 August 12, 2008, held office pursuant to an appointment by the Director
38 to take effect on the date on which the Director initially appointed the ad-
39 ministrative trademark judge.

40 “(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense
41 to a challenge to the appointment of an administrative trademark judge on

1 the basis of the judge's having been originally appointed by the Director
2 that the administrative trademark judge appointed was acting as a de facto
3 officer.

4 “(e) ACTION BY THE DIRECTOR.—

5 “(1) IN GENERAL.—In a proceeding under this section, the Director
6 may, as the rights of the parties under this subtitle are determined in
7 the proceedings—

8 “(A) refuse to register an opposed mark;

9 “(B) cancel a registration, in whole or in part;

10 “(C) modify an application or registration by limiting the goods
11 or services specified in the application or registration;

12 “(D) otherwise restrict or rectify with respect to the principal
13 register or supplemental register the registration of a registered
14 mark;

15 “(E) refuse to register any or all of several interfering marks;
16 or

17 “(F) register a mark for the person entitled to have the mark
18 registered.

19 “(2) REGISTRATION BASED ON CONCURRENT USE.—The Director
20 shall determine and fix the conditions and limitations for the registra-
21 tion of a mark based on concurrent use as provided in section
22 602(b)(4) of this title.

23 “(3) FINAL JUDGMENT BEFORE USE IN COMMERCE.—A final judg-
24 ment shall not be entered in favor of an applicant under section 601(b)
25 of this title before the mark is registered if the applicant cannot prevail
26 without establishing constructive use under section 607(c) of this title.

27 **“§ 618. Application of equitable principles in inter partes**
28 **proceedings**

29 “Equitable principles of laches, estoppel, and acquiescence, in circum-
30 stances in which those principles apply, may be considered and applied in
31 an inter partes proceeding.

32 **“§ 619. Appeals to Trademark Trial and Appeal Board from**
33 **decisions of examiners**

34 “An appeal may be taken to the Trademark Trial and Appeal Board from
35 a final decision of the examiner in charge of the registration of marks on
36 payment of the prescribed fee.

37 **“§ 620. Judicial review**

38 “(a) PERSONS THAT MAY APPEAL OR BRING CIVIL ACTION; TIMING.—
39 An applicant for registration of a mark, a party to an interference proceed-
40 ing, a party to an opposition proceeding, a party to an application to reg-
41 ister as a lawful concurrent user, a party to a cancellation proceeding, a

1 registrant that has filed an affidavit as provided in section 608 or 812 of
2 this title, or an applicant for renewal may, within such time after the date
3 of a decision of the Director or of the Trademark Trial and Appeal Board
4 as the Director prescribes (but not less than 60 days after that date)—

5 “(1) appeal the decision to the United States Court of Appeals for
6 the Federal Circuit under subsection (b); or

7 “(2) bring a civil action in United States district court for review
8 of the decision under subsection (c).

9 “(b) APPEAL TO UNITED STATES COURT OF APPEALS FOR THE FED-
10 ERAL CIRCUIT.—

11 “(1) IN GENERAL.—In an appeal brought under subsection (a)(1),
12 the procedures stated in this subsection apply.

13 “(2) RIGHTS UNDER SUBSECTION (c).—

14 “(A) WAIVER BY APPELLANT.—A person that takes an appeal
15 under this subsection waives the right to bring a civil action under
16 subsection (c).

17 “(B) DISMISSAL ON ELECTION BY ADVERSE PARTY.—

18 “(i) IN GENERAL.—An appeal shall be dismissed if an ad-
19 verse party to the proceeding, other than the Director, files
20 notice with the Director not later than 20 days after the ap-
21 pellant files notice of appeal in accordance with paragraph (3)
22 that the adverse party elects to have all further proceedings
23 conducted in a civil action under subsection (c).

24 “(ii) CIVIL ACTION.—The appellant shall have 30 days
25 after the date the notice to the Director is filed under clause
26 (i) to bring a civil action under subsection (c).

27 “(iii) FAILURE TO BRING CIVIL ACTION.—If the appellant
28 does not bring a civil action within the time specified in
29 clause (ii), the decision appealed from shall govern any fur-
30 ther proceedings in the case.

31 “(3) NOTICE OF APPEAL.—Within the time described in subsection
32 (a), the appellant shall file with the Director a written notice of appeal.

33 “(4) TRANSMITTAL OF DOCUMENTS AND SUBMISSION OF BRIEF.—

34 “(A) CERTIFIED LIST.—The Director shall transmit to the
35 court a certified list of the documents comprising the record in the
36 Office.

37 “(B) COPIES OF DOCUMENTS.—The court may request that the
38 Director forward the original or certified copies of the documents
39 during pendency of the appeal.

40 “(C) EX PARTE PROCEEDING.—In an ex parte proceeding, the
41 Director shall submit to the court a brief that—

1 “(i) explains the grounds for the decision of the Office; and

2 “(ii) addresses all issues involved in the appeal.

3 “(5) NOTICE OF HEARING.—Before hearing an appeal, the court
4 shall give notice of the time and place of the hearing to the Director
5 and the parties in the appeal.

6 “(6) DECISION OF COURT.—

7 “(A) REVIEW OF DECISION.—The court shall review the deci-
8 sion from which the appeal is taken on the record before the Of-
9 fice.

10 “(B) MANDATE AND OPINION.—

11 “(i) IN GENERAL.—After the court makes a determination
12 of the issues, the court shall issue a mandate and opinion to
13 the Director, the Director shall enter the mandate and opin-
14 ion in the record in the Office, and the mandate and opinion
15 shall govern the further proceedings in the case.

16 “(ii) APPLICATION BEFORE USE IN COMMERCE.—A final
17 judgment shall not be entered in favor of an applicant under
18 section 601(b) of this title before the mark is registered if the
19 applicant cannot prevail without establishing constructive use
20 under section 607(e) of this title.

21 “(c) CIVIL ACTION.—

22 “(1) IN GENERAL.—In a civil action brought under subsection
23 (a)(2), the procedures stated in this subsection apply.

24 “(2) STATUS AND RIGHTS OF DIRECTOR.—The Director shall not be
25 made a party to an inter partes proceeding under this subsection, shall
26 be notified of the filing of the complaint by the clerk of the court in
27 which the complaint is filed, and has the right to intervene in the civil
28 action.

29 “(3) NO ADVERSE PARTY.—In a case in which there is no adverse
30 party—

31 “(A) a copy of the complaint shall be served on the Director;

32 “(B) unless the court finds the expenses to be unreasonable, all
33 expenses of the civil action shall be paid by the party bringing the
34 civil action, whether the final decision is in favor of that party or
35 not;

36 “(C) the record in the Office shall be admitted on motion of any
37 party, on terms and conditions as to costs, expenses, and the fur-
38 ther cross-examination of the witnesses as the court imposes, with-
39 out prejudice to the right of any party to take further testimony;
40 and

1 “(D) when admitted, the testimony and exhibits of the record
2 in the Office have the same effect as if originally taken and pro-
3 duced in the civil action.

4 “(4) ADVERSE PARTY.—In a case in which there is an adverse
5 party—

6 “(A) a civil action under this subsection may be brought against
7 the party in interest as shown by the record of the Office at the
8 time of the decision complained of;

9 “(B) any party in interest may become a party to the civil ac-
10 tion;

11 “(C) the United States District Court for the Eastern District
12 of Virginia—

13 “(i) has jurisdiction in a case in which—

14 “(I) adverse parties reside in a plurality of districts
15 not embraced within the same State; or

16 “(II) an adverse party resides in a foreign country;
17 and

18 “(ii) may issue a summons against the adverse parties di-
19 rected to the marshal of any district in which any adverse
20 party resides; and

21 “(D) a summons against an adverse party residing in a foreign
22 country may be served by publication or otherwise as the United
23 States District Court for the Eastern District of Virginia directs.

24 “(5) DETERMINATIONS.—In a civil action under this subsection, the
25 court may, as the facts in the case appear—

26 “(A) determine that an applicant is entitled to a registration on
27 the application;

28 “(B) determine that a registration should be canceled; or

29 “(C) determine any other matter as the issues in the civil action
30 require.

31 “(6) NECESSARY ACTION.—An adjudication under this subsection
32 shall authorize the Director to take necessary action on compliance
33 with the requirements of law.

34 “(7) APPLICATION BEFORE USE IN COMMERCE.—A final judgment
35 shall not be entered in favor of an applicant under section 601(b) of
36 this title before the mark is registered if the applicant cannot prevail
37 without establishing constructive use under section 607(e) of this title.

38 **“§ 621. Registration as constructive notice of claim of own-**
39 **ership**

40 “Registration of a mark on the principal register or under the Act of
41 March 3, 1881 (ch. 138, 21 Stat. 502), or the Act of February 20, 1905

1 (ch. 592, 33 Stat. 724), is constructive notice of the registrant's claim of
2 ownership of the mark.

3 **“CHAPTER 62—SUPPLEMENTAL REGISTER**

“Sec.

“631. Supplemental register.

“632. Publication and cancellation of marks.

“633. Registration certificates for marks on principal and supplemental registers to be different.

“634. Provisions of subtitle applicable to registrations on supplemental register.

“635. No preclusion of registration on principal register; no admission of nondistinctiveness.

“636. Registration on supplemental register not used to stop importations.

4 **“§ 631. Supplemental register**

5 “(a) MAINTENANCE OF SUPPLEMENTAL REGISTER.—The Director shall
6 keep a continuation of the register provided under section 1(b) of the Act
7 of March 19, 1920 (ch. 104, 41 Stat. 533).

8 “(b) MARKS REGISTRABLE.—

9 “(1) IN GENERAL.—On payment of the prescribed fee and compli-
10 ance with subsections (a) and (c) of section 601 of this title (to the
11 extent that those subsections are applicable), there may be registered
12 on the supplemental register a mark that—

13 “(A) is capable of distinguishing a good or service of the appli-
14 cant;

15 “(B) is not registrable on the principal register;

16 “(C) except as provided in paragraph (2), is not a mark de-
17 scribed in paragraph (1), (2), (3), (4), or (5)(C) of section 602(b)
18 of this title; and

19 “(D) is in lawful use in commerce by the owner of the mark,
20 on or in connection with any good or service.

21 “(2) GEOGRAPHICALLY MISDESCRIPTIVE MARKS IN LAWFUL USE.—
22 Paragraph (1) does not preclude the registration on the supplemental
23 register of a mark that is capable of distinguishing a good or service
24 of the applicant and not registrable on the principal register, but is a
25 mark described in paragraph (5)(C) of section 602(b) of this title, if
26 the mark has been in lawful use in commerce by the owner of the
27 mark, on or in connection with a good or service, since before Decem-
28 ber 8, 1993.

29 “(c) APPLICATION AND EXAMINATION.—

30 “(1) IN GENERAL.—On the filing of an application for registration
31 on the supplemental register and payment of the prescribed fee, the Di-
32 rector shall refer the application to the examiner in charge of the reg-
33 istration of marks for examination.

1 “(2) DETERMINATION OF WHEN APPLICANT IS ENTITLED TO REG-
2 ISTRATION.—If the examiner determines that the applicant is entitled
3 to registration, the registration shall be granted.

4 “(3) DETERMINATION OF WHEN APPLICANT IS NOT ENTITLED TO
5 REGISTRATION.—If the examiner determines that the applicant is not
6 entitled to registration, section 612(c) of this title shall apply.

7 “(d) NATURE OF MARK.—For the purposes of registration on the supple-
8 mental register, a mark—

9 “(1) may consist of any mark, symbol, label, package, configuration
10 of goods, name, word, slogan, phrase, surname, geographical name, nu-
11 meral, device, or matter that as a whole is not functional (or combina-
12 tion thereof); and

13 “(2) shall be capable of distinguishing a good or service of the appli-
14 cant.

15 **“§ 632. Publication and cancellation of marks**

16 “(a) PUBLICATION.—A mark for the supplemental register shall not be
17 published for or be subject to opposition, but shall be published on registra-
18 tion in the Official Gazette.

19 “(b) PETITION FOR CANCELLATION.—

20 “(1) FILING.—A person that believes that the person is or will be
21 damaged by the registration of a mark on the supplemental register for
22 which the effective filing date is after the date on which the person’s
23 mark became famous and that would be likely to cause dilution by blur-
24 ring or dilution by tarnishment, or on a ground other than dilution by
25 blurring or dilution by tarnishment, may at any time apply to the Di-
26 rector to cancel the registration of the mark by filing a petition that
27 states each ground for cancellation and paying the prescribed fee.

28 “(2) REFERRAL TO BOARD.—On filing of the petition—

29 “(A) the Director shall refer the petition to the Trademark
30 Trial and Appeal Board; and

31 “(B) the Board shall give notice of the petition to the reg-
32 istrant.

33 “(c) DETERMINATION OF NONENTITLEMENT.—If after a hearing the
34 Board determines that the registrant is not entitled to registration or that
35 the mark has been abandoned, the Director shall cancel the registration.

36 “(d) APPLICATION BEFORE USE IN COMMERCE.—A final judgment shall
37 not be entered in favor of an applicant under section 601(b) of this title
38 before the mark is registered, if the applicant cannot prevail without estab-
39 lishing constructive use under section 607(c) of this title.

1 **“§ 633. Registration certificates for marks on principal and**
2 **supplemental registers to be different**

3 “A certificate of registration of a mark registered on the supplemental
4 register shall be conspicuously different from a certificate of registration of
5 a mark on the principal register.

6 **“§ 634. Provisions of subtitle applicable to registrations on**
7 **supplemental register**

8 “(a) IN GENERAL.—So far as applicable, the provisions of this subtitle
9 govern applications for registration, and registrations, on the supplemental
10 register as well as applications for registration, and registrations, on the
11 principal register.

12 “(b) INAPPLICABLE PROVISIONS.—An application for registration, or a
13 registration, on the supplemental register is not subject to, and shall not
14 receive the advantages of—

- 15 “(1) section 601(b) of this title;
16 “(2) subsection (b)(5) or (c) of section 602 of this title;
17 “(3) subsection (b) or (c) of section 607 of this title;
18 “(4) subsections (a) and (b) of section 612 of this title;
19 “(5) sections 613 through 617 of this title;
20 “(6) section 621 of this title;
21 “(7) section 655 of this title; or
22 “(8) section 663 of this title.

23 **“§ 635. No preclusion of registration on principal register;**
24 **no admission of nondistinctiveness**

25 “(a) NO PRECLUSION OF REGISTRATION.—Registration of a mark on the
26 supplemental register or under the Act of March 19, 1920 (ch. 104, 41
27 Stat. 533), does not preclude registration by the registrant on the principal
28 register.

29 “(b) NO ADMISSION OF NONDISTINCTIVENESS.—Registration of a mark
30 on the supplemental register does not constitute an admission that the mark
31 has not acquired distinctiveness.

32 **“§ 636. Registration on supplemental register not used to**
33 **stop importations**

34 “Registration on the supplemental register or under the Act of March 19,
35 1920 (ch. 104, 41 Stat. 533), shall not be filed in the Department of Home-
36 land Security or be used to stop importations.

37 **“CHAPTER 63—PRACTICE, PROCEDURE, AND**
38 **PROHIBITIONS**

“Sec.

“651. Notice of registration; limitation on recovery of profits and damages in infringement action.

- “652. Classification of goods and services; marks for any or all of an applicant’s goods or services.
- “653. Fees.
- “654. Remedies for infringement.
- “655. Registration on principal register as evidence of exclusive right to use mark.
- “656. Injunctive relief.
- “657. Recovery for violation of rights.
- “658. Destruction of violative articles.
- “659. Power of court over registration.
- “660. Civil liability for false or fraudulent registration.
- “661. Jurisdiction of Federal courts; prohibition of State and local requirements.
- “662. Regulations for conduct of proceedings in Office.
- “663. Prohibition of importation of goods bearing infringing marks or names.
- “664. False designations of origin; false descriptions; dilution.
- “665. United States registration based on foreign registration pursuant to international conventions.

1 **“§ 651. Notice of registration; limitation on recovery of prof-**
 2 **its and damages in infringement action**

3 “(a) NOTICE OF REGISTRATION.—Notwithstanding section 621 of this
 4 title, a registrant of a registered mark may give notice that a mark is reg-
 5 istered by displaying with the mark the words ‘Registered in U.S. Patent
 6 and Trademark Office’ or ‘Reg. U.S. Pat. & Tm. Off.’ or the letter R en-
 7 closed within a circle, thus ®.

8 “(b) LIMITATION ON RECOVERY OF PROFITS AND DAMAGES IN IN-
 9 FRINGEMENT ACTION.—In a civil action for infringement under this subtitle
 10 by a registrant that fails to give notice of registration as described in sub-
 11 section (a), no profits or damages shall be recovered under this subtitle un-
 12 less the defendant had actual notice of the registration.

