

98TH CONGRESS
1ST SESSION

H. R. 4222

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1983

Mr. KASTENMEIER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To make certain technical amendments with respect to the court of appeals for the Federal circuit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Technical Amendments to
4 the Federal Court Improvements Act".

5 SEC. 2. Section 1292(b) of title 28, United States Code,
6 is amended by inserting "which would have jurisdiction of an
7 appeal of such action" after "The Court of Appeals".

8 SEC. 3. Section 337(c) of the Tariff Act of 1930 (19
9 U.S.C. 1337(c)) is amended in the fourth sentence by insert-

1 ing “, within 60 days after the determination becomes final,”
2 after “appeal such determination”.

3 SEC. 4. (a) Sections 142, 143, and 144 of title 35,
4 United States Code, are amended to read as follows:

5 **“§ 142. Notice of appeal**

6 “When an appeal is taken to the United States Court of
7 Appeals for the Federal Circuit, the appellant shall file in the
8 Patent and Trademark Office a written notice of appeal di-
9 rected to the Commissioner, within such time after the date
10 of the decision from which the appeal is taken as the Com-
11 missioner prescribes, but in no case less than 60 days after
12 that date.

13 **“§ 143. Proceedings on appeal**

14 “With respect to an appeal described in section 142 of
15 this title, the Commissioner shall transmit to the United
16 States Court of Appeals for the Federal Circuit a certified list
17 of the documents comprising the record in the Patent and
18 Trademark Office. The court may request that the Commis-
19 sioner forward the original or certified copies of such docu-
20 ments during pendency of the appeal. In an ex parte case,
21 the Commissioner shall submit to the court in writing the
22 grounds for the decision of the Patent and Trademark Office,
23 addressing all the issues involved in the appeal. The court
24 shall, before hearing an appeal, give notice of the time and

1 place of the hearing to the Commissioner and the parties in
2 the appeal.

3 **“§ 144. Decision on appeal**

4 “The United States Court of Appeals for the Federal
5 Circuit shall review the decision from which an appeal is
6 taken on the record before the Patent and Trademark Office.
7 Upon its determination the court shall issue to the Commis-
8 sioner its mandate and opinion, which shall be entered of
9 record in the Patent and Trademark Office and shall govern
10 the further proceedings in the case.”.

11 (b) Paragraphs (2), (3), and (4) of subsection (a) of sec-
12 tion 21 of the Act entitled “An Act to provide for the regis-
13 tration and protection of trademarks used in commerce, to
14 carry out the provisions of certain international conventions,
15 and for other purposes”, approved July 5, 1946 (15 U.S.C.
16 1071(a) (2), (3), and (4)), are amended to read as follows:

17 “(2) When an appeal is taken to the United States
18 Court of Appeals for the Federal Circuit, the appellant shall
19 file in the Patent and Trademark Office a written notice of
20 appeal directed to the Commissioner, within such time after
21 the date of the decision from which the appeal is taken as the
22 Commissioner prescribes, but in no case less than 60 days
23 after that date.

24 “(3) The Commissioner shall transmit to the United
25 States Court of Appeals for the Federal Circuit a certified list

1 of the documents comprising the record in the Patent and
2 Trademark Office. The court may request that the Commis-
3 sioner forward the original or certified copies of such docu-
4 ments during pendency of the appeal. In an ex parte case,
5 the Commissioner shall submit to that court a brief explain-
6 ing the grounds for the decision of the Patent and Trademark
7 Office, addressing all the issues involved in the appeal. The
8 court shall, before hearing an appeal, give notice of the time
9 and place of the hearing to the Commissioner and the parties
10 in the appeal.

11 “(4) The United States Court of Appeals for the Federal
12 Circuit shall review the decision from which the appeal is
13 taken on the record before the Patent and Trademark Office.
14 Upon its determination the court shall issue its mandate and
15 opinion to the Commissioner, which shall be entered of
16 record in the Patent and Trademark Office and shall govern
17 the further proceedings in the case.”.

18 (c) The amendments made by this section shall apply to
19 proceedings pending in the Patent and Trademark Office on
20 the date of the enactment of this Act and to appeals pending
21 in the United States Court of Appeals for the Federal Circuit
22 on such date.

23 SEC. 5. Any individual who, on the date of the enact-
24 ment of the Federal Courts Improvement Act of 1982, was
25 serving as marshal for the Court of Appeals for the District

1 of Columbia under section 713(c) of title 28, United States
2 Code, may, after the date of the enactment of this Act, so
3 serve under that section as in effect on the date of the enact-
4 ment of the Federal Courts Improvement Act of 1982. While
5 such individual so serves, the provisions of section 714(a) of
6 title 28, United States Code, shall not apply to the Court of
7 Appeals for the District of Columbia.

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