

under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

(d) RENEWAL APPLICATIONS.—The amendment made by section 106 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SEC. 110. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trade-mark Law Treaty with respect to the United States,

whichever occurs first.

TITLE II—TECHNICAL CORRECTIONS

SEC. 201. TECHNICAL CORRECTIONS TO TRADE-MARK ACT OF 1946.

(a) IN GENERAL.—The Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended—

(A) by inserting “and,” after “specifying the date of the applicant’s first use of the mark in commerce”; and

(B) by striking “and, the mode or manner in which the mark is used on or in connection with such goods or services”.

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking “or” after “them,”; and

(ii) by inserting before the period at the end the following: “, or (5) comprises any matter that, as a whole, is functional”; and

(B) in subsection (f), by striking “paragraphs (a), (b), (c), (d), and (e)(3)” and inserting “subsections (a), (b), (c), (d), (e)(3), and (e)(5)”.

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting “or is functional,” before “or has been abandoned”.

(5) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking “or device” and inserting “, device, any matter that as a whole is not functional,”.

(6) Section 26 (15 U.S.C. 1094) is amended by striking “7(c),” and inserting “, 7(c),”.

(7) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

“§31. Fees”;

and

(B) by striking “(a)” and inserting “SEC. 31. (a)”.

(8) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking “As used in this subsection” and inserting “As used in this paragraph”.

(9) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

“(8) That the mark is functional; or”.

(10) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking “circuit courts” and inserting “courts”.

(11) Section 42 (15 U.S.C. 1124) is amended by striking “the any domestic” and inserting “any domestic”.

(12) The Act is amended by striking “trade-mark” each place it appears in the text and the title and inserting “trademark”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. USE OF CERTIFICATION MARKS FOR ADVERTISING OR PROMOTIONAL PURPOSES.

Section 14 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1064) (commonly referred to as the Trademark Act of 1946) is amended by adding at the end the following: “Nothing in paragraph (5) shall be deemed to prohibit the registrant from using its certification mark in advertising or promoting recognition of the certification program or of the goods or services meeting the certification standards of the registrant. Such uses of the certification mark shall not be grounds for cancellation under paragraph (5), so long as the registrant does not itself produce, manufacture, or sell any of the certified goods or services to which its identical certification mark is applied.”.

SEC. 302. OFFICIAL INSIGNIA OF NATIVE INDIAN TRIBES.

(a) IN GENERAL.—The Commissioner of Patents and Trademarks shall study the issues surrounding the protection of the official insignia of federally and State recognized Native American tribes. The study shall address at least the following issues:

(1) The impact on Native American tribes, trademark owners, the Patent and Trademark Office, any other interested party, or the international legal obligations of the United States, of any change in law or policy with respect to—

(A) the prohibition of the Federal registration of trademarks identical to the official insignia of Native American tribes;

(B) the prohibition of any new use of the official insignia of Native American tribes; and

(C) appropriate defenses, including fair use, to any claims of infringement.

(2) The means for establishing and maintaining a listing of the official insignia of federally or State recognized Native American tribes.

(3) An acceptable definition of the term “official insignia” with respect to a federally or State recognized Native American tribe.

(4) The administrative feasibility, including the cost, of changing the current law or policy to—

(A) prohibit the registration, or prohibit any new uses of the official insignia of State or federally recognized Native American tribes; or

(B) otherwise give additional protection to the official insignia of federally and State recognized Native American tribes.

(5) A determination of whether such protection should be offered prospectively or retrospectively and the impact of such protection.

(6) Any statutory changes that would be necessary in order to provide such protection.

(7) Any other factors which may be relevant.

(b) COMMENT AND REPORT.—

(1) COMMENT.—Not later than 60 days after the date of enactment of this Act, the Commissioner shall initiate a request for public comment on the issues identified and studied by the Commissioner under subsection (a) and invite comment on any additional issues

that are not included in such request. During the course of the public comment period, the Commissioner shall use any appropriate additional measures, including field hearings, to obtain as wide a range of views as possible from Native American tribes, trademark owners, and other interested parties.

(2) REPORT.—Not later than September 30, 1999, the Commissioner of Patents and Trademarks shall complete the study under this section and submit a report including the findings and conclusions of the study to the chairman of the Committee on the Judiciary of the Senate and the chairman of the Committee on the Judiciary of the House of Representatives.

AMENDMENTS SUBMITTED— SEPTEMBER 18, 1998

CONSUMER BANKRUPTCY REFORM ACT OF 1998

FEINGOLD (AND SPECTER) AMENDMENT NO. 3602

Mr. FEINGOLD (for himself and Mr. SPECTER) proposed an amendment to the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; as follows:

On page 5, strike Section 102(3)(A) on lines 18 through 25.

On page 5 on line 17 after “bad faith,” insert:

“(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings:

(i) a motion for dismissal under this subsection and the court grants that motion and finds that the action of the debtor in filing under this chapter was not substantially justified, the court shall order the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys’ fees; or

(ii) a motion for conversion under this subsection and the court grants that motion the court shall award reasonable costs in prosecuting the motion, including reasonable attorneys’ fee, which shall be treated as an administrative expense under Section 503(b) in a case under this title that is converted to a case under another chapter of this title.”

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will be held in Espanola, New Mexico at the Mission Convento on Saturday, September 26, 1998, at 9:00 a.m. The Mission Convento is located at the Plaza de Espandola, Number 1 Calle de Espanola, New Mexico.

The purpose of this hearing is to receive testimony on the issues surrounding the determination of the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 and the two bills introduced to date on this subject, S. 2155 and H.R. 2538.