

**UNITED STATES STATUTES
CONCERNING THE REGISTRATION
OF TRADE-MARKS, WITH THE
RULES OF THE PATENT OFFICE
RELATING THERETO**

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United States Statutes Concerning the Registration of Trade-Marks, with the rules of the patent office relating thereto by Various

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VARIOUS

**UNITED STATES STATUTES
CONCERNING THE REGISTRATION
OF TRADE-MARKS, WITH THE
RULES OF THE PATENT OFFICE
RELATING THERETO**

U. S. Laws, Statutes, etc.
1920

UNITED STATES PATENT OFFICE

UNITED STATES STATUTES
CONCERNING THE REGISTRATION OF
TRADE-MARKS

WITH

THE RULES OF THE PATENT OFFICE
RELATING THERETO

REVISED JULY 26, 1920



WASHINGTON
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1920

First edition, April 1, 1905.

First reprint, April 20, 1905, under which rules 17, 30, 34, and 62, and Forms 2, 3, 4, 5, 6, 7, and 8 were amended and an appendix was added containing Circular of the Treasury Department relating to trade-marks, and an extract from the "Red Cross" act.

First revised edition, December 1, 1905, under which sections (a) and (c) of rule 11 were canceled and the remaining sections relettered to correspond therewith; rule 17 was amended; original rule 44 was canceled and a new rule 44 substituted therefor; new rules 45 to 48, inclusive, were inserted, and the numbering of original rules 45 to 69, inclusive, was changed to correspond therewith.

Second revised edition, August 1, 1906, under which section 1 of the act of February 20, 1905, was amended in accordance with the act of May 4, 1906, and the act of May 4, 1906, was added; rule 17 was canceled and new rules 17 and 18 were substituted therefor; rule 18 was amended and renumbered as rule 19; rules 19 and 20 were renumbered as rules 20 and 21; rule 21 was renumbered as rule 22, and sections (b) and (c) were amended; rule 22 was renumbered as rule 23; rule 23 was amended and renumbered as rule 24; rules 24 to 28, inclusive, were renumbered as rules 25 to 29, inclusive; a new rule 30 was inserted; rule 29 was amended and renumbered as rule 31; rule 30 was renumbered as rule 32; rule 31 was amended and renumbered as rule 33; rules 32 to 65, inclusive, were renumbered as rules 34 to 67, inclusive; rule 66 was canceled and a new rule 68 was substituted therefor; and rules 67 to 73, inclusive, were renumbered as rules 69 to 75, inclusive.

Third revised edition, April 26, 1909, under which the act of February 20, 1905, is amended as provided by the acts of March 2, 1907, and February 18, 1909; rules 11 and 14 are canceled and new rules 11 and 14 substituted therefor; rules 16 and 19 are amended; rule 22 is canceled and new rule 22 substituted therefor; rules 31, 34, and 40 are amended; rules 47 and 48 are canceled and new rules 47 and 48 substituted therefor; rules 49, 51, and 56 are amended; rules 69 and 70 are canceled and new rules 69 and 70 substituted therefor; and rule 71 is amended.

Fourth revised edition, November 1, 1911, under which the act of February 20, 1905, is amended as provided by the act of February 18, 1911; section 5 (b) is amended; rules 20 to 32 are amended; rules 45a to 45d are added; rule 56 is amended; rules 57a and 57d are added; Form 8 is amended; section 4 of the act to incorporate the American National Red Cross is amended and section 8 is added; the Circular of the Treasury Department relating to trade-marks is amended.