13 **“§ 652. Classification of goods and services; marks for any or**
 14 **all of an applicant’s goods or services**

15 “(a) CLASSIFICATION.—The Director may by regulation establish a classi-
 16 fication of goods and services for the convenience of Office administration
 17 but not to limit or extend an applicant’s or registrant’s rights.

18 “(b) APPLICATION TO REGISTER A MARK FOR ANY OR ALL OF AN AP-
 19 PPLICANT’S GOODS OR SERVICES.—An applicant may apply to register a
 20 mark for any or all of the goods or services on or in connection with which
 21 the applicant is using or has a bona fide intention to use the mark in com-
 22 merce, and the Director may issue a single certificate of registration for the
 23 mark.

24 **“§ 653. Fees**

25 “(a) FOR SERVICES PERFORMED AND MATERIALS FURNISHED.—The Di-
 26 rector shall establish fees for the filing and processing of an application for
 27 the registration of a mark and for all other services performed by and mate-
 28 rials furnished by the Office relating to marks.

29 “(b) ADJUSTMENT.—The Director may adjust fees established under sub-
 30 section (a) once each year to reflect, in the aggregate, any fluctuations dur-

1 ing the preceding 12 months in the Consumer Price Index, as determined
2 by the Secretary of Labor. The Director may ignore a fluctuation of less
3 than 1 percent.

4 “(c) EFFECTIVE DATE.—A fee established under this section shall not
5 take effect until at least 30 days after notice of the fee is published in the
6 Federal Register and in the Official Gazette.

7 “(d) APPLICATION COVERING MORE THAN 1 CLASS.—If, under section
8 652(b) of this title, the Director permits the filing of an application for the
9 registration of a mark for a good or service that falls within more than 1
10 class established under section 652(a) of this title, the applicant shall pay
11 a fee equal to the sum of the fees for filing an application in each class.

12 “(e) WAIVER.—The Director may waive the payment of a fee for a service
13 or material relating to marks in connection with an occasional request made
14 by a Federal agency.

15 “(f) EXEMPTION.—The Indian Arts and Crafts Board shall not be
16 charged a fee to register a Government trademark of genuineness and qual-
17 ity for an Indian product or for a product of a particular Indian tribe or
18 group.

19 **“§ 654. Remedies for infringement**

20 “(a) IN GENERAL.—A person is liable in a civil action by the registrant
21 of a registered mark for the remedies provided in this section when the per-
22 son, without the consent of the registrant, shall—

23 “(1) use in commerce a reproduction, counterfeit, copy, or colorable
24 imitation of the registered mark in connection with the sale, offering
25 for sale, distribution, or advertising of a good or service on or in con-
26 nection with which the use is likely to cause confusion, cause mistake,
27 or deceive; or

28 “(2)(A) reproduce, counterfeit, copy, or colorably imitate the reg-
29 istered mark; and

30 “(B) apply the reproduction, counterfeit, copy, or colorable imitation
31 to a label, sign, print, package, wrapper, receptacle, or advertisement
32 intended to be used in commerce on or in connection with the sale, of-
33 fering for sale, distribution, or advertising of a good or service on or
34 in connection with which the use is likely to cause confusion, cause mis-
35 take, or deceive.

36 “(b) KNOWLEDGE OF INTENT.—A registrant shall not be entitled to re-
37 cover profits or damages under subsection (a)(2) unless the acts are com-
38 mitted with knowledge that the reproduction, counterfeit, copy, or colorable
39 imitation is intended to be used to cause confusion, cause mistake, or de-
40 ceive.

41 “(c) LIMITATIONS.—

- 1 “(1) DEFINITIONS.—In this subsection—
- 2 “(A) ELECTRONIC COMMUNICATION.—The term ‘electronic com-
- 3 munication’ has the meaning given the term in section 2510 of
- 4 title 18.
- 5 “(B) PERIODICAL.—The term ‘periodical’ means a newspaper,
- 6 magazine, or similar periodical.
- 7 “(C) PLAINTIFF.—The term ‘plaintiff’ means—
- 8 “(i) the owner of a right infringed under this subtitle; and
- 9 “(ii) a person that brings an action under subsection (a)
- 10 or (d) of section 664 of this title.
- 11 “(D) VIOLATING MATTER.—The term ‘violating matter’ means
- 12 matter that is the subject of a violation under section 664(a) of
- 13 this title.
- 14 “(E) VIOLATOR.—The term ‘violator’ means a person that vio-
- 15 lates section 664(a) of this title.
- 16 “(2) LIMITATIONS.—Notwithstanding any other provision of this
- 17 subtitle, the remedies given to the plaintiff are limited as provided in
- 18 this subsection.
- 19 “(3) CASE INVOLVING PRINTING.—A plaintiff shall be entitled as
- 20 against the defendant only to an injunction against future printing if
- 21 the defendant—
- 22 “(A) is engaged solely in the business of printing the mark or
- 23 violating matter for others; and
- 24 “(B) establishes that the defendant was an innocent infringer
- 25 or innocent violator.
- 26 “(4) CASE INVOLVING ADVERTISING.—A plaintiff shall be entitled as
- 27 against a defendant only to an injunction against the presentation of
- 28 paid advertising matter in any future issue of a periodical or any future
- 29 transmission of an electronic communication if—
- 30 “(A) the infringement or violation is contained in or is part of
- 31 that paid advertising matter in the periodical or electronic commu-
- 32 nication;
- 33 “(B) the defendant is the publisher or distributor of the periodi-
- 34 cal or electronic communication; and
- 35 “(C) the defendant establishes that the defendant was an inno-
- 36 cent infringer or innocent violator.
- 37 “(5) CASE INVOLVING DELAY IN DELIVERY OR TRANSMISSION.—In-
- 38 junctive relief is not available to a plaintiff with respect to a particular
- 39 issue of a periodical or particular electronic communication if—
- 40 “(A) restraining the dissemination of the infringing matter or
- 41 violating matter in that issue or communication would delay the

1 delivery of the issue or transmission of the communication after
2 the regular delivery time of the issue or transmission; and

3 “(B) the delay would be due to the method by which publication
4 and distribution of the periodical or transmission of the electronic
5 communication is customarily conducted in accordance with sound
6 business practice and not to any method or device adopted to
7 evade this section or to prevent or delay the issuance of an injunc-
8 tion or restraining order with respect to the infringing matter or
9 violating matter.

10 “(6) CASE INVOLVING A DOMAIN NAME.—

11 “(A) IN GENERAL.—A domain name registration authority that
12 takes an action described in subparagraph (B)—

13 “(i) is not liable for monetary relief to any person for that
14 action, regardless of whether the domain name is finally de-
15 termined to infringe or dilute the mark; and

16 “(ii) is subject to injunctive relief only if the domain name
17 registration authority—

18 “(I) does not expeditiously deposit, with a court in
19 which a civil action is brought regarding the disposition
20 of the domain name, documents sufficient for the court
21 to establish the control and authority of the court re-
22 garding the disposition of the registration and use of the
23 domain name; or

24 “(II)(aa) transfers, suspends, or otherwise modifies
25 the domain name during the pendency of the civil action,
26 except on order of the court; or

27 “(bb) willfully fails to comply with such a court order.

28 “(B) ACTION.—An action referred to in subparagraph (A) is an
29 action of refusing to register, removing from registration, transfer-
30 ring, temporarily disabling, or permanently canceling a domain
31 name—

32 “(i) in compliance with a court order under section 664(d)
33 of this title; or

34 “(ii) in the implementation of a reasonable policy by the
35 domain name registration authority prohibiting the registra-
36 tion of a domain name of a person that is identical to, confus-
37 ingly similar to, or dilutive of the mark of another person.

38 “(C) BAD FAITH.—A domain name registration authority is not
39 liable for damages under this section for the registration or main-
40 tenance of a domain name for another person absent a showing

1 of bad faith intent to profit from the registration or maintenance
2 of the domain name.

3 “(D) KNOWING AND MATERIAL MISREPRESENTATION.—If a do-
4 main name registration authority takes an action described under
5 subparagraph (B) based on a knowing and material misrepresenta-
6 tion by another person that a domain name is identical to, con-
7 fusingly similar to, or dilutive of a mark—

8 “(i) the person making the knowing and material misrepre-
9 sentation is liable for the damages, costs, and attorney’s fees
10 incurred by the domain name registrant as a result of the ac-
11 tion; and

12 “(ii) the court may grant injunctive relief to the domain
13 name registrant, including the reactivation of the domain
14 name or the transfer of the domain name to the domain name
15 registrant.

16 “(E) CIVIL ACTION TO ESTABLISH REGISTRATION OR USE.—

17 “(i) IN GENERAL.—On notice to the mark owner, a domain
18 name registrant whose domain name has been suspended, dis-
19 abled, or transferred under a policy described in subpara-
20 graph (B)(ii) may bring a civil action to establish that the
21 registration or use of the domain name by the registrant is
22 not unlawful under this subtitle.

23 “(ii) RELIEF.—In a civil action under clause (i), the court
24 may grant injunctive relief to the domain name registrant, in-
25 cluding the reactivation of the domain name or transfer of the
26 domain name to the domain name registrant.

27 “(7) CASE INVOLVING ALTERATION OF A MOTION PICTURE.—

28 “(A) IN GENERAL.—A person that engages in conduct described
29 in section 110(11) of title 17 and that complies with the require-
30 ments set forth in section 110(11) is not liable on account of the
31 conduct for a violation of any right under this subtitle. This sub-
32 paragraph does not preclude liability of, or restrict the defenses
33 or limitations on rights granted under this subtitle of, a person
34 for conduct not described in section 110(11), even if that person
35 also engages in conduct described in section 110(11).

36 “(B) MANUFACTURER, LICENSEE, OR LICENSOR OF TECH-
37 NOLOGY.—A manufacturer, licensee, or licensor of technology that
38 enables the making of limited portions of audio or video content
39 of a motion picture imperceptible as described in subparagraph
40 (A) is not liable on account of the manufacture or license for a
41 violation of any right under this subtitle, if the manufacturer, li-

1 censee, or licensor ensures that the technology provides a clear and
2 conspicuous notice at the beginning of each performance that the
3 performance of the motion picture is altered from the performance
4 intended by the director or copyright holder of the motion picture.

5 “(C) NONAPPLICABILITY OF LIMITATIONS ON LIABILITY.—The
6 limitations on liability in subparagraphs (A) and (B) do not apply
7 to a manufacturer, licensee, or licensor of technology that fails to
8 comply with this paragraph.

9 “(D) APPLICABILITY OF NOTICE REQUIREMENT.—The require-
10 ments under subparagraph (B) to provide notice apply only with
11 respect to technology manufactured after October 23, 2005.

12 “(E) NO INFERENCE CREATED.—Failure by a manufacturer, li-
13 censee, or licensor of technology to qualify for the exemption under
14 subparagraph (A) or (B) does not create an inference that a man-
15 ufacturer, licensee, or licensor of technology that engages in con-
16 duct described in section 110(11) of title 17 is liable for trade-
17 mark infringement by reason of the conduct.

18 **“§ 655. Registration on principal register as evidence of ex-**
19 **clusive right to use mark**

20 “(a) REGISTRATION AS PRIMA FACIE EVIDENCE OF VALIDITY.—A reg-
21 istration of a mark on the principal register or under the Act of March 3,
22 1881 (ch. 138, 21 Stat. 502), or the Act of February 20, 1905 (ch. 592,
23 33 Stat. 724) that is owned by a party to a civil action—

24 “(1)(A) is admissible in evidence; and

25 “(B) is prima facie evidence of—

26 “(i) the validity of the registered mark and the registration of
27 the mark;

28 “(ii) the registrant’s ownership of the mark; and

29 “(iii) the registrant’s exclusive right to use the registered mark
30 in commerce on or in connection with each good or service speci-
31 fied in the registration, subject to any conditions or limitations
32 stated in the registration; but

33 “(2) does not preclude another person from proving any legal or
34 equitable defense or defect (including those described in subsection
35 (b)(3)(B)) that might have been asserted if the mark had not been reg-
36 istered.

37 “(b) REGISTRATION AS CONCLUSIVE EVIDENCE OF VALIDITY.—

38 “(1) IN GENERAL.—To the extent that the right to use a registered
39 mark has become incontestable under section 615 of this title, the reg-
40 istration is conclusive evidence of—

1 “(A) the validity of the registered mark and the registration of
2 the mark;

3 “(B) the ownership of the mark by the registrant; and

4 “(C) the exclusive right of the registrant to use the registered
5 mark in commerce.

6 “(2) RELATION OF CONCLUSIVE EVIDENCE TO EXCLUSIVE RIGHT.—
7 The conclusive evidence shall relate to the exclusive right to use the
8 mark on or in connection with each good or service specified in an affi-
9 davit filed under section 615 of this title, or a renewal application filed
10 under section 609 of this title if the goods or services specified in the
11 renewal are fewer, subject to any conditions or limitations in the reg-
12 istration or in the affidavit or renewal application.

13 “(3) PROOF OF INFRINGEMENT; DEFENSES AND DEFECTS.—

14 “(A) IN GENERAL.—The conclusive evidence of the right to use
15 the registered mark is subject to—

16 “(i) proof of infringement as defined in section 654 of this
17 title; and

18 “(ii) the defenses or defects described in subparagraph (B).

19 “(B) DEFENSES AND DEFECTS.—The defenses or defects re-
20 ferred to in subparagraph (A) are the following:

21 “(i) FRAUD.—The registration or the incontestable right to
22 use the registered mark was obtained fraudulently.

23 “(ii) ABANDONMENT.—The registered mark has been aban-
24 doned by the registrant.

25 “(iii) PERMISSION.—The registered mark is being used by
26 or with the permission of the registrant (or a person in priv-
27 ity with the registrant) so as to misrepresent the source of
28 a good or service on or in connection with which the reg-
29 istered mark is used.

30 “(iv) NAMES; DESCRIPTIVE TERMS; GEOGRAPHIC ORIGIN.—
31 The use by a party of a name, term, or device alleged to be
32 an infringement is a use, otherwise than as a mark, of—

33 “(I) the party’s individual name in the party’s own
34 business;

35 “(II) the individual name of any other person in priv-
36 ity with the party; or

37 “(III) a term or device that is descriptive of and used
38 fairly and in good faith only to describe a good or service
39 of the party or the geographic origin of a good or service
40 of the party.

41 “(v) NO KNOWLEDGE OF PRIOR USE.—

1 “(I) IN GENERAL.—The mark, the use of which is al-
2 leged to be an infringement, was adopted by the party
3 without knowledge of the prior use by the registrant, and
4 the mark has been continuously used by the party (or
5 another person in privity with the party) since a date be-
6 fore—

7 “(aa) the date of constructive use of the mark es-
8 tablished under section 607(c) of this title;

9 “(bb) the registration of the mark under this sub-
10 title, if the application for registration was filed be-
11 fore November 16, 1989; or

12 “(cc) publication of the registered mark under
13 section 612(d) of this title.

14 “(II) LIMITATION TO GEOGRAPHIC AREA.—The de-
15 fense or defect under subclause (I) applies only with re-
16 spect to the geographic area in which the continuous
17 prior use is proved.

18 “(vi) PRIOR REGISTRATION.—

19 “(I) IN GENERAL.—The mark, the use of which is al-
20 leged to be an infringement—

21 “(aa) was registered and used before the registra-
22 tion under this subtitle or publication under section
23 612(d) of this title of the registered mark of the
24 registrant; and

25 “(bb) has not been abandoned.

26 “(II) LIMITATION TO GEOGRAPHIC AREA.—The de-
27 fense or defect under subclause (I) applies only with re-
28 spect to the geographic area in which the mark was used
29 before registration or publication of the registrant’s
30 mark.

31 “(vii) VIOLATION OF ANTITRUST LAW.—The registered
32 mark has been or is being used to violate an antitrust law
33 of the United States.

34 “(viii) FUNCTIONALITY.—The registered mark is func-
35 tional.

36 “(ix) EQUITABLE PRINCIPLES.—An equitable principle (in-
37 cluding laches, estoppel, and acquiescence) is applicable.

38 **“§ 656. Injunctive relief**

39 “(a) JURISDICTION TO GRANT AND ENFORCE INJUNCTION.—

40 “(1) IN GENERAL.—In a civil action under this subtitle, the court
41 may grant an injunction, according to the principles of equity and on

1 terms that the court considers reasonable, to prevent the violation of
2 a right of the registrant of a registered mark or to prevent a violation
3 under subsection (a), (c) or (d) of section 664 of this title.

4 “(2) PROVISIONS OF INJUNCTION.—An injunction under paragraph
5 (1) may direct the defendant to file with the court and serve on the
6 plaintiff within 30 days after the injunction is served on the defendant
7 (or within any such extended period as the court may direct) a report
8 in writing under oath that describes in detail the manner and form in
9 which the defendant has complied with the injunction.

10 “(3) SERVICE AND ENFORCEMENT OF INJUNCTION.—An injunction
11 granted on hearing, after notice to the defendant, by a United States
12 district court—

13 “(A) may be served on the parties against which the injunction
14 is granted anywhere in the United States where the parties are
15 found; and

16 “(B) may be enforced by proceedings to punish for contempt,
17 or otherwise, by the court by which the injunction was granted or
18 by another United States district court in the jurisdiction in which
19 the defendant is found.

20 “(b) JURISDICTION OF COURTS OTHER THAN GRANTING COURT.—

21 “(1) IN GENERAL.—A court described in subsection (a) has jurisdic-
22 tion to enforce the injunction, as provided in this subtitle, as fully as
23 if the injunction had been granted by the district court in which the
24 injunction is sought to be enforced.

25 “(2) DELIVERY OF RECORD.—If required by the court before which
26 application to enforce the injunction is made, the clerk of the court or
27 judge granting the injunction shall transfer without delay to the court
28 to which the application is made a certified copy of the record on which
29 the injunction was granted.

30 “(c) DUTIES OF CLERKS OF COURTS AND DIRECTOR.—

31 “(1) NOTICE.—

32 “(A) IN GENERAL.—Not later than 1 month after the filing of
33 a civil action or other proceeding involving a registered mark, the
34 clerk of a court described in subsection (a) shall give notice of the
35 filing, in writing, to the Director.

36 “(B) CONTENTS.—The notice shall disclose—

37 “(i) in order, so far as known, the names and addresses of
38 the parties to the proceeding; and

39 “(ii) the designating number of the registration on which
40 the proceeding was brought.

1 “(2) ADDITIONAL REGISTRATIONS.—The clerk shall give notice as
2 provided in paragraph (1) of any additional registration subsequently
3 included in the proceeding by amendment, answer, or other pleading.

4 “(3) JUDGMENT.—

5 “(A) NOTICE.—Not later than 1 month after judgment is en-
6 tered or an appeal is taken, the clerk of the court shall give notice
7 of the judgment or appeal to the Director.

8 “(B) ENDORSEMENT.—On receipt of the notice, the Director
9 shall immediately record the judgment or appeal in the registra-
10 tion file.

11 “(d) COUNTERFEIT MARKS.—

12 “(1) DEFINITION OF COUNTERFEIT MARK.—In this subsection:

13 “(A) IN GENERAL.—The term ‘counterfeit mark’ means—

14 “(i) a counterfeit of a mark that is registered on the prin-
15 cipal register for a good or service that is sold, offered for
16 sale, or distributed and that is in use, without regard to
17 whether the person against which relief is sought knew the
18 mark was registered; and

19 “(ii) a spurious designation that is identical to, or substan-
20 tially indistinguishable from, a designation with respect to
21 which the remedies of this subtitle are made available by rea-
22 son of section 220506 of title 36.

23 “(B) EXCLUSION.—The term ‘counterfeit mark’ does not in-
24 clude a mark or designation used on or in connection with a good
25 or service of which the manufacturer or producer, at the time of
26 the manufacture or production in question, was authorized, by the
27 holder of the right to use the mark or designation, to use the
28 mark or designation for the type of good or service manufactured
29 or produced.

30 “(2) SEIZURE OF GOODS, MARKS, AND RECORDS.—In the case of a
31 civil action under section 654(a)(1) of this title, or under section
32 220506 of title 36, with respect to a violation that consists of using
33 a counterfeit mark in connection with the sale, offering for sale, or dis-
34 tribution of a good or service, the court, on ex parte application, may
35 grant an order under subsection (a) providing for the seizure of goods
36 and counterfeit marks involved in the violation, the means of making
37 the marks, and records documenting the manufacture, sale, or receipt
38 of things involved in the violation.

39 “(3) POTENTIAL PROSECUTION.—

40 “(A) NOTICE TO UNITED STATES ATTORNEY.—The court shall
41 not receive an application under paragraph (2) unless the appli-

1 cant has given notice of the application that is reasonable under
2 the circumstances to the United States attorney for the district in
3 which the order is sought.

4 “(B) PARTICIPATION.—The United States attorney may partici-
5 pate in the proceedings arising under the application if the pro-
6 ceedings may affect evidence of an offense against the United
7 States.

8 “(C) DENIAL OF APPLICATION.—The court may deny the appli-
9 cation if the court determines that the public interest in a poten-
10 tial prosecution requires that the application be denied.

11 “(4) BASIS AND CONTENTS OF APPLICATION.—An application under
12 paragraph (2) shall—

13 “(A) be based on an affidavit or a verified complaint establish-
14 ing facts sufficient to support the findings of fact and conclusions
15 of law required for the order under paragraph (6)(A); and

16 “(B) contain the information required by paragraph (6)(B) to
17 be contained in the order.

18 “(5) CRITERIA FOR GRANTING APPLICATION.—The court shall not
19 grant an application under paragraph (2) unless—

20 “(A) the person obtaining an order provides security determined
21 by the court to be adequate for the payment of damages that a
22 person may be entitled to recover as a result of a wrongful seizure
23 or wrongful attempted seizure under this subsection; and

24 “(B) the court finds that it clearly appears from specific facts
25 that—

26 “(i) an order other than an ex parte seizure order is not
27 adequate to achieve the purposes of section 654 of this title;

28 “(ii) the applicant has not publicized the requested seizure;

29 “(iii) the applicant is likely to succeed in showing that the
30 person against which seizure would be ordered used a coun-
31 terfeit mark in connection with the sale, offering for sale, or
32 distribution of a good or service;

33 “(iv) an immediate and irreparable injury will occur if the
34 seizure is not ordered;

35 “(v) the material to be seized will be located at the place
36 identified in the application;

37 “(vi) the harm to the applicant of denying the application
38 outweighs the harm to the legitimate interests of the person
39 against which seizure would be ordered of granting the appli-
40 cation; and

1 “(vii) the person against which seizure would be ordered,
2 or a person acting in concert with the person, would destroy,
3 move, hide, or otherwise make the material inaccessible to the
4 court, if the applicant were to proceed on notice to the per-
5 son.

6 “(6) CONTENTS OF ORDER.—An order under this subsection shall
7 contain—

8 “(A) the findings of fact and conclusions of law required for the
9 order;

10 “(B) a particular description of the material to be seized, and
11 a description of each place at which the material is to be seized;

12 “(C) the time period, which shall end not later than 7 days after
13 the date on which the order is issued, during which the seizure
14 is to be made;

15 “(D) the amount of security required to be provided under this
16 subsection; and

17 “(E) a date for the hearing required under paragraph (11).

18 “(7) PROTECTION AGAINST PUBLICITY.—The court shall take appropri-
19 ate action to protect the person against which an order under this
20 subsection is directed from publicity, by or at the behest of the plain-
21 tiff, about the order and any seizure under the order.

22 “(8) SEIZURE OF MATERIAL.—

23 “(A) CUSTODY.—Material seized under this subsection shall be
24 taken into the custody of the court.

25 “(B) PROTECTIVE ORDER.—

26 “(i) IN GENERAL.—For a seizure made under this sub-
27 section, the court shall enter an appropriate protective order
28 with respect to discovery and use of any records or informa-
29 tion that has been seized.

30 “(ii) CONTENTS.—The protective order shall provide for
31 appropriate procedures to ensure that confidential, private,
32 proprietary, or privileged information contained in the records
33 is not improperly disclosed or used.

34 “(9) ORDER UNDER SEAL.—

35 “(A) IN GENERAL.—An order under this subsection and the
36 documents supporting the order shall be sealed until the person
37 against which the order is directed has an opportunity to contest
38 the order.

39 “(B) ACCESS.—After the seizure has been carried out, a person
40 against which the order is issued shall have access to the order
41 and supporting documents.

1 “(10) SERVICE AND CARRYING OUT OF ORDER.—

2 “(A) IN GENERAL.—The court shall order that service of a copy
3 of an order under this subsection shall be made by a Federal law
4 enforcement officer (such as a United States marshal or an officer
5 or agent of U.S. Customs and Border Protection, the United
6 States Secret Service, the Federal Bureau of Investigation, or the
7 United States Postal Service) or may be made by a State or local
8 law enforcement officer, who, on making service, shall carry out
9 the seizure under the order.

10 “(B) PROTECTIVE ORDER.—The court shall issue an order, if
11 appropriate, to protect the defendant from undue damage from the
12 disclosure of trade secrets or other confidential information during
13 the course of the seizure, including, if appropriate, an order re-
14 stricting the access of the applicant (or any agent or employee of
15 the applicant) to the secrets or other information.

16 “(11) HEARING.—

17 “(A) IN GENERAL.—Unless a hearing is waived by all parties,
18 the court shall hold a hearing as set by the court in the order of
19 seizure.

20 “(B) HEARING DATE.—The hearing shall be held not earlier
21 than 10 nor later than 15 days after the order is issued, unless
22 the applicant shows good cause for another date or unless the per-
23 son against which the order is directed consents to another date.

24 “(C) BURDEN OF PROOF.—At the hearing the party obtaining
25 the order shall have the burden to prove that the facts supporting
26 findings of fact and conclusions of law necessary to support the
27 order remain in effect. If that party fails to meet that burden, the
28 seizure order shall be dissolved or modified appropriately.

29 “(D) DISCOVERY.—In connection with a hearing under this
30 paragraph, the court may make orders modifying the time limits
31 for discovery under the Federal Rules of Civil Procedure (28 App.
32 U.S.C.) as are necessary to prevent frustration of the purposes of
33 the hearing.

34 “(12) WRONGFUL SEIZURE.—A person that suffers damage by rea-
35 son of a wrongful seizure under this subsection may bring a civil action
36 against the person obtaining the order of seizure to recover appropriate
37 relief, including—

38 “(A) damages for lost profits, cost of materials, and loss of
39 goodwill;

40 “(B) punitive damages, if the seizure was sought in bad faith;

1 “(C) unless the court finds extenuating circumstances, a reason-
2 able attorney’s fee; and

3 “(D) in the discretion of the court, prejudgment interest on the
4 amount of relief recovered at an annual interest rate established
5 under section 6621(a)(2) of the Internal Revenue Code of 1986
6 (26 U.S.C. 6621(a)(2)) for—

7 “(i) the period commencing on the date of service of the
8 pleading containing a claim for prejudgment interest and end-
9 ing on the date on which judgment is entered; or

10 “(ii) such shorter period as the court considers appropriate.

11 **“§ 657. Recovery for violation of rights**

12 “(a) AMOUNT OF RECOVERY IN GENERAL.—

13 “(1) IN GENERAL.—If a violation of a right of the registrant of a
14 registered mark, a violation under section 664(a) or (d) of this title,
15 or a willful violation under section 664(e) of this title is established in
16 a civil action arising under this subtitle, the plaintiff, subject to sec-
17 tions 651 and 654 of this title, and subject to the principles of equity,
18 is entitled to recover—

19 “(A) defendant’s profits;

20 “(B) any damages sustained by the plaintiff; and

21 “(C) the costs of the civil action.

22 “(2) ASSESSMENT OF PROFITS AND DAMAGES.—

23 “(A) IN GENERAL.—The court shall assess profits and damages
24 or cause profits and damages to be assessed under the direction
25 of the court.

26 “(B) PROFITS.—

27 “(i) PROOF.—In assessing profits—

28 “(I) the plaintiff shall be required to prove defendant’s
29 sales only; and

30 “(II) the defendant shall be required to prove all ele-
31 ments of cost or deduction claimed.

32 “(ii) ADJUSTMENT OF INADEQUATE OR EXCESSIVE PROF-
33 ITS.—If the court finds that the amount of the recovery based
34 on profits is inadequate or excessive, the court may enter
35 judgment for the amount that the court finds to be just, ac-
36 cording to the circumstances of the case.

37 “(C) DAMAGES.—In assessing damages, the court may enter
38 judgment, according to the circumstances of the case, for more
39 than the amount found as actual damages but not exceeding 3
40 times that amount.

1 “(D) NATURE OF RECOVERY.—An amount entered in judgment
2 under subparagraph (B)(ii) or (C) constitutes compensation and
3 is not a penalty.

4 “(3) ATTORNEY’S FEE.—The court in an exceptional case may
5 award a reasonable attorney’s fee to the prevailing party.

6 “(4) INTENTIONAL USE OF COUNTERFEIT MARK.—

7 “(A) APPLICABILITY.—In a case of a violation of section
8 654(a)(1) of this title, or of section 220506 of title 36, subpara-
9 graphs (B) and (C) apply, unless the court finds extenuating cir-
10 cumstances, if the violation consists of—

11 “(i) intentionally using a mark or designation, knowing
12 that the mark or designation is a counterfeit mark (as de-
13 fined in section 656(d) of this title), in connection with the
14 sale, offering for sale, or distribution of a good or service; or

15 “(ii) providing goods or services necessary to the commis-
16 sion of a violation specified in clause (i), with the intent that
17 the recipient of the goods or services would put the goods or
18 services to use in committing the violation.

19 “(B) REQUIRED RECOVERY.—In a case described in subpara-
20 graph (A), the court shall enter judgment for—

21 “(i) if the amount of profits is greater than the amount of
22 damages—

23 “(I) 3 times the amount of profits;

24 “(II) the amount of damages;

25 “(III) the costs of the civil action; plus

26 “(IV) a reasonable attorney’s fee; or

27 “(ii) if the amount of damages is greater than the amount
28 of profits—

29 “(I) 3 times the amount of damages;

30 “(II) the amount of profits;

31 “(III) the costs of the civil action; plus

32 “(IV) a reasonable attorney’s fee.

33 “(C) DISCRETIONARY RECOVERY.—In a case described in sub-
34 paragraph (A), the court may award prejudgment interest on the
35 amount of relief recovered under subparagraph (B) at an annual
36 interest rate established under section 6621(a)(2) of the Internal
37 Revenue Code of 1986 (26 U.S.C. 6621(a)(2)) for—

38 “(i) the period beginning on the date of service of the
39 pleading containing the claim on which judgment is entered
40 and ending on the date on which judgment is entered; or

41 “(ii) such shorter period as the court considers appropriate.

1 “(b) STATUTORY DAMAGES FOR USE OF COUNTERFEIT MARK.—In a
2 case involving the use of a counterfeit mark (as defined in section 656(d)
3 of this title) in connection with the sale, offering for sale, or distribution
4 of a good or service, the plaintiff may elect, at any time before final judg-
5 ment is rendered by the trial court, to recover, instead of the amount of
6 actual damages and profits under subsection (a), an award of statutory
7 damages in the amount of—

8 “(1) not less than \$1,000 nor more than \$200,000 per counterfeit
9 mark per type of good or service sold, offered for sale, or distributed,
10 as the court considers just; or

11 “(2) if the court finds that the use of the counterfeit mark was will-
12 ful, not more than \$2,000,000 per counterfeit mark per type of good
13 or service sold, offered for sale, or distributed, as the court considers
14 just.

15 “(c) STATUTORY DAMAGES FOR CYBERSQUATTING.—In a case involving
16 a violation of section 664(d)(1) of this title, the plaintiff may elect, at any
17 time before final judgment is rendered by the trial court, to recover, instead
18 of the amount of actual damages and profits under subsection (a), an award
19 of statutory damages in the amount of not less than \$1,000 nor more than
20 \$100,000 per domain name, as the court considers just.

21 “(d) PROVISION OF FALSE CONTACT INFORMATION TO DOMAIN NAME
22 REGISTRATION AUTHORITY.—

23 “(1) IN GENERAL.—There is a rebuttable presumption that a viola-
24 tion described in this section is willful if the violator (or a person acting
25 in concert with the violator) knowingly provides (or knowingly causes
26 to be provided) materially false contact information to a domain name
27 registration authority in registering, maintaining, or renewing a domain
28 name used in connection with the violation.

29 “(2) EFFECT OF SUBSECTION.—This subsection does not limit what
30 may be considered to be a willful violation under this section.

31 **“§ 658. Destruction of violative articles**

32 “(a) IN GENERAL.—In a civil action under this subtitle in which a viola-
33 tion of a right of the registrant of a registered mark, a violation under sec-
34 tion 664(a) of this title, or a willful violation under section 664(c) of this
35 title is established, the court may order that the articles described in sub-
36 section (b) be destroyed.

37 “(b) VIOLATIVE ARTICLES.—The articles referred to in subsection (a)
38 are—

39 “(1) all labels, signs, prints, packages, wrappers, receptacles, and ad-
40 vertisements in the possession of the defendant—

41 “(A) that bear the registered mark; or

1 “(B) in the case of a violation of section 664(a) of this title or
2 a willful violation under section 664(c) of this title, that bear the
3 word, term, name, symbol, or device (or combination thereof), des-
4 ignation, description, or representation that is the subject of the
5 violation;

6 “(2) all reproductions, counterfeits, copies, and colorable imitations
7 of an article described in paragraph (1); and

8 “(3) all plates, molds, matrices, and other means of making any arti-
9 cle described in paragraph (1) or (2).