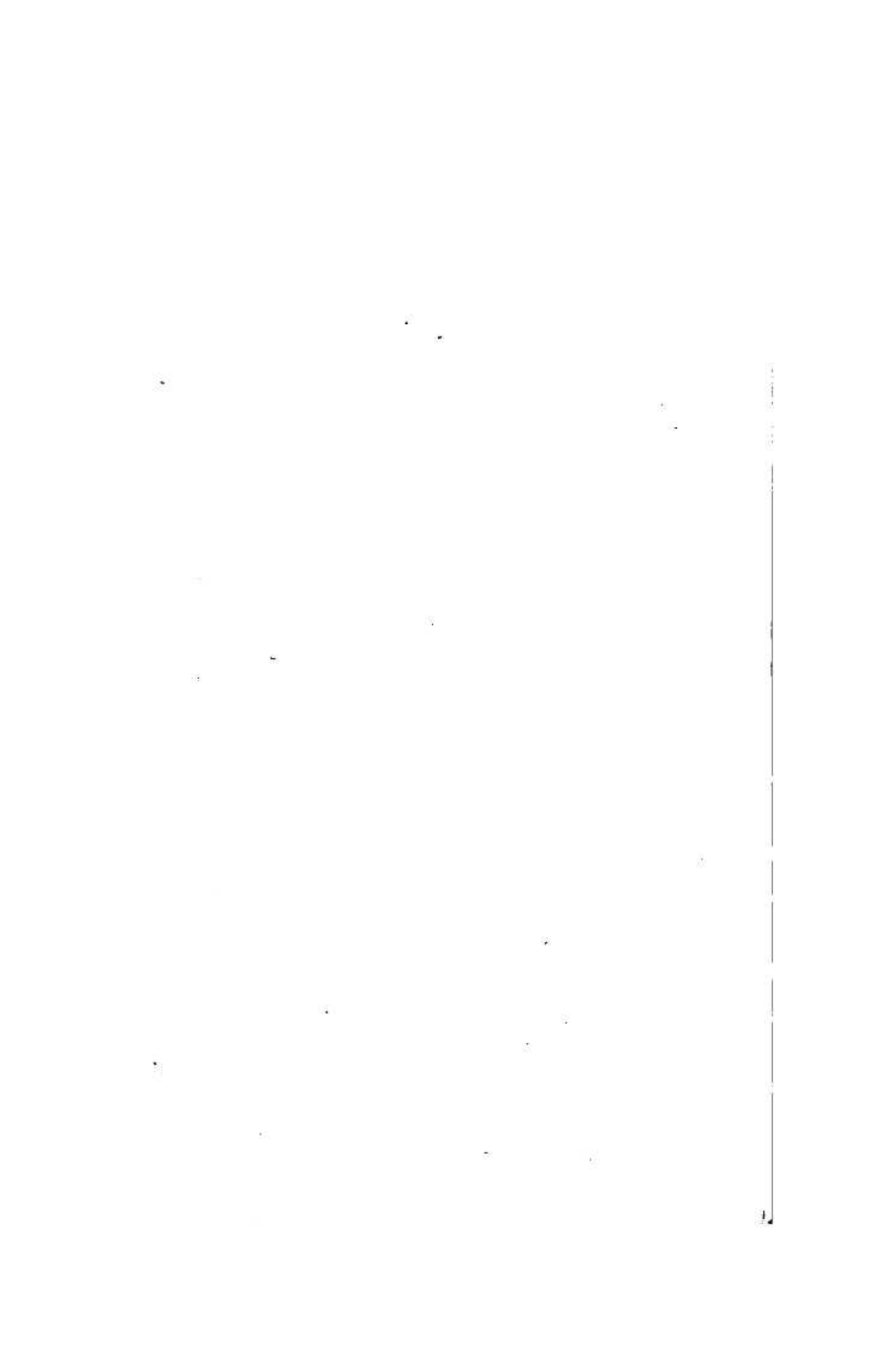
Fifth revised edition, March 1, 1913, under which the act of February 20, 1905, is amended as provided by the act of January 8, 1913, section 5 (b) is amended.

Reprint of October 1, 1916, in which rule 49 has been amended, the affidavits in Forms 12 and 13 have been changed, and Form 14 added.