10 “(c) EVIDENCE OF OFFENSE.—

11 “(1) NOTICE TO UNITED STATES ATTORNEY.—A party seeking an
12 order under this section for destruction of articles seized under section
13 656(d) of this title shall give 10 days’ notice to the United States at-
14 torney for the district in which the order is sought (unless good cause
15 is shown for less notice).

16 “(2) PARTICIPATION.—If the destruction may affect evidence of an
17 offense against the United States, the United States attorney may seek
18 a hearing on the destruction or participate in a hearing otherwise to
19 be held with respect to the destruction.

20 **“§ 659. Power of court over registration**

21 “(a) IN GENERAL.—In a civil action involving a registered mark, the
22 court may enter an order to—

23 “(1) determine the right to registration;

24 “(2) cancel any part of a registration or restore a canceled registra-
25 tion; and

26 “(3) otherwise rectify the register with respect to the registration of
27 a party to the civil action.

28 “(b) CERTIFICATION TO THE DIRECTOR.—The court shall certify an
29 order under subsection (a) to the Director, and the Director shall make ap-
30 propriate entry on the records of the Office and shall be controlled by the
31 entry.

32 **“§ 660. Civil liability for false or fraudulent registration**

33 “A person that procures registration in the Office of a mark by a false
34 or fraudulent declaration or representation, oral or in writing, or by any
35 false means, is liable in a civil action by a person injured by that act for
36 damages sustained in consequence of that act.

37 **“§ 661. Jurisdiction of Federal courts; prohibition of State 38 and local requirements**

39 “(a) JURISDICTION OF FEDERAL COURTS.—The United States district
40 courts and the territorial courts of the United States have original jurisdic-
41 tion, and the courts of appeals of the United States (other than the United

1 States Court of Appeals for the Federal Circuit) have appellate jurisdiction,
2 over all civil actions arising under this subtitle, without regard to the
3 amount in controversy or to diversity or lack of diversity of the citizenship
4 of the parties.

5 “(b) PROHIBITION OF STATE AND LOCAL REQUIREMENTS.—A State,
6 other jurisdiction of the United States, or political subdivision or agency of
7 a State or other jurisdiction of the United States shall not require—

8 “(1) alteration of a registered mark; or

9 “(2) that an additional mark, trade name, or corporate name that
10 may be associated with or incorporated into the registered mark be dis-
11 played in the mark in a manner differing from the display of the addi-
12 tional mark, trade name, or corporate name contemplated by the reg-
13 istered mark as exhibited in the certificate of registration issued by the
14 Office.

15 **“§ 662. Regulations for conduct of proceedings in Office**

16 “The Director shall prescribe regulations, not inconsistent with law, for
17 the conduct of proceedings in the Office under this subtitle.

18 **“§ 663. Prohibition of importation of goods bearing infring-**
19 **ing marks or names**

20 “(a) ARTICLES NOT TO BE ADMITTED.—Except as provided in section
21 526(d) of the Tariff Act of 1930 (19 U.S.C. 1526(d)), an article of im-
22 ported merchandise shall not be admitted to entry at a customhouse of the
23 United States if the article—

24 “(1) copies or simulates—

25 “(A) the name of a domestic manufacture, manufacturer, or
26 trader; or

27 “(B) a manufacturer or trader located in a foreign country that,
28 by treaty, convention, or law affords similar privileges to citizens
29 of the United States;

30 “(2) copies or simulates a trademark registered in accordance with
31 this subtitle; or

32 “(3) bears a name or mark calculated to induce the public to believe
33 that the article is manufactured in the United States or in a foreign
34 country or locality other than the country or locality in which the arti-
35 cle is manufactured.

36 “(b) ENFORCEMENT.—

37 “(1) PROVISION OF INFORMATION.—A domestic manufacturer or
38 trader, or a foreign manufacturer or trader entitled under the provi-
39 sions of a treaty, convention, declaration, or agreement between the
40 United States and any foreign country to the advantages afforded by

1 law to citizens of the United States in respect to trademarks and trade
2 names may—

3 “(A) require that its name and residence, the name of the local-
4 ity in which its goods are manufactured, and a copy of the certifi-
5 cate of registration of its trademark, issued in accordance with
6 this subtitle, be recorded in books that the Secretary of Homeland
7 Security shall keep under regulations that the Secretary shall pre-
8 scribe; and

9 “(B) may provide the Secretary of Homeland Security with fac-
10 similes of its name, the name of the locality in which its goods
11 are manufactured, or of its registered trademark.

12 “(2) DISSEMINATION.—On receipt of information under paragraph
13 (1), the Secretary of Homeland Security shall cause the information to
14 be disseminated to the appropriate customs officers.

15 **“§ 664. False designations of origin; false descriptions; dilu-**
16 **tion**

17 “(a) USE OF FALSE DESIGNATION OF ORIGIN OR FALSE OR MISLEADING
18 DESCRIPTION OR REPRESENTATION OF FACT.—

19 “(1) CIVIL ACTION.—A person that, on or in connection with a good
20 or service, or a container for a good, uses in commerce a word, term,
21 name, symbol, or device (or combination thereof), or a false designation
22 of origin, false or misleading description of fact, or false or misleading
23 representation of fact, that—

24 “(A) is likely to cause confusion, cause mistake, or deceive, con-
25 cerning—

26 “(i) the affiliation, connection, or association of that person
27 with another person; or

28 “(ii) the origin, sponsorship, or approval by another person
29 of a good, service, or commercial activity of that person; or

30 “(B) in commercial advertising or promotion, misrepresents the
31 nature, characteristics, qualities, or geographic origin of a good,
32 service, or commercial activity of that person or any other person;
33 “shall be liable in a civil action by a person that believes that it is or
34 is likely to be damaged by that act.

35 “(2) BURDEN OF PROOF.—In a civil action for trade dress infringe-
36 ment under this subtitle for trade dress not registered on the principal
37 register, the person that asserts trade dress protection has the burden
38 of proving that the matter sought to be protected is not functional.

39 “(b) PROHIBITION OF IMPORTATION.—

1 “(1) IN GENERAL.—A good that is marked or labeled in violation of
2 this section shall not be imported into the United States or admitted
3 to entry at any customhouse of the United States.

4 “(2) RECOURSE.—The owner, importer, or consignee of a good re-
5 fused entry at any customhouse under paragraph (1) may have—

6 “(A) any recourse by protest or appeal that is given under the
7 customs revenue laws; or

8 “(B) the remedy provided by section 656(d) of this title in cases
9 involving goods refused entry or seized.

10 “(c) DILUTION.—

11 “(1) IN GENERAL.—Subject to paragraph (2) and to principles of eq-
12 uity, the owner of a famous mark that is distinctive, inherently or
13 through acquired distinctiveness, is entitled to an injunction against
14 another person that, at any time after the owner’s mark has become
15 famous, commences use of a mark or trade name in commerce that is
16 likely to cause dilution by blurring or dilution by tarnishment of the
17 famous mark, regardless of the presence or absence of actual or likely
18 confusion, of competition, or of actual economic injury.

19 “(2) EXCLUSIONS.—The following shall not be actionable as dilution
20 by blurring or dilution by tarnishment under this subsection:

21 “(A) Any fair use (including a nominative or descriptive fair
22 use), or facilitation of such fair use, of a famous mark by a person
23 (other than the famous mark owner) other than as a designation
24 of source for the person’s own good or service, including use in
25 connection with—

26 “(i) advertising or promotion that permits consumers to
27 compare goods or services; or

28 “(ii) identifying and parodying, criticizing, or commenting
29 on the famous mark owner or a good or service of the famous
30 mark owner.

31 “(B) Any form of news reporting or news commentary.

32 “(C) Any noncommercial use of a mark.

33 “(3) BURDEN OF PROOF.—In a civil action for trade dress dilution
34 under this subtitle for trade dress not registered on the principal reg-
35 ister, a person that asserts trade dress protection has the burden of
36 proving that—

37 “(A) the claimed trade dress, taken as a whole, is not functional
38 and is famous; and

39 “(B) if the claimed trade dress includes any mark registered on
40 the principal register, the unregistered matter, taken as a whole,

1 is famous separate and apart from any fame of the registered
2 mark.

3 “(4) INJUNCTIVE RELIEF; ADDITIONAL REMEDIES.—In a civil action
4 brought under this subsection, the owner of the famous mark shall be
5 entitled to—

6 “(A) injunctive relief as set forth in section 656 of this title;
7 and

8 “(B) the remedies set forth in sections 657(a) and 658 of this
9 title, subject to the discretion of the court and the principles of
10 equity, if—

11 “(i) the mark or trade name that is likely to cause dilution
12 by blurring or dilution by tarnishment was 1st used in com-
13 merce by the person against which the injunction is sought
14 after October 6, 2006; and

15 “(ii)(I) in a claim arising under this subsection by reason
16 of dilution by blurring, the person against which the injunc-
17 tion is sought willfully intended to trade on the recognition
18 of the famous mark; or

19 “(II) in a claim arising under this subsection by reason of
20 dilution by tarnishment, the person against which the injunc-
21 tion is sought willfully intended to harm the reputation of the
22 famous mark.

23 “(5) DEFENSE OF VALID REGISTRATION.—The ownership by a per-
24 son of a valid registration on the principal register under this subtitle
25 or under the Act of March 3, 1881 (ch. 138, 21 Stat. 502), or the Act
26 of February 20, 1905 (ch. 592, 33 Stat. 724), is a complete defense
27 to a civil action against that person, with respect to that mark, that—

28 “(A) is brought by another person under the common law or a
29 statute of a State; and

30 “(B)(i) seeks to prevent dilution by blurring or dilution by
31 tarnishment; or

32 “(ii) asserts any claim of actual or likely damage or harm to
33 the distinctiveness or reputation of a mark, label, or form of ad-
34 vertisement.

35 “(7) APPLICABILITY OF PATENT LAWS NOT AFFECTED.—This sub-
36 section shall not be construed to impair, modify, or supersede the appli-
37 cability of the patent laws of the United States.

38 “(d) CYBERSQUATTING.—

39 “(1) LIABILITY.—

40 “(A) DEFINITION.—In this paragraph, the term ‘traffic’ means
41 to engage in a transaction such as a sale, purchase, loan, pledge,

1 license, exchange of currency, or other transfer for consideration
2 or receipt in exchange for consideration.

3 “(B) LIABILITY.—A person is liable in a civil action by the
4 owner of a mark (including a personal name that is protected as
5 a mark under this section) if, without regard to the goods or serv-
6 ices of the parties, the person—

7 “(i) has a bad faith intent to profit from the mark; and

8 “(ii) registers, traffics in, or uses a domain name that—

9 “(I) in the case of a mark that is distinctive at the
10 time of registration of the domain name, is identical or
11 confusingly similar to that mark;

12 “(II) in the case of a famous mark that is famous at
13 the time of registration of the domain name, is identical
14 or confusingly similar to or dilutive of that mark; or

15 “(III) is a trademark, word, or name protected under
16 section 706 of title 18 or section 220506 of title 36.

17 “(C) BAD FAITH.—

18 “(i) FACTORS IN DETERMINING BAD FAITH.—In determin-
19 ing whether a person has a bad faith intent described under
20 subparagraph (B), a court may consider factors such as—

21 “(I) the mark or other intellectual property rights of
22 the person in the domain name;

23 “(II) the extent to which the domain name consists of
24 the legal name of the person or a name that is otherwise
25 commonly used to identify that person;

26 “(III) the person’s prior use of the domain name in
27 connection with the bona fide offering of any good or
28 service;

29 “(IV) the person’s bona fide noncommercial or fair use
30 of the mark in a site accessible under the domain name;

31 “(V) the person’s intent to divert consumers from the
32 mark owner’s online location to a site accessible under
33 the domain name that could harm the goodwill rep-
34 resented by the mark, either for commercial gain or with
35 the intent to tarnish or disparage the mark, by creating
36 a likelihood of confusion as to the source, sponsorship,
37 affiliation, or endorsement of the site;

38 “(VI) the person’s offer to transfer, sell, or otherwise
39 assign the domain name to the mark owner or any 3d
40 party for financial gain without having used, or having
41 an intent to use, the domain name in the bona fide offer-

1 ing of any good or service, or the person's prior conduct
2 indicating a pattern of that conduct;

3 “(VII) the person's provision of material and mislead-
4 ing false contact information when applying for the reg-
5 istration of the domain name, the person's intentional
6 failure to maintain accurate contact information, or the
7 person's prior conduct indicating a pattern of that con-
8 duct;

9 “(VIII) without regard to the goods or services of the
10 parties, the person's registration or acquisition of mul-
11 tiple domain names that the person knows are—

12 “(aa) identical or confusingly similar to marks of
13 other persons that are distinctive at the time of reg-
14 istration of the domain names; or

15 “(bb) dilutive of famous marks of other persons
16 that are famous at the time of registration of the
17 domain names; and

18 “(IX) the extent to which the mark incorporated in
19 the person's domain name registration is or is not dis-
20 tinctive and famous.

21 “(ii) DEFENSE TO FINDING OF BAD FAITH.—Bad faith in-
22 tent on the part of a person shall not be found if the court
23 determines that the person believed and had reasonable
24 grounds to believe that the use of the domain name was a fair
25 use or was otherwise lawful.

26 “(D) ORDER OF FORFEITURE, CANCELLATION, OR TRANSFER
27 OF DOMAIN NAME.—In a civil action involving the registration,
28 trafficking, or use of a domain name under this paragraph, a
29 court may order the forfeiture or cancellation of the domain name
30 or the transfer of the domain name to the owner of the mark.

31 “(E) REQUIREMENT FOR FINDING OF LIABILITY.—A person is
32 liable for using a domain name under subparagraph (B) only if
33 the person is the domain name registrant or an authorized licensee
34 of the registrant.

35 “(2) IN REM ACTION.—

36 “(A) IN GENERAL.—The owner of a mark may bring an in rem
37 action against a domain name in the judicial district in which the
38 domain name registration authority that registered or assigned the
39 domain name is located if—

1 “(i) the domain name violates any right of the owner of a
2 registered mark or a right protected under subsection (a) or
3 (c); and

4 “(ii) the court finds that the owner—

5 “(I) is not able to obtain in personam jurisdiction over
6 a person that would be a proper defendant in a civil ac-
7 tion under paragraph (1); or

8 “(II) has not been able to locate a person that would
9 be a proper defendant in a civil action under paragraph
10 (1) through due diligence by—

11 “(aa) sending a notice of the alleged violation and
12 intent to proceed under this paragraph to the do-
13 main name registrant at the postal address and
14 email address provided by the domain name reg-
15 istrant to the domain name registration authority;
16 and

17 “(bb) publishing notice of the civil action as the
18 court may direct promptly after bringing the civil
19 action.

20 “(B) SERVICE OF PROCESS.—The actions under subparagraph
21 (A)(ii) constitute service of process.

22 “(C) VENUE.—In an in rem action under this paragraph, a do-
23 main name is deemed to have its situs in the judicial district in
24 which—

25 “(i) the domain name registration authority that registered
26 or assigned the domain name is located; or

27 “(ii) records sufficient to establish control and authority re-
28 garding the disposition of the registration and use of the do-
29 main name are deposited with the court.

30 “(D) REMEDIES.—

31 “(i) FORFEITURE, CANCELLATION, OR TRANSFER OF DO-
32 MAIN NAME.—

33 “(I) IN GENERAL.—The remedies in an in rem action
34 under this paragraph shall be limited to a court order
35 for—

36 “(aa) the forfeiture or cancellation of the domain
37 name; or

38 “(bb) the transfer of the domain name to the
39 owner of the mark.

40 “(II) DUTIES OF DOMAIN NAME REGISTRATION AU-
41 THORITY.—On receipt of written notification of a filed,

1 stamped copy of a complaint filed by the owner of a
2 mark in a United States district court under this para-
3 graph, the domain name registration authority—

4 “(aa) shall expeditiously deposit with the court
5 records sufficient to establish the court’s control
6 and authority regarding the disposition of the reg-
7 istration and use of the domain name; and

8 “(bb) shall not transfer, suspend, or otherwise
9 modify the domain name during the pendency of the
10 action except on order of the court.

11 “(ii) INJUNCTIVE OR MONETARY RELIEF.—A domain name
12 registration authority is not liable for injunctive or monetary
13 relief under this paragraph except in a case of bad faith or
14 reckless disregard (including a willful failure to comply with
15 an order under clause (i)(II)(bb)).

16 “(3) OTHER ACTIONS AND REMEDIES.—The availability of a civil ac-
17 tion under paragraph (1) or an in rem action under paragraph (2) and
18 of any remedy available under paragraph (1) or (2) is in addition to
19 any other civil action or remedy that is available.

20 “(4) OTHER JURISDICTION.—The in rem jurisdiction established
21 under paragraph (2) is in addition to any other in rem or in personam
22 jurisdiction that exists.

23 **“§ 665. United States registration based on foreign registra-**
24 **tion pursuant to international conventions**

25 “(a) DEFINITION.—In this section, the term ‘country of origin’, with re-
26 spect to an applicant, means—

27 “(1) the country in which the applicant has a bona fide and effective
28 industrial or commercial establishment; or

29 “(2) if the applicant does not have a bona fide and effective indus-
30 trial or commercial establishment—

31 “(A) the country in which the applicant is domiciled; or

32 “(B) if the applicant does not have a domicile in any of the
33 countries described in subsection (c), the country of which the ap-
34 plicant is a national.

35 “(b) REGISTRATION OF MARKS COMMUNICATED BY INTERNATIONAL BU-
36 REAUS.—

37 “(1) MAINTENANCE OF REGISTER.—The Director shall keep a reg-
38 ister of all marks communicated to the Director by the international
39 bureaus provided for by the conventions for the protection of industrial
40 property, marks, and trade names, and the repression of unfair com-
41 petition, to which the United States is a party.

1 “(2) PAYMENT OF FEES.—On the payment of the fees required by
2 the conventions and the fees required under this subtitle, the Director
3 may place marks described in paragraph (1) on the register.

4 “(3) INFORMATION ON REGISTER.—The register shall contain—

5 “(A) a facsimile of the mark or trade name;

6 “(B) the name, citizenship, and address of the registrant;

7 “(C) the number, date, and place of the 1st registration of the
8 mark, including the dates on which application for the registration
9 was filed and granted and the term of the registration;

10 “(D) a list of each good or service to which the mark is applied,
11 as shown by the registration in the country of origin; and

12 “(E) other data that may be useful concerning the mark.

13 “(4) CONTINUATION OF PREVIOUS REGISTER.—The register main-
14 tained under paragraph (1) shall be a continuation of the register pro-
15 vided under section 1(a) of the Act of March 19, 1920 (ch. 104, 41
16 Stat. 533).

17 “(e) EXTENSION OF BENEFITS TO PERSONS FROM CERTAIN COUN-
18 TRIES.—

19 “(1) IN GENERAL.—In addition to the rights to which an owner of
20 a mark is otherwise entitled by this subtitle, a person whose country
21 of origin is a party to a convention or treaty relating to marks, trade
22 names, or the repression of unfair competition, to which the United
23 States is also a party, or extends reciprocal rights to nationals of the
24 United States by law, is entitled to the benefits of this section under
25 the conditions expressed in this section to the extent necessary to give
26 effect to any provision of the convention, treaty, or reciprocal law.

27 “(2) REQUIREMENT OF PRIOR REGISTRATION IN COUNTRY OF ORI-
28 GIN.—A registration of a mark in the United States by a person de-
29 scribed in paragraph (1) shall not be granted until the mark is reg-
30 istered in the country of origin of the applicant unless the applicant
31 alleges use in commerce.

32 “(d) EFFECT OF APPLICATION FOR REGISTRATION AFTER APPLICATION
33 FOR REGISTRATION IN COUNTRY OF ORIGIN.—

34 “(1) IN GENERAL.—An application for registration of a mark under
35 subsection (e) or under section 601, 603, 604, or 631 of this title, filed
36 by a person described in subsection (e) that has previously filed an ap-
37 plication for registration of the same mark in 1 of the countries de-
38 scribed in subsections (a) and (c), shall be accorded the same effect as
39 would be accorded to the same application if the application had been
40 filed in the United States on the date on which the application was 1st

1 filed in the foreign country (or, subject to paragraph (2), the date on
2 which a subsequent application was filed) if—

3 “(A) the application in the United States is filed not later than
4 6 months after the date on which the application was filed in the
5 foreign country; and

6 “(B) the application conforms as nearly as practicable to the re-
7 quirements of this subtitle, including a statement that the appli-
8 cant has a bona fide intention to use the mark in commerce.

9 “(2) RIGHT ACCORDED ON BASIS OF SUBSEQUENT APPLICATION.—
10 The right provided in this section may be based on a subsequent regu-
11 larly filed application in the same foreign country, instead of the 1st-
12 filed foreign application, so long as any foreign application filed before
13 the subsequent application—

14 “(A) has been withdrawn, abandoned, or otherwise disposed of,
15 without having been made available for public inspection and with-
16 out leaving any rights outstanding; and

17 “(B) has not served and will not serve as a basis for claiming
18 a right of priority.

19 “(3) RIGHTS ACQUIRED BY 3D PARTIES.—The rights acquired by 3d
20 parties before the date of the filing of the application in the foreign
21 country shall not be affected by a registration granted under this sub-
22 section.

23 “(4) EFFECT OF SUBSECTION.—This subsection does not entitle the
24 owner of a registration granted under this section to recover for an act
25 committed before the date on which the owner’s mark was registered
26 in the United States unless the registration is based on use in com-
27 merce.

28 “(e) REGISTRATION OF MARK REGISTERED IN COUNTRY OF ORIGIN.—

29 “(1) IN GENERAL.—A mark registered in the country of origin of the
30 foreign applicant may be registered on the principal register, if eligible,
31 or if not eligible on the supplemental register as provided in this sub-
32 title.

33 “(2) APPLICATION.—The applicant shall submit to the Director,
34 within such time as the Director may prescribe, an application that—

35 “(A) includes a true copy, photocopy, certification, or certified
36 copy of the registration in the country of origin of the applicant;
37 and

38 “(B) states that the applicant has a bona fide intention to use
39 the mark in commerce.

40 “(3) USE IN COMMERCE.—Use in commerce of the mark is not a
41 prerequisite to registration under this subsection.

1 “(f) REGISTRATION INDEPENDENT OF REGISTRATION IN COUNTRY OF
2 ORIGIN.—

3 “(1) IN GENERAL.—The registration of a mark under subsection
4 (c)(2), (d), or (e) by a person described in subsection (c)(1) shall be
5 independent of the registration in the country of origin.

6 “(2) DURATION; VALIDITY; TRANSFER.—The duration, validity, or
7 transfer in the United States of the registration shall be governed by
8 this subtitle.

9 “(g) PROTECTION OF TRADE NAMES.—The trade names of a person de-
10 scribed in subsection (c)(1) shall be protected without the obligation of filing
11 or registration whether or not the trade name forms a part of a mark.

12 “(h) PROTECTION AND REMEDIES AVAILABLE TO PERSONS DESIGNATED
13 IN SUBSECTION (c)(1).—

14 “(1) IN GENERAL.—A person that under subsection (c)(1) is entitled
15 to the benefits of and subject to the provisions of this subtitle is enti-
16 tled to effective protection against unfair competition.

17 “(2) REMEDIES.—The remedies provided under this subtitle for in-
18 fringement of marks are available to a person described in subsection
19 (c)(1) to the extent that the remedies are appropriate in repressing acts
20 of unfair competition.

21 “(i) SAME BENEFITS FOR CITIZENS OR RESIDENTS OF THE UNITED
22 STATES.—A citizen or resident of the United States has the same benefits
23 as are granted by this section to persons described in subsection (c)(1).

24 **“Division C—The Madrid Protocol**

“Chap. Sec.
25 **“81. The Madrid Protocol 801**

“CHAPTER 81—THE MADRID PROTOCOL

- “Sec.
“801. Definitions.
“802. International applications based on United States applications or registrations.
“803. Certification of the international application.
“804. Restriction, abandonment, cancellation, or expiration of a basic application or basic registration.
“805. Request for extension of protection subsequent to international registration.
“806. Extension of protection of an international registration to the United States under the Madrid Protocol.
“807. Effect of filing a request for extension of protection of an international registration to the United States.
“808. Right of priority for request for extension of protection to the United States.
“809. Examination of and opposition to request for extension of protection; notification of refusal.
“810. Effect of extension of protection.
“811. Dependence of extension of protection to the United States on the underlying international registration.
“812. Duration, affidavits, and fees.
“813. Assignment of extension of protection.
“814. Incontestability.
“815. Rights of extension of protection.

1 **“§ 801. Definitions**

2 “In this chapter—

3 “(1) BASIC APPLICATION.—The term ‘basic application’ means an
4 application for the registration of a mark that is filed with an Office
5 of a Contracting Party and that constitutes the basis for an application
6 for the international registration of that mark.

7 “(2) BASIC REGISTRATION.—The term ‘basic registration’ means the
8 registration of a mark that is granted by an Office of a Contracting
9 Party and that constitutes the basis for an application for the inter-
10 national registration of that mark.

11 “(3) CONTRACTING PARTY.—The term ‘Contracting Party’ means a
12 country or inter-governmental organization that is a party to the Ma-
13 drid Protocol.

14 “(4) DATE OF RECORDAL.—The term ‘date of recordal’ means the
15 date on which a request for extension of protection, filed after an inter-
16 national registration is granted, is recorded on the International Reg-
17 ister.

18 “(5) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK
19 IN COMMERCE.—The term ‘declaration of bona fide intention to use the
20 mark in commerce’ means a declaration that—

21 “(A) is signed by the applicant for, or holder of, an inter-
22 national registration that is seeking extension of protection of a
23 mark to the United States; and

24 “(B) contains a statement that—

25 “(i) the applicant or holder has a bona fide intention to use
26 the mark in commerce;

27 “(ii) the individual making the declaration believes the indi-
28 vidual, or the firm, corporation, or association in behalf of
29 which the individual makes the declaration, to be entitled to
30 use the mark in commerce; and

31 “(iii) no other person, firm, corporation, or association, to
32 the best of the individual’s knowledge and belief, has the right
33 to use the mark in commerce in the identical form of the
34 mark or in such near resemblance to the mark as to be likely,
35 when used on or in connection with a good or service of the
36 other individual, firm, corporation, or association, to cause
37 confusion, cause mistake, or deceive.

38 “(6) EXTENSION OF PROTECTION.—The term ‘extension of protec-
39 tion’ means the protection resulting from an international registration
40 that extends to the United States at the request of the holder of the
41 international registration, in accordance with the Madrid Protocol.

1 “(7) HOLDER.—A ‘holder’, with reference to the holder of an inter-
2 national registration, means the person in whose name the inter-
3 national registration is recorded on the International Register.

4 “(8) INTERNATIONAL APPLICATION.—The term ‘international appli-
5 cation’ means an application for international registration that is filed
6 under the Madrid Protocol.

7 “(9) INTERNATIONAL BUREAU.—The term ‘International Bureau’
8 means the International Bureau of the World Intellectual Property Or-
9 ganization.

10 “(10) INTERNATIONAL REGISTER.—The term ‘International Reg-
11 ister’ means the official collection of data concerning international reg-
12 istrations maintained by the International Bureau that the Madrid
13 Protocol or its implementing regulations require or permit to be re-
14 corded.

15 “(11) INTERNATIONAL REGISTRATION.—The term ‘international reg-
16 istration’ means the registration of a mark granted under the Madrid
17 Protocol.

18 “(12) INTERNATIONAL REGISTRATION DATE.—The term ‘inter-
19 national registration date’ means the date assigned to the international
20 registration by the International Bureau.

21 “(13) MADRID PROTOCOL.—The term ‘Madrid Protocol’ means the
22 Protocol Relating to the Madrid Agreement Concerning the Inter-
23 national Registration of Marks, adopted at Madrid, Spain, on June 27,
24 1989.

25 “(14) NOTIFICATION OF REFUSAL.—The term ‘notification of re-
26 fusal’ means the notice sent by the Director to the International Bu-
27 reau declaring that an extension of protection cannot be granted.

28 “(15) OFFICE OF A CONTRACTING PARTY.—The term ‘Office of a
29 Contracting Party’ means—

30 “(A) the office, or governmental entity, of a Contracting Party
31 that is responsible for the registration of marks; or

32 “(B) the common office, or governmental entity, of more than
33 1 Contracting Party that is responsible for the registration of
34 marks and is so recognized by the International Bureau.

35 “(16) OFFICE OF ORIGIN.—The term ‘office of origin’ means the Of-
36 fice of a Contracting Party with which a basic application is filed or
37 by which a basic registration is granted.

38 “(17) OPPOSITION PERIOD.—The term ‘opposition period’ means the
39 time allowed for filing an opposition in the Office, including an exten-
40 sion of time granted under section 613 of this title.

1 **“§ 802. International applications based on United States ap-**
2 **plications or registrations**

3 “(a) FILING.—The owner of a basic application pending before the Office,
4 or the owner of a basic registration granted by the Director, may file an
5 international application by submitting to the Office a written application
6 in such form, together with such fees, as the Director may prescribe.

7 “(b) QUALIFIED OWNER.—A qualified owner under subsection (a) shall—

8 “(1) be a national of the United States;

9 “(2) be domiciled in the United States; or

10 “(3) have a real and effective industrial or commercial establishment
11 in the United States.

12 **“§ 803. Certification of the international application**

13 “(a) EXAMINATION OF INTERNATIONAL APPLICATION.—On the filing of
14 an application for international registration and payment of the prescribed
15 fees, the Director shall examine the international application for the purpose
16 of certifying that the information contained in the international application
17 corresponds to the information contained in the basic application or basic
18 registration at the time of the certification.

19 “(b) TRANSMITTAL OF INTERNATIONAL APPLICATION.—On examination
20 and certification of the international application, the Director shall transmit
21 the international application to the International Bureau.

22 **“§ 804. Restriction, abandonment, cancellation, or expira-**
23 **tion of a basic application or basic registration**

24 “With respect to an international application transmitted to the Inter-
25 national Bureau under section 803 of this title, the Director shall notify the
26 International Bureau when the basic application or basic registration that
27 is the basis for the international application has been restricted, abandoned,
28 or canceled, or has expired, with respect to some or all of the goods and
29 services listed in the international registration—

30 “(1) within 5 years after the international registration date; or

31 “(2) more than 5 years after the international registration date if
32 the restriction, abandonment, or cancellation of the basic application or
33 basic registration resulted from an action that began before the end of
34 that 5-year period.

35 **“§ 805. Request for extension of protection subsequent to**
36 **international registration**

37 “The holder of an international registration that is based on a basic ap-
38 plication filed with the Office or a basic registration granted by the Director
39 may request an extension of protection of its international registration by
40 filing the request—

41 “(1) directly with the International Bureau; or

1 “(2) with the Office for transmittal to the International Bureau, if
2 the request is in such form, and includes such transmittal fee, as the
3 Director may prescribe.

4 **“§ 806. Extension of protection of an international registra-**
5 **tion to the United States under the Madrid Proto-**
6 **col**

7 “(a) IN GENERAL.—Subject to section 809 of this title, the holder of an
8 international registration is entitled to the benefits of extension of protec-
9 tion of that international registration to the United States to the extent nec-
10 essary to give effect to any provision of the Madrid Protocol.

11 “(b) WHEN UNITED STATES OFFICE IS OFFICE OF ORIGIN.—If the Of-
12 fice is the office of origin for applying for, or registering, a mark, an inter-
13 national registration based on the application or registration cannot be used
14 to obtain the benefits of the Madrid Protocol in the United States.

15 **“§ 807. Effect of filing a request for extension of protection**
16 **of an international registration to the United**
17 **States**

18 “(a) REQUEST FOR EXTENSION OF PROTECTION DEEMED PROPERLY
19 FILED.—A request for extension of protection of an international registra-
20 tion to the United States that the International Bureau transmits to the
21 Office shall be deemed to be properly filed in the United States if the re-
22 quest, when received by the International Bureau, has attached to it a dec-
23 laration of bona fide intention to use the mark in commerce that is verified
24 by the applicant for, or holder of, the international registration.

25 “(b) PROPER FILING AS CONSTRUCTIVE USE OF THE MARK.—Unless ex-
26 tension of protection is refused under section 809 of this title, the proper
27 filing of the request for extension of protection under subsection (a) con-
28 stitutes constructive use of the mark, conferring the same rights as those
29 specified in section 607(c) of this title, as of the earliest of the following:

30 “(1) The international registration date, if the request for extension
31 of protection was filed in the international application.

32 “(2) The date of recordal of the request for extension of protection,
33 if the request for extension of protection was made after the inter-
34 national registration date.

35 “(3) The date of priority claimed under section 808 of this title.