Sixth revised edition, July 26, 1920, under which the rules and forms were amended in consideration of the act of March 19, 1920, as follows: Rules 16, 17, 19, 20, 22, 27, 32, 33, 38, 39, 40, 47, 51, 58, 59, 60, 62, 65, 70, and 73 were amended; the last paragraph of Rule 56 was canceled and Rules 56a and 56b were added; Forms 1a, 1b, 1c, 3a, and 8a were added, and Forms 1 and 8 were amended.

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REGISTRATION OF TRADE-MARKS.

TRADE-MARK LAWS OF THE UNITED STATES.

ACT OF FEBRUARY 20, 1905 (AS AMENDED).

AN ACT To authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States, or resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used; a description of the trade-mark itself shall be included, if desired by the applicant or

As amended by act of Feb. 18, 1909.

required by the commissioner, provided such description is of a character to meet the approval of the commissioner. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark as actually used as may be required by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of ten dollars, and otherwise complying with the requirements of this act and such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section, in order to create any right whatever in favor of the party filing it, must be accompanied by a written declaration verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, to the effect that the applicant believes himself or the firm, corporation, or association in whose behalf he makes the application to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of the applicant's knowledge and belief, has the

As amended by act of Feb. 18, 1909.

right to use such trade-mark in the United States, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes, and that the description and drawing presented truly represent the trade-mark

sought to be registered. If the applicant resides or is located in a foreign country, the statement required shall, in addition to the foregoing, set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or the application therefor, as the case may be, except that in the application in such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof. The verification required by this section may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

SEC. 3. That every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance of the certificate of registration, as hereinafter provided for, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim to be the owner, brought under the provisions of this act or under other laws of the United States, may be served, with the same force and effect as if served upon the applicant or registrant in person. For the purposes of this act it shall be deemed sufficient to serve such notice upon such applicant, registrant, or representative by leaving a copy of such process or notice addressed to him at the last address of which the Commissioner of Patents has been notified.

SEC. 4. That an application for registration of a trade-mark filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States an application for registration of the same trade-mark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application is filed in this country within four months from the date on which the application was first filed in such foreign country: *And provided*, That certificate of registration shall not be issued for any mark for registration of which application has been filed by an applicant located in a foreign country until such mark has been actually registered by the applicant in the country in which he is located.

SEC. 5. That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade-mark on account of the nature of such mark unless such mark—

(a) Consists of or comprises immoral or scandalous matter.

(b) Consists of or comprises the flag or coat of arms or other insignia of the United States or any simulation thereof, or of any State or municipality or of any foreign nation, or of any design or

picture that has been or may hereafter be adopted by any fraternal society as its emblem, or of any name, distinguishing mark, character, emblem, colors, flag, or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption and use by the applicant:

As amended by act of Jan. 8, 1913.

Provided, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant: Provided, That trade-marks which are identical with a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers shall not be registered: Provided, That no mark which consists merely in the name of an individual, firm, corporation, or association not written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this Act: Provided further, That no portrait of a living individual may be registered as a trade-mark except by the consent of such individual, evidenced by an instrument in writing: And provided further, That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States or with Indian tribes which was in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for ten years next preceding February twentieth, nineteen hundred and five: Provided further, That nothing herein shall prevent the registration of a trade-mark otherwise registrable because of its being the name of the applicant or a portion thereof.

SEC. 6. That on the filing of an application for registration of a trade-mark which complies with the requirements of this act, and the payment of the fees herein provided for, the Commissioner of Patents shall cause an examination thereof to be made; and if on such examination it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of this act, the commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing notice of opposition, stating the grounds therefor, in the Patent Office within thirty days after the publication of the mark sought to be registered, which said notice of opposition shall be verified by the person filing the same before one of the officers mentioned in section

As amended by act of Mar. 2, 1907.

two of this act. An opposition may be filed by a duly authorized attorney, but such opposition shall be null and void unless verified by the opposer within a reasonable time after such filing. If no notice of opposition is filed within said time, the commissioner shall issue a certificate of registration therefor, as hereinafter provided for. If on examination