36 **“§ 808. Right of priority for request for extension of protec-**
37 **tion to the United States**

38 “The holder of an international registration with a request for an exten-
39 sion of protection to the United States is entitled to claim a date of priority
40 based on a right of priority within the meaning of Article 4 of the Paris
41 Convention for the Protection of Industrial Property if—

1 “(1) the request for extension of protection contains a claim of prior-
2 ity; and

3 “(2) the date of international registration or the date of the recordal
4 of the request for extension of protection to the United States is not
5 later than 6 months after the date of the 1st regular national filing
6 (within the meaning of Article 4(A)(3) of the Paris Convention for the
7 Protection of Industrial Property) or a subsequent application (within
8 the meaning of Article 4(C)(4) of the Paris Convention for the Protec-
9 tion of Industrial Property).

10 **“§ 809. Examination of and opposition to request for exten-**
11 **sion of protection; notification of refusal**

12 “(a) EXAMINATION OF REQUEST FOR EXTENSION OF PROTECTION.—

13 “(1) APPLICANT ENTITLED TO EXTENSION.—

14 “(A) EXAMINATION.—A request for extension of protection de-
15 scribed in section 807(a) of this title shall be examined as an ap-
16 plication for registration on the principal register under this sub-
17 title.

18 “(B) EXTENSION.—If on examination it appears that the appli-
19 cant is entitled to extension of protection under this chapter, the
20 Director shall cause the mark to be published in the Official Ga-
21 zette.

22 “(2) REQUEST SUBJECT TO OPPOSITION.—Subject to subsection (c),
23 a request for extension of protection under this chapter is subject to
24 opposition under section 613 of this subtitle.

25 “(3) EXTENSION NOT TO BE REFUSED.—Extension of protection
26 shall not be refused on the ground that the mark has not been used
27 in commerce.

28 “(4) EXTENSION TO BE REFUSED.—Extension of protection shall be
29 refused to any mark not registrable on the principal register.

30 “(b) NOTIFICATION OF REFUSAL.—

31 “(1) IN GENERAL.—If a request for extension of protection is re-
32 fused under subsection (a), the Director shall declare in a notification
33 of refusal (as provided in subsection (c)) that the extension of protec-
34 tion cannot be granted.

35 “(2) STATEMENT OF GROUNDS.—A notification under paragraph (1)
36 shall contain a statement of all grounds on which the refusal is based.

37 “(c) TRANSMITTAL OF NOTIFICATION TO INTERNATIONAL BUREAU.—

38 “(1) TRANSMITTAL OF APPLICABLE NOTIFICATIONS.—Not later than
39 18 months after the date on which the International Bureau transmits
40 to the Office a notification of a request for extension of protection, the

1 Director shall transmit to the International Bureau any of the follow-
2 ing that applies to the request:

3 “(A) A notification of refusal based on an examination of the
4 request for extension of protection.

5 “(B) A notification of refusal based on the filing of an opposi-
6 tion to the request.

7 “(C) A notification of the possibility that an opposition to the
8 request may be filed after the end of that 18-month period.

9 “(2) TRANSMITTAL OF NOTIFICATION OF REFUSAL.—If the Director
10 sends a notification of the possibility of opposition under paragraph
11 (1)(C), the Director shall, if applicable, transmit to the International
12 Bureau a notification of refusal on the basis of the opposition, includ-
13 ing a statement of all the grounds for the opposition, not later than
14 the earlier of—

15 “(A) 7 months after the beginning of the opposition period; or

16 “(B) 1 month after the end of the opposition period.

17 “(3) LIMITATION ON GROUNDS FOR REFUSAL.—If a notification of
18 refusal of a request for extension of protection is transmitted under
19 paragraph (1) or (2), no grounds for refusal of the request other than
20 those contained in the notification may be transmitted to the Inter-
21 national Bureau by the Director after the expiration of the time periods
22 specified in paragraph (1) or (2), as the case may be.

23 “(4) NOTIFICATION NOT SENT WITHIN STATED TIME PERIOD.—If a
24 notification described in paragraph (1) or (2) is not transmitted to the
25 International Bureau within the time period specified in paragraph (1)
26 or (2), with respect to a request for extension of protection—

27 “(A) the request for extension of protection shall not be refused;
28 and

29 “(B) the Director shall issue a certificate of extension of protec-
30 tion pursuant to the request.

31 “(d) SERVICE OF NOTICES AND PROCESS.—

32 “(1) DESIGNATION OF AGENT.—In responding to a notification of
33 refusal with respect to a mark, the holder of the international registra-
34 tion of the mark may designate by a document filed in the Office the
35 name and address of a person residing in the United States on which
36 may be served notices and process in proceedings affecting the mark.

37 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
38 (1)—

39 “(A) may be served on a person designated under paragraph (1)
40 by leaving with the person or mailing to the person a copy of the

1 notice or process at the address specified in the last designation
2 filed; or

3 “(B) if the person cannot be found at that address, or if the
4 holder does not make a designation under paragraph (1), may be
5 served on the Director.

6 **“§ 810. Effect of extension of protection**

7 “(a) ISSUANCE OF CERTIFICATE AND PUBLICATION OF NOTICE.—Unless
8 a request for extension of protection is refused under section 809 of this
9 title, the Director shall—

10 “(1) issue a certificate of extension of protection pursuant to the re-
11 quest; and

12 “(2) cause notice of the certificate to be published in the Official Ga-
13 zette.

14 “(b) EFFECT AND VALIDITY OF EXTENSION AND RIGHTS AND REMEDIES
15 OF HOLDER.—On and after the date on which a certificate of extension of
16 protection is issued under subsection (a)—

17 “(1) the extension of protection has the same effect and validity as
18 a registration on the principal register; and

19 “(2) the holder of the international registration has the same rights
20 and remedies as the owner of a registration on the principal register.

21 **“§ 811. Dependence of extension of protection to the United
22 States on the underlying international registration**

23 “(a) CANCELLATION OF EXTENSION OF PROTECTION TO UNITED
24 STATES.—If the International Bureau notifies the Office of the cancellation
25 of an international registration with respect to some or all of the goods and
26 services listed in the international registration, the Director shall cancel any
27 extension of protection to the United States with respect to those goods and
28 services as of the date on which the international registration was canceled.

29 “(b) INTERNATIONAL REGISTRATION NOT RENEWED.—If the Inter-
30 national Bureau does not renew an international registration, the cor-
31 responding extension of protection to the United States ceases to be valid
32 as of the date of the expiration of the international registration.

33 “(c) APPLICATION FOR REGISTRATION AFTER INTERNATIONAL REG-
34 ISTRATION CANCELED.—

35 “(1) FILING.—The holder of an international registration canceled
36 in whole or in part by the International Bureau at the request of the
37 office of origin, under article 6(4) of the Madrid Protocol, may file an
38 application under section 601 or 665 of this title for the registration
39 of the same mark for any of the goods and services to which the can-
40 cellation applies that were covered by an extension of protection to the
41 United States based on that international registration.

1 “(2) FILING DATE; PRIORITY.—An application under paragraph
2 (1)—

3 “(A) shall be treated as if it had been filed on the international
4 registration date or the date of recordal of the request for exten-
5 sion of protection with the International Bureau, whichever date
6 applies; and

7 “(B) if the extension of protection enjoyed priority under sec-
8 tion 808 of this title, shall enjoy the same priority.

9 “(3) ENTITLEMENT TO BENEFITS.—An application under paragraph
10 (1) is entitled to the benefits conferred by this subsection only if the
11 application—

12 “(A) is filed not later than 3 months after the date on which
13 the international registration was canceled, in whole or in part;
14 and

15 “(B) complies with all the requirements of this subtitle that
16 apply to an application filed under section 601 or 665 of this title.

17 **“§ 812. Duration, affidavits, and fees**

18 “(a) DURATION OF EXTENSION OF PROTECTION.—

19 “(1) IN GENERAL.—Each extension of protection for which a certifi-
20 cate of extension of protection is issued under section 810 of this title
21 remains in effect for the term of the international registration on which
22 the extension of protection is based, except that the Director shall cancel
23 an extension of protection of a mark unless the holder of the inter-
24 national registration files in the Office, within the following time peri-
25 ods, affidavits that meet the requirement of subsection (b):

26 “(A) Within the 1-year period immediately preceding the expira-
27 tion of 6 years following the date of issuance of the certificate of
28 extension of protection.

29 “(B) Within the 1-year period immediately preceding the expira-
30 tion of 10 years following the date of issuance of the certificate
31 of extension of protection, and each successive 10-year period fol-
32 lowing the date of issuance of the certificate.

33 “(2) GRACE PERIOD FOR FILING.—The holder of an international
34 registration may file each of the affidavits required under paragraph
35 (1) within a 6-month grace period immediately following the expiration
36 of the applicable period established in paragraph (1), together with the
37 fee described in subsection (b) and the additional grace period sur-
38 charge prescribed by the Director.

39 “(b) REQUIREMENTS FOR AFFIDAVIT.—Each of the affidavits referred to
40 in subsection (a) shall—

41 “(1)(A) state that the mark is in use in commerce;

1 “(B) set forth the goods and services recited in the extension of pro-
2 tection on or in connection with which the mark is in use in commerce;

3 “(C) be accompanied by such number of specimens or facsimiles
4 showing current use of the mark in commerce as the Director may re-
5 quire; and

6 “(D) be accompanied by the fee prescribed by the Director; or

7 “(2)(A) set forth the goods and services recited in the extension of
8 protection or on in connection with which the mark is not in use in
9 commerce;

10 “(B) include a showing that any nonuse is due to special circum-
11 stances that excuse the nonuse and is not due to any intention to aban-
12 don the mark; and

13 “(C) be accompanied by the fee prescribed by the Director.

14 “(e) DEFICIENT AFFIDAVIT.—If an affidavit filed within the period set
15 forth in subsection (a) is deficient (including that the affidavit was not filed
16 in the name of the holder of the international registration), the deficiency
17 may be corrected after the statutory time period, within the time prescribed
18 after notification of the deficiency. The correcting affidavit shall be accom-
19 panied by the additional deficiency surcharge prescribed by the Director.

20 “(d) ATTACHMENT OF NOTICE OF AFFIDAVIT REQUIREMENT.—Special
21 notice of the requirement for affidavits under this section shall be attached
22 to each certificate of extension of protection.

23 “(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL OF AFFIDAVIT.—The
24 Director shall—

25 “(1) notify the holder of an international registration that files an
26 affidavit required by this section of the acceptance or refusal of the af-
27 fidavit by the Director; and

28 “(2) in the case of a refusal, state in the notice the reasons for the
29 refusal.

30 “(f) SERVICE OF NOTICES AND PROCESS.—

31 “(1) DESIGNATION OF AGENT.—The holder of the international reg-
32 istration of the mark not domiciled in the United States may designate,
33 by a document filed in the Office, the name and address of a person
34 residing in the United States on which notices or process in proceed-
35 ings affecting the mark may be served.

36 “(2) MEANS OF SERVICE.—Notice or process described in paragraph
37 (1)—

38 “(A) may be served on a person designated under paragraph (1)
39 by leaving with the person or mailing to the person a copy of the
40 notice or process at the address specified in the last designation
41 filed; or

1 “(B) if the person cannot be found at that address, or if the
2 holder does not make a designation under paragraph (1), may be
3 served on the Director.

4 **“§ 813. Assignment of extension of protection**

5 “An extension of protection of a mark, and the goodwill associated with
6 the mark, may be assigned only to a person that is a national of, is domi-
7 ciled in, or has a bona fide and effective industrial or commercial establish-
8 ment in—

9 “(1) a country that is a Contracting Party; or

10 “(2) a country that is a member of an intergovernmental organiza-
11 tion that is a Contracting Party.

12 **“§ 814. Incontestability**

13 “The period of continuous use prescribed under section 615 of this title
14 for a mark covered by an extension of protection issued under this chapter
15 may begin not earlier than the date on which the Director issues the certifi-
16 cate of extension of protection under section 810 of this title, except as pro-
17 vided in section 815 of this title.

18 **“§ 815. Rights of extension of protection**

19 “If a United States registration and a subsequently issued certificate of
20 extension of protection to the United States are owned by the same person,
21 identify the same mark, and list the same good or service, the extension of
22 protection has the same rights that accrued to the registration before issu-
23 ance of the certificate of extension of protection.

24 **“Subtitle IV—Other Intellectual Property**
25 **Provisions**

| | |
|---|-------------|
| “Chap. | Sec. |
| “91. Coordination and strategic planning of Federal effort | 901 |
| against counterfeiting and infringement. | |
| “101. Miscellaneous | 1001 |

26 **“CHAPTER 91—COORDINATION AND STRATEGIC PLAN-**
27 **NING OF FEDERAL EFFORT AGAINST COUNTERFEIT-**
28 **ING AND INFRINGEMENT**

- “Sec.
- “901. Definitions.
- “902. Intellectual Property Enforcement Coordinator.
- “903. Intellectual Property Enforcement Advisory Committee.
- “904. Joint strategic plan.
- “905. Reporting.
- “906. Effect of chapter.

29 **“§ 901. Definitions**

30 “In this chapter:

31 “(1) COUNTERFEITING.—The term ‘counterfeiting’ means counter-
32 feiting intellectual property.

1 “(2) INFRINGEMENT.—The term ‘infringement’ means infringement
2 of an intellectual property right.

3 “(3) INTELLECTUAL PROPERTY ENFORCEMENT.—

4 “(A) IN GENERAL.—The term ‘intellectual property enforce-
5 ment’ means matters relating to the enforcement of laws protect-
6 ing copyrights, patents, trademarks, other forms of intellectual
7 property, and trade secrets in the United States and abroad.

8 “(B) INCLUSIONS.—The term ‘intellectual property enforce-
9 ment’ includes matters relating to combating counterfeit and in-
10 fringing goods.

11 “(4) IPEC.—The term ‘IPEC’ means the Intellectual Property En-
12 forcement Coordinator appointed under section 902 of this title.

13 “(5) IPE ADVISORY COMMITTEE.—The term ‘IPE Advisory Commit-
14 tee’ means the advisory committee established under section 903 of this
15 title.

16 “(6) JOINT STRATEGIC PLAN.—The term ‘joint strategic plan’ means
17 a joint strategic plan against counterfeiting and infringement developed
18 under section 904 of this title.

19 “(7) UNITED STATES PERSON.—

20 “(A) IN GENERAL.—The term ‘United States person’ means—

21 “(i) a United States resident or national;

22 “(ii) a domestic concern (including a permanent domestic
23 establishment of a foreign concern); and

24 “(iii) a foreign subsidiary or affiliate (including a perma-
25 nent foreign establishment) of a domestic concern that is con-
26 trolled in fact by the domestic concern.

27 “(B) EXCLUSION.—The term ‘United States person’ does not
28 include an individual who resides outside the United States and
29 is employed by an individual or entity other than an individual or
30 entity described in subparagraph (A).

31 **“§ 902. Intellectual Property Enforcement Coordinator**

32 “(a) APPOINTMENT.—The President shall appoint, by and with the advice
33 and consent of the Senate, an Intellectual Property Enforcement Coordina-
34 tor to serve in the Executive Office of the President.

35 “(b) COMMITTEE REFERRAL.—

36 “(1) IN GENERAL.—A nomination of the IPEC submitted to the
37 Senate for confirmation, and referred to a committee, shall be referred
38 to the Committee on the Judiciary.

39 “(2) RULE OF THE SENATE.—Paragraph (1) is enacted as an exer-
40 cise of the rulemaking power of the Senate.

41 “(c) DUTIES OF IPEC.—The IPEC shall—

1 “(1) chair the IPE Advisory Committee;

2 “(2) coordinate the development of the joint strategic plan by the
3 IPE Advisory Committee;

4 “(3) at the request of the Federal agencies listed in section 903(b)
5 of this title, assist in the implementation of the joint strategic plan;

6 “(4) facilitate the issuance of policy guidance to Federal agencies on
7 basic issues of policy and interpretation, to the extent necessary to en-
8 sure the coordination of intellectual property enforcement policy and
9 consistency with other law;

10 “(5) report to the President and report to Congress, to the extent
11 consistent with law, regarding domestic and international intellectual
12 property enforcement programs;

13 “(6) report to Congress, as provided in section 905 of this title, on
14 the implementation of the joint strategic plan, and make recommenda-
15 tions, if any and as appropriate, to Congress for improvements in Fed-
16 eral intellectual property laws and enforcement efforts; and

17 “(7) carry out other functions that the President may direct.

18 “(d) LIMITATION ON AUTHORITY.—The IPEC may not control or direct
19 any law enforcement agency, including the Department of Justice, in the
20 exercise of its investigative or prosecutorial authority.

21 **“§ 903. Intellectual Property Enforcement Advisory Commit-**
22 **tee**

23 “(a) ESTABLISHMENT.—There is established an interagency intellectual
24 property enforcement advisory committee.

25 “(b) MEMBERS.—The IPE Advisory Committee is composed of the follow-
26 ing members:

27 “(1) The IPEC.

28 “(2) Senate-confirmed representatives of the following Federal agen-
29 cies who are involved in intellectual property enforcement, and who are,
30 or are appointed by, the respective heads of those entities:

31 “(A) The Office of Management and Budget.

32 “(B) Relevant units in the Department of Justice, including the
33 Federal Bureau of Investigation and the Criminal Division.

34 “(C) The United States Patent and Trademark Office and other
35 relevant units of the Department of Commerce.

36 “(D) The Office of the United States Trade Representative.

37 “(E) The Department of State, the United States Agency for
38 International Development, and the Bureau of International Nar-
39 cotics Law Enforcement.

1 “(F) The Department of Homeland Security, U.S. Customs and
2 Border Protection, and U.S. Immigration and Customs Enforce-
3 ment.

4 “(G) The Food and Drug Administration of the Department of
5 Health and Human Services.

6 “(H) The Department of Agriculture.

7 “(I) Other agencies that the President determines to be sub-
8 stantially involved in the efforts of the Federal Government to
9 combat counterfeiting and infringement.

10 “(3) The Register of Copyrights, or a senior representative of the
11 United States Copyright Office appointed by the Register of Copy-
12 rights.

13 “(c) CHAIR.—The IPEC shall chair the IPE Advisory Committee.

14 “(d) FUNCTIONS.—The IPE Advisory Committee shall annually develop
15 a joint strategic plan.

16 **“§ 904. Joint strategic plan**

17 “(a) PURPOSE.—The objectives of a joint strategic plan against counter-
18 feiting and infringement are—

19 “(1) reducing counterfeit and infringing goods in the domestic and
20 international supply chain;

21 “(2) identifying and addressing structural weaknesses, systemic
22 flaws, and other unjustified impediments to effective enforcement ac-
23 tion against the financing, production, trafficking, or sale of counterfeit
24 or infringing goods, including—

25 “(A) identifying duplicative efforts across the Federal agencies
26 that comprise the IPE Advisory Committee to investigate and
27 prosecute intellectual property crimes and to enforce the laws
28 against those crimes; and

29 “(B) recommending how the duplicative efforts may be mini-
30 mized, which may include recommendations on how to reduce du-
31 plication in personnel, materials, technologies, and facilities uti-
32 lized by the Federal agencies responsible for the investigation or
33 prosecution of intellectual property crimes or the enforcement of
34 laws against those crimes;

35 “(3) ensuring that information is identified and shared among the
36 relevant Federal agencies, to aid in arresting and prosecuting individ-
37 uals and entities that are knowingly involved in the financing, produc-
38 tion, trafficking, or sale of counterfeit or infringing goods, to the extent
39 that—

1 “(A) the identification and sharing of information are permitted
2 by law, including requirements relating to confidentiality and pri-
3 vacy; and

4 “(B) the sharing of information is consistent with Department
5 of Justice and other law enforcement protocols for handling the
6 information;

7 “(4) disrupting and eliminating domestic and international counter-
8 feiting and infringement networks;

9 “(5) strengthening the capacity of other countries to protect and en-
10 force intellectual property rights, and reducing the number of countries
11 that fail to enforce laws preventing the financing, production, traffick-
12 ing, and sale of counterfeit and infringing goods;

13 “(6) working with other countries to establish international stand-
14 ards and policies for the effective protection and enforcement of intel-
15 lectual property rights; and

16 “(7) protecting intellectual property rights overseas by—

17 “(A) working with other countries and exchanging information
18 with appropriate law enforcement agencies in other countries relat-
19 ing to individuals and entities involved in the financing, produc-
20 tion, trafficking, or sale of counterfeit and infringing goods;

21 “(B) ensuring that the information described in subparagraph
22 (A) is provided to appropriate United States law enforcement
23 agencies to assist, as warranted, enforcement activities in coopera-
24 tion with appropriate law enforcement agencies in other countries;
25 and

26 “(C) building a formal process for consulting with companies,
27 industry associations, labor unions, and other interested groups in
28 other countries with respect to intellectual property enforcement.

29 “(b) CONTENTS.—A joint strategic plan shall include the following:

30 “(1) DESCRIPTION OF PRIORITIES.—A description of the priorities
31 identified for carrying out the objectives in the joint strategic plan, in-
32 cluding activities of the Federal Government relating to intellectual
33 property enforcement.

34 “(2) DESCRIPTION OF MEANS.—A description of the means to
35 achieve the priorities, including the means for improving the efficiency
36 and effectiveness of the Federal Government’s enforcement efforts
37 against counterfeiting and infringement.

38 “(3) ESTIMATES OF RESOURCES.—Estimates of the resources nec-
39 essary to fulfill the priorities identified under paragraph (1).

1 “(4) PERFORMANCE MEASURES.—The performance measures to be
2 used to monitor results under the joint strategic plan during the follow-
3 ing year.

4 “(5) ANALYSIS OF THREATS.—An analysis of the threat posed by
5 violations of intellectual property rights, including—

6 “(A) the costs to the economy of the United States resulting
7 from violations of intellectual property laws; and

8 “(B) the threats to public health and safety created by counter-
9 feiting and infringement.

10 “(6) IDENTIFICATION OF FEDERAL AGENCIES.—An identification of
11 the Federal agencies that will be involved in implementing each priority
12 under paragraph (1).

13 “(7) STRATEGY FOR COORDINATION.—A strategy for ensuring co-
14 ordination among the Federal agencies identified under paragraph (6),
15 which will facilitate oversight by the executive branch of, and account-
16 ability among, the Federal agencies responsible for carrying out the
17 strategy.

18 “(8) OTHER INFORMATION.—Such other information as is necessary
19 to convey—

20 “(A) the costs imposed on the United States economy by coun-
21 terfeiting and infringement;

22 “(B) the threats to public health and safety created by counter-
23 feiting and infringement; and

24 “(C) the steps that the Federal Government intends to take
25 over the period covered by the succeeding joint strategic plan to
26 reduce the costs described in subparagraph (A) and counter the
27 threats described in subparagraph (B).

28 “(c) ENHANCEMENT OF ENFORCEMENT EFFORTS OF FOREIGN GOVERN-
29 MENTS.—

30 “(1) TRAINING AND TECHNICAL ASSISTANCE PROGRAMS.—A joint
31 strategic plan shall include programs that provide training and tech-
32 nical assistance to foreign governments to enhance the efforts of the
33 foreign governments to enforce laws against counterfeiting and in-
34 fringement.

35 “(2) FUNDAMENTALS OF THE PROGRAMS.—With respect to the pro-
36 grams described in paragraph (1), the joint strategic plan shall—

37 “(A) seek to enhance the efficiency and consistency with which
38 Federal resources are expended, and seek to minimize duplication,
39 overlap, or inconsistency of efforts;

1 “(B) identify and give priority to those countries where training
2 and technical assistance programs can be carried out most effec-
3 tively and with the greatest benefit to—

4 “(i) reducing counterfeit and infringing products in the
5 United States market;

6 “(ii) protecting the intellectual property rights of United
7 States persons and their licensees; and

8 “(iii) protecting the interests of United States persons
9 otherwise harmed by violations of intellectual property rights
10 in those countries;

11 “(C) in identifying the countries that are given priority under
12 subparagraph (B), be guided by the list of countries identified by
13 the United States Trade Representative under section 182(a) of
14 the Trade Act of 1974 (19 U.S.C. 2242(a)); and

15 “(D) develop metrics to measure the effectiveness of the Federal
16 Government’s efforts to improve the laws and enforcement prac-
17 tices of foreign governments against counterfeiting and infringe-
18 ment.

19 “(d) RESPONSIBILITIES OF THE IPEC.—During the development of a
20 joint strategic plan, the IPEC—

21 “(1) shall provide assistance to, and coordinate the meetings and ef-
22 forts of, the appropriate officers and employees of Federal agencies
23 represented on the IPE Advisory Committee who are involved in intel-
24 lectual property enforcement; and

25 “(2) may consult with private sector experts in intellectual property
26 enforcement in furtherance of providing assistance to the members of
27 the IPE Advisory Committee.

28 “(e) RESPONSIBILITIES OF OTHER FEDERAL AGENCIES.—In the develop-
29 ment and implementation of a joint strategic plan, the heads of the Federal
30 agencies identified under section 903 of this title shall—

31 “(1) designate personnel with expertise and experience in intellectual
32 property enforcement matters to work with the IPEC and other mem-
33 bers of the IPE Advisory Committee; and

34 “(2) share relevant information with the IPEC and other members
35 of the IPE Advisory Committee, including statistical information on the
36 enforcement activities of the Federal agency against counterfeiting or
37 infringement, and plans for addressing the joint strategic plan, to the
38 extent that—

39 “(A) the sharing of information is permitted by law, including
40 requirements relating to confidentiality and privacy; and

1 “(B) the sharing of information is consistent with Department
2 of Justice and other law enforcement protocols for handling the
3 information.

4 “(f) TIMING.—Not later than December 31 of every 3d year beginning
5 in 2018, the IPEC shall submit a joint strategic plan to the Committee on
6 the Judiciary and Committee on Appropriations of the Senate and the Com-
7 mittee on the Judiciary and Committee on Appropriations of the House of
8 Representatives.

9 “(g) DISSEMINATION OF JOINT STRATEGIC PLAN.—A joint strategic plan
10 shall be posted for public access on the website of the White House and
11 shall be disseminated to the public through such other means as the IPEC
12 may identify.

13 **“§ 905. Reporting**

14 “(a) ANNUAL REPORT.—Not later than December 31 of each year, the
15 IPEC shall submit to Congress, and disseminate to the public, in the man-
16 ner specified in subsections (f) and (g) of section 904 of this title, a report
17 on the activities of the IPE Advisory Committee during the preceding fiscal
18 year.

19 “(b) CONTENTS.—A report under subsection (a) shall include the follow-
20 ing:

21 “(1) JOINT STRATEGIC PLAN IMPLEMENTATION AND PRIORITIES.—
22 A description of the progress made on implementing the strategic plan
23 and on the progress toward fulfillment of the priorities identified under
24 section 904(b)(1) of this title.

25 “(2) EFFORTS TO ENCOURAGE ENFORCEMENT.—A description of the
26 progress made in efforts to encourage Federal, State, and local govern-
27 ment departments and agencies to accord higher priority to intellectual
28 property enforcement.

29 “(3) WORKING WITH FOREIGN COUNTRIES.—A description of the
30 progress made in working with foreign countries to investigate, arrest,
31 and prosecute entities and individuals involved in the financing, produc-
32 tion, trafficking, and sale of counterfeit and infringing goods.

33 “(4) COOPERATION AMONG DEPARTMENTS AND AGENCIES.—A de-
34 scription of the manner in which the relevant departments and agencies
35 are working together and sharing information to strengthen intellectual
36 property enforcement.

37 “(5) ASSESSMENT OF SUCCESSES AND SHORTCOMINGS.—An assess-
38 ment of the successes and shortcomings of the efforts of the Federal
39 Government, including Federal agencies represented on the IPE Advi-
40 sory Committee.

1 “(6) RECOMMENDATIONS FOR ANY CHANGES IN STATUTES, REGULA-
2 TIONS, AND FUNDING LEVELS.—Recommendations, if any and as ap-
3 propriate, for any changes in enforcement statutes, regulations, or
4 funding levels that the IPE Advisory Committee considers would sig-
5 nificantly improve the effectiveness or efficiency of the effort of the
6 Federal Government to combat counterfeiting and infringement and
7 otherwise strengthen intellectual property enforcement, including
8 through the elimination or consolidation of duplicative programs or ini-
9 tiatives.

10 “(7) STRENGTHENING OF COUNTRIES IN ENFORCEMENT.—A de-
11 scription of the progress made in strengthening the capacity of coun-
12 tries to protect and enforce intellectual property rights.

13 “(8) SHARING INFORMATION WITH OTHER COUNTRIES.—A descrip-
14 tion of the successes and challenges in sharing with other countries in-
15 formation relating to intellectual property enforcement.

16 “(9) TRADE AGREEMENTS AND TREATIES.—A description of the
17 progress made under trade agreements and treaties to protect intellec-
18 tual property rights of United States persons and their licensees.

19 “(10) MINIMIZING DUPLICATIVE EFFORTS.—A description of the
20 progress made in minimizing duplicative efforts, materials, facilities,
21 and procedures of the Federal agencies responsible for the investigation
22 or prosecution of intellectual property crimes or the enforcement of
23 laws against those crimes.

24 “(11) RECOMMENDATIONS ON ENHANCING EFFICIENCY AND CON-
25 SISTENCY IN EXPENDING FEDERAL FUNDS.—Recommendations, if any
26 and as appropriate, on how to enhance the efficiency and consistency
27 with which Federal funds and resources are expended to investigate or
28 prosecute intellectual property crimes or enforce laws against those
29 crimes, including the extent to which the departments and agencies re-
30 sponsible for the investigation or prosecution of intellectual property
31 crimes or the enforcement of laws against those crimes have utilized
32 existing personnel, materials, technologies, and facilities.

33 **“§ 906. Effect of chapter**

34 “(a) NO EFFECT ON CERTAIN AUTHORITIES.—Nothing in this chapter
35 alters the authority of any Federal agency that relates to—

36 “(1) the investigation and prosecution of violations of laws that pro-
37 tect intellectual property rights;

38 “(2) the administrative enforcement, at the borders of the United
39 States, of laws that protect intellectual property rights; or

40 “(3) the United States trade agreements program or international
41 trade.

1 “(b) RULES OF CONSTRUCTION.—Nothing in this chapter—
2 “(1) derogates from the powers, duties, and functions of any Federal
3 agency listed or included under section 903(b) of this title; or
4 “(2) shall be construed to transfer authority regarding the control,
5 use, or allocation of law enforcement resources, or the initiation or
6 prosecution of individual cases or types of cases, from the responsible
7 law enforcement agency.

8 **“CHAPTER 101—MISCELLANEOUS**

“Sec.

“1001. Cybersquatting protection for individuals.

9 **“§ 1001. Cybersquatting protection for individuals**

10 “(a) DEFINITION OF DOMAIN NAME.—In this section, the term ‘domain
11 name’ has the meaning given the term in section 501 of this title.

12 “(b) LIABILITY.—A person that registers a domain name that consists of
13 the name of another living person, or a name substantially and confusingly
14 similar to the name of the other person, without that person’s consent, with
15 the specific intent to profit from that name by selling the domain name for
16 financial gain to that person or a 3d party, is liable in a civil action by that
17 person.

18 “(c) GOOD FAITH REGISTRATION.—

19 “(1) IN GENERAL.—A person that in good faith registers a domain
20 name consisting of the name of another living person, or a name sub-
21 stantially and confusingly similar to the name of the other person, is
22 not liable under subsection (b) if—

23 “(A) the name is used in, affiliated with, or related to a work
24 of authorship protected under title 17 (including a work made for
25 hire (as defined in section 101 of title 17));

26 “(B) the person registering the domain name—

27 “(i) is the copyright owner or licensee of the work; and

28 “(ii) intends to sell the domain name in conjunction with
29 the lawful exploitation of the work; and

30 “(C) the registration is not prohibited by a contract between the
31 registrant and the named person.

32 “(2) EFFECT OF SUBSECTION.—This subsection—

33 “(A) applies only to a civil action brought under subsection (b);
34 and

35 “(B) does not limit the protections afforded under this subtitle
36 or any other provision of Federal or State law.

37 “(d) REMEDIES.—In a civil action under subsection (b), a court—

1 “(1) may award injunctive relief (including the forfeiture or cancella-
2 tion of the domain name or the transfer of the domain name to the
3 plaintiff); and

4 “(2) may award costs and an attorney’s fee to the prevailing party.

5 “(e) APPLICABILITY.—This section applies to domain names registered on
6 or after November 29, 1999.”.

7 **SEC. 7. CONFORMING CROSS-REFERENCES.**

8 (a) TITLE 10, UNITED STATES CODE.—

9 (1) Section 2260(f)(1) of title 10, United States Code, is amended
10 by striking “section 45 of the Act of July 5, 1946 (commonly referred
11 to as the Trademark Act of 1946; 15 U.S.C. 1127).” and inserting
12 “section 501 of title 35.”.

13 (2) Section 818(g) of the National Defense Authorization Act for
14 Fiscal Year 2012 (Pub. L. 112–81, 10 U.S.C. 2302 note) is amend-
15 ed—

16 (A) in paragraph (1), by striking “section 42 of the Lanham
17 Act,” and inserting “section 663 of title 35, United States Code,”;
18 and

19 (B) by striking paragraph (3).

20 (b) TITLE 15, UNITED STATES CODE.—

21 (1) Section 3(b) of the Hobby Protection Act (15 U.S.C. 2102(b))
22 is amended by striking “sections 34, 35, and 36 of the Trademark Act
23 of 1946 (15 U.S.C. 1116, 1117, and 1118) for violations of such Act.”
24 and inserting “sections 656, 657, and 658 of title 35, United States
25 Code, for violations of subtitle III of title 35, United States Code.”.

26 (2) Section 7 of the Hobby Protection Act (15 U.S.C. 2106) is
27 amended by striking paragraph (9).

28 (c) TITLE 17, UNITED STATES CODE.—

29 (1) Section 503(a)(3) of title 17, United States Code, is amended—

30 (A) in the 1st sentence, by striking “paragraphs (2) through
31 (11) of section 34(d) of the Trademark Act (15 U.S.C. 1116(d)(2)
32 through (11))” and inserting “paragraphs (3) through (12) of sec-
33 tion 656(d) title 35”; and

34 (B) in the 2d sentence, by striking “paragraphs (2) through
35 (11) of section 34(d) of the Trademark Act to section 32 of such
36 Act” and inserting “paragraphs (3) through (12) of section 656(d)
37 of title 35 through section 654 of title 35”.

38 (2) Section 504(c)(3) of title 17, United States Code, is amended by
39 striking subparagraph (C) and inserting the following:

40 “(C) For purposes of this paragraph, the term ‘domain name’ has
41 the meaning given the term in section 501 of title 35.”.

1 (d) TITLE 18, UNITED STATES CODE.—

2 (1) Section 2320 of title 18, United States Code, is amended—

3 (A) in subsection (d), by striking “the Lanham Act” and insert-
4 ing “subtitle III of title 35”;

5 (B) in subsection (f)—

6 (i) in paragraph (1)(B), by striking “the Lanham Act” and
7 inserting “subtitle III of title 35”;

8 (ii) by striking paragraph (3); and

9 (iii) by redesignating paragraphs (4) through (6) as para-
10 graphs (3) through (5); and

11 (C) in subsection (i), by striking “section 42 of an Act to pro-
12 vide for the registration of trademarks used in commerce, to carry
13 out the provisions of certain international conventions, and for
14 other purposes, approved July 5, 1946 (commonly referred to as
15 the ‘Trademark Act of 1946’ or the ‘Lanham Act’).” and inserting
16 “section 663 of title 35.”

17 (2) Section 3559(g)(2)(B) of title 18, United States Code, is amend-
18 ed by striking “is section 45 of the Act entitled ‘An Act to provide for
19 the registration and protection of trademarks used in commerce, to
20 carry out the provisions of certain international conventions, and for
21 other purposes’ approved July 5, 1946 (commonly referred to as the
22 ‘Trademark Act of 1946’) (15 U.S.C. 1127).” and inserting “in section
23 501 of title 35.”

24 (e) TITLE 19, UNITED STATES CODE.—

25 (1) Section 337(a)(1)(C) of the Tariff Act of 1930 (19 U.S.C.
26 1337(a)(1)(C)) is amended by striking “the Trademark Act of 1946.”
27 and inserting “subtitle III of title 35, United States Code.”

28 (2) Section 802(b) (matter after paragraph (3)) of the Tariff Act of
29 1930 (19 U.S.C. 1681a(b) (matter after paragraph (3))) is amended by
30 striking “title I of the Act of July 5, 1946 (popularly known as the
31 ‘Trademark Act of 1946’),” and inserting “chapter 61 of title 35,
32 United States Code.”

33 (f) TITLE 28, UNITED STATES CODE.—Section 1295(a)(4)(B) of title 28,
34 United States Code, is amended by striking “section 21 of the Trademark
35 Act of 1946 (15 U.S.C. 1071);” and inserting “section 620 of title 35;”.

36 (g) TITLE 35, UNITED STATES CODE.—

37 (1) Section 1(a) (2d sentence) of title 35, United States Code, is
38 amended by striking “this title” and inserting “this subtitle and sub-
39 titles II and III”.

1 (2) Section 3(b)(1) of title 35, United States Code, is amended by
2 inserting “(in this title referred to as the ‘Deputy Director’)” after
3 “Trademark Office”.

4 (3) Section 42(e)(3)(B) of title 35, United States Code, is amended
5 by striking “section 31 of the Trademark Act of 1946.” and inserting
6 “section 653 of this title.”.

7 (4) Section 100 (matter before subsection (a)) of title 35, United
8 States Code, is amended by striking “this title” and inserting “this
9 subtitle or subtitle I”.

10 (5) Section 101 of title 35, United States Code, is amended by strik-
11 ing “this title.” and inserting “this subtitle and subtitle I.”.

12 (6) Section 105(a) of title 35, United States Code, is amended by
13 striking “this title” and inserting “this subtitle and subtitle I”.

14 (7) Section 105(b) of title 35, United States Code, is amended by
15 striking “this title” and inserting “this subtitle and subtitle I”.

16 (8) Section 111(a)(1) of title 35, United States Code, is amended
17 by striking “this title,” and inserting “this subtitle and subtitle I.”.

18 (9) Section 111(b)(1) of title 35, United States Code, is amended
19 by striking “this title,” and inserting “this subtitle or subtitle I.”.

20 (10) Section 111(b)(8) of title 35, United States Code, is amended
21 by striking “this title,” and inserting “this subtitle and subtitle I.”.

22 (11) Section 116(a) of title 35, United States Code, is amended by
23 striking “this title.” and inserting “this subtitle or subtitle I.”.

24 (12) Section 122(b)(1)(A) (1st sentence) of title 35, United States
25 Code, is amended by striking “this title.” and inserting “this subtitle
26 and subtitle I.”.

27 (13) Section 122(b)(2)(B)(v) of title 35, United States Code, is
28 amended by striking “this title.” and inserting “this subtitle and sub-
29 title I.”.

30 (14) Section 152 of title 35, United States Code, is amended by
31 striking “this title.” and inserting “this subtitle or subtitle I.”.

32 (15) Section 154(a)(2) of title 35, United States Code, is amended
33 by striking “this title,” and inserting “this subtitle and subtitle I.”.

34 (16) Section 161 of title 35, United States Code, is amended—

35 (A) in the 1st paragraph, by striking “this title.” and inserting
36 “this subtitle and subtitle I.”; and

37 (B) in the 2d paragraph, by striking “this title” and inserting
38 “this subtitle and subtitle I”.

39 (17) Section 164 of title 35, United States Code, is amended by
40 striking “this title” and inserting “this subtitle and subtitle I”.

1 (18) Section 171(a) of title 35, United States Code, is amended by
2 striking “this title.” and inserting “this subtitle and subtitle I.”

3 (19) Section 171(b) of title 35, United States Code, is amended—

4 (A) by striking “THIS TITLE” and inserting “THIS SUBTITLE
5 AND SUBTITLE I”; and

6 (B) by striking “this title” and inserting “this subtitle and sub-
7 title I”.

8 (20) Section 201(d) of title 35, United States Code, is amended by
9 striking “this title” and inserting “this subtitle and subtitle I”.

10 (21) Section 251(c) of title 35, United States Code, is amended—

11 (A) by striking “THIS TITLE” and inserting “THIS SUBTITLE
12 AND SUBTITLE I”; and

13 (B) by striking “this title” and inserting “this subtitle and sub-
14 title I”.

15 (22) Section 261 (1st paragraph) of title 35, United States Code,
16 is amended by striking “this title,” and inserting “this subtitle and
17 subtitle I,”.

18 (23) Section 271(g) of title 35, United States Code, is amended—

19 (A) in the 2d sentence, by striking “this title” and inserting
20 “this subtitle or subtitle I”; and

21 (B) in the last sentence, by striking “this title,” and inserting
22 “this subtitle and subtitle I,”.

23 (24) Section 271(h) of title 35, United States Code, is amended by
24 striking “this title” and inserting “this subtitle and subtitle I”.

25 (25) Section 282(b) of title 35, United States Code, is amended—

26 (A) in paragraph (2), by striking “part II” and inserting “divi-
27 sion A of this subtitle”; and

28 (B) in paragraph (4), by striking “this title.” and inserting
29 “this subtitle or subtitle I.”.

30 (26) Section 283 of title 35, United States Code, is amended by
31 striking “this title” and inserting “this subtitle or subtitle I”.

32 (27) Section 287(b)(1) of title 35, United States Code, is amended
33 by striking “this title” and inserting “this subtitle and subtitle I”.

34 (28) Section 289 (2d paragraph) of title 35, United States Code, is
35 amended by striking “this title,” and inserting “this subtitle and sub-
36 title I,”.

37 (29) Section 290 (1st sentence) of title 35, United States Code, is
38 amended by striking “this title” and inserting “this subtitle or subtitle
39 I”.

40 (30) Section 296(a) of title 35, United States Code, is amended by
41 striking “this title.” and inserting “this subtitle or subtitle I.”.

- 1 (31) Section 351 of title 35, United States Code, is amended—
2 (A) in the matter before subsection (a), by striking “part” and
3 inserting “division”;
4 (B) in subsection (b), by striking “this title.” and inserting
5 “this subtitle or subtitle I.”; and
6 (C) in subsection (i), by striking “part” and inserting “divi-
7 sion”.
- 8 (32) Section 361(d) of title 35, United States Code, is amended by
9 striking “part” and inserting “title”.
- 10 (33) Section 364(a) of title 35, United States Code, is amended by
11 striking “and this title” and inserting “this subtitle, and subtitle I”.
- 12 (34) Section 366 of title 35, United States Code, is amended—
13 (A) by striking “section 367 of this part” and inserting “section
14 367 of this title”;
15 (B) by striking “section 371(e) of this part” and inserting “sec-
16 tion 371(e) of this title”;
17 (C) by striking “section 365(c) of this part” and inserting “sec-
18 tion 365(c) of this title”; and
19 (D) by striking “section 365(a) and (b) of this part” and insert-
20 ing “section 365(a) and (b) of this title”.
- 21 (35) Section 375(a) of title 35, United States Code, is amended by
22 striking “this title” and inserting “this subtitle and subtitle I”.
- 23 (h) TITLE 36, UNITED STATES CODE.—Section 220506(e) of title 36,
24 United States Code, is amended by striking “the Act of July 5, 1946 (15
25 U.S.C. 1051 et seq.) (popularly known as the Trademark Act of 1946)” and
26 inserting “subtitle III of title 35”.
- 27 (i) TITLE 39, UNITED STATES CODE.—Section 409(d)(2)(A) of title 39,
28 United States Code, is amended by striking “the Act of July 5, 1946 (com-
29 monly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and fol-
30 lowing));” and inserting “subtitle III of title 35;”.
- 31 (j) TITLE 48, UNITED STATES CODE.—Section 28(e) of the Revised Or-
32 ganic Act of the Virgin Islands (48 U.S.C. 1643) is amended—
33 (1) by striking “Section 42 of the Trade Mark Act of 1946 (60 Stat.
34 440, 15 U.S.C., 1952 edition, sec. 1124),” and inserting “Section 663
35 of title 35, United States Code;” and
36 (2) by striking “said Trade Mark Act.” and inserting “subtitle III
37 of title 35, United States Code.”.
- 38 (k) TITLE 54, UNITED STATES CODE.—Section 302106 of title 54,
39 United States Code, is amended by striking “section 43(e) of the Act of
40 July 5, 1946 (known as the Trademark Act of 1946) (15 U.S.C. 1125(e)),”
41 and inserting “section 664 of title 35.”.

1 **SEC. 8. TRANSITIONAL AND SAVINGS PROVISIONS.**

2 (a) DEFINITIONS.—In this section:

3 (1) RESTATED PROVISION.—The term “restated provision” means a
4 provision of title 35, United States Code, that is enacted by section 6.

5 (2) SOURCE PROVISION.—The term “source provision” means a pro-
6 vision of law that is replaced by a restated provision.

7 (b) CUTOFF DATE.—The restated provisions replace certain provisions of
8 law enacted on or before October 15, 2017. If a law enacted after that date
9 amends or repeals a source provision, that law is deemed to amend or re-
10 peal, as the case may be, the corresponding restated provision. If a law en-
11 acted after that date is otherwise inconsistent with a restated provision or
12 a provision of this Act, that law supersedes the restated provision or provi-
13 sion of this Act to the extent of the inconsistency.

14 (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—A restated provision
15 is deemed to have been enacted on the date of enactment of the correspond-
16 ing source provision.

17 (d) REFERENCES TO RESTATED PROVISIONS.—A reference to a restated
18 provision is deemed to refer to the corresponding source provision.

19 (e) REFERENCES TO SOURCE PROVISIONS.—A reference to a source pro-
20 vision, including a reference in a regulation, order, or other law, is deemed
21 to refer to the corresponding restated provision.

22 (f) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A
23 regulation, order, or other administrative action in effect under a source
24 provision continues in effect under the corresponding restated provision.

25 (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or
26 an offense committed under a source provision is deemed to have been taken
27 or committed under the corresponding restated provision.

28 **SEC. 9. REPEALS.**

29 The following provisions of law are repealed, except with respect to rights
30 and duties that matured, penalties that were incurred, or proceedings that
31 were begun before the date of enactment of this Act:

Schedule of Laws Repealed

| Act | Section | United States Code Former Classification |
|--|----------|---|
| Lanham Act (Act of July 5, 1946, ch. 540, 60 Stat. 427) | 1 | 15 U.S.C. 1051. |
| | 2 | 15 U.S.C. 1052. |
| | 3 | 15 U.S.C. 1053. |
| | 4 | 15 U.S.C. 1054. |
| | 5 | 15 U.S.C. 1055. |
| | 6 | 15 U.S.C. 1056. |
| | 7 | 15 U.S.C. 1057. |
| | 8 | 15 U.S.C. 1058. |
| | 9 | 15 U.S.C. 1059. |
| | 10 | 15 U.S.C. 1060. |
| | 11 | 15 U.S.C. 1061. |
| | 12 | 15 U.S.C. 1062. |
| | 13 | 15 U.S.C. 1063. |

Schedule of Laws Repealed—Continued

| Act | Section | United States Code Former Classification |
|--------------------------|---|---|
| | 14 | 15 U.S.C. 1064. |
| | 15 | 15 U.S.C. 1065. |
| | 16 | 15 U.S.C. 1066. |
| | 17 | 15 U.S.C. 1067. |
| | 18 | 15 U.S.C. 1068. |
| | 19 | 15 U.S.C. 1069. |
| | 20 | 15 U.S.C. 1070. |
| | 21 | 15 U.S.C. 1071. |
| | 22 | 15 U.S.C. 1072. |
| | 23 | 15 U.S.C. 1091. |
| | 24 | 15 U.S.C. 1092. |
| | 25 | 15 U.S.C. 1093. |
| | 26 | 15 U.S.C. 1094. |
| | 27 | 15 U.S.C. 1095. |
| | 28 | 15 U.S.C. 1096. |
| | 29 | 15 U.S.C. 1111. |
| | 30 | 15 U.S.C. 1112. |
| | 31 | 15 U.S.C. 1113. |
| | 32 | 15 U.S.C. 1114. |
| | 33 | 15 U.S.C. 1115. |
| | 34 | 15 U.S.C. 1116. |
| | 35 | 15 U.S.C. 1117. |
| | 36 | 15 U.S.C. 1118. |
| | 37 | 15 U.S.C. 1119. |
| | 38 | 15 U.S.C. 1120. |
| | 39 | 15 U.S.C. 1121. |
| | 40 | 15 U.S.C. 1122. |
| | 41 | 15 U.S.C. 1123. |
| | 42 | 15 U.S.C. 1124. |
| | 43 | 15 U.S.C. 1125. |
| | 44 | 15 U.S.C. 1126. |
| | 45 | 15 U.S.C. 1127. |
| | 60 | 15 U.S.C. 1141. |
| | 61 | 15 U.S.C. 1141a. |
| | 62 | 15 U.S.C. 1141b. |
| | 63 | 15 U.S.C. 1141e. |
| | 64 | 15 U.S.C. 1141d. |
| | 65 | 15 U.S.C. 1141e. |
| | 66 | 15 U.S.C. 1141f. |
| | 67 | 15 U.S.C. 1141g. |
| | 68 | 15 U.S.C. 1141h. |
| | 69 | 15 U.S.C. 1141i. |
| | 70 | 15 U.S.C. 1141j. |
| | 71 | 15 U.S.C. 1141k. |
| | 72 | 15 U.S.C. 1141l. |
| | 73 | 15 U.S.C. 1141m. |
| | 74 | 15 U.S.C. 1141n. |
| Public Law 106–113 | div. B, 1000(a)(9) [title III, § 3002(b)]. | 15 U.S.C. 8131. |
| Public Law 110–403 | 3 | 15 U.S.C. 8101. |
| | 302 | 15 U.S.C. 8111. |
| | 302 | 15 U.S.C. 8112. |
| | 303 | 15 U.S.C. 8113. |
| | 304 | 15 U.S.C. 8114. |
| | 305 | 15 U.S.C. 8115. |
| | 306 | 15 U.S.C. 8116. |