AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6196
OFFERED BY MR. NADLER

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
2 (a) SHORT TITLE.—This Act may be cited as the
3 "Trademark Modernization Act of 2020" or the "TM Act
4 of 2020".
5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:
7 Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Providing for third-party submission of evidence during examination.
Sec. 4. Providing for flexible response periods.
Sec. 5. Ex parte expungement; Ex parte reexamination; new grounds for can-
cellation.
Sec. 6. Rebuttable presumption of irreparable harm.
Sec. 7. Report on decluttering initiatives.
Sec. 8. Amendments to confirm authority of the Director.

7 SEC. 2. DEFINITIONS.
8 In this Act:
9 (1) DIRECTOR.—The term "Director" means
10 the Under Secretary of Commerce for Intellectual
11 Property and Director of the United States Patent
12 and Trademark Office.
(2) TRADEMARK ACT OF 1946.—The term “Trademark Act of 1946” means 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, as amended (15 U.S.C. 1051, et. seq) (commonly referred to as the “Trademark Act of 1946” or the “Lanham Act”).

SEC. 3. PROVIDING FOR THIRD-PARTY SUBMISSION OF EVIDENCE DURING EXAMINATION.

(a) AMENDMENT.—Section 1 of the Trademark Act of 1946 (15 U.S.C. 1051) is amended by inserting at the end the following new subsection:

“(f) A third party may submit for consideration for inclusion in the record of an application evidence relevant to a ground for refusal of registration. The third-party submission shall identify the ground for refusal and include a concise description of each piece of evidence submitted in support of each identified ground for refusal. Within two months after the date on which the submission is filed, the Director shall determine whether the evidence should be included in the record of the application. The Director shall establish by regulation appropriate procedures for the consideration of evidence submitted by a
third party under this subsection and may prescribe a fee
to accompany the submission. If the Director determines
that the third-party evidence should be included in the
record of the application, only the evidence and the ground
for refusal to which the evidence relates may be so in-
cluded. Any determination by the Director whether or not
to include evidence in the record of an application shall
be final and non-reviewable, and a determination to in-
clude or to not include evidence in the record shall not
prejudice any party’s right to raise any issue and rely on
any evidence in any other proceeding.”.

(b) DEADLINE FOR PROCEDURES.—Not later than
one year after the date of the enactment of this Act, the
Director shall establish the appropriate procedures de-
dcribed in section 1(f) of the Trademark Act of 1946, as
added by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect one year after the date of
the enactment of this Act.

SEC. 4. PROVIDING FOR FLEXIBLE RESPONSE PERIODS.

Section 12(b) of the Trademark Act of 1946 (15
U.S.C. 1062(b)) is amended to read as follows:

“(b)(1) If the applicant is found not entitled to reg-
istration, the examiner shall notify the applicant thereof
and of the reasons therefor. The applicant may reply or
amend the application, which shall then be reexamined. This procedure may be repeated until the examiner finally refuses registration of the mark or the application is abandoned as described in paragraph (2).

“(2) After notification under paragraph (1), the applicant shall have a period of six months in which to reply or amend the application, or such shorter time that is not less than sixty days, as prescribed by the Director by regulation. If the applicant fails to reply or amend or appeal within the relevant time period, including any extension under paragraph (3), the application shall be deemed to have been abandoned, unless it can be shown to the satisfaction of the Director that the delay in responding was unintentional, in which case the application may be revived and such time may be extended. The Director may prescribe a fee to accompany any request to revive.

“(3) The Director shall provide, by regulation, for extensions of time to respond to the examiner for any time period under paragraph (2) that is less than six months. The Director must allow the applicant to obtain extensions of time to reply or amend aggregating six months from the date of notification under paragraph (1) when the applicant so requests. However, the Director may set by regulation the time for individual periods of extension, and prescribe a fee, by regulation, for any extension request.
Any request for extension must be filed on or before the date on which a reply or amendment is due under paragraph (1).”.

SEC. 5. EX PARTE EXPUNGEMENT; EX PARTE REEXAMINATION; NEW GROUNDS FOR CANCELLATION.

(a) EX PARTE EXPUNGEMENT.—The Trademark Act of 1946 (15 U.S.C. 1066) is amended by inserting after section 16, the following new section:

“SEC. 16A. EX PARTE EXPUNGEMENT.

“(a) PETITION.—Notwithstanding sections 7(b) and 22, and subsections (a) and (b) of section 33, any person may file a petition to expunge a registration of a mark on the basis that the mark has never been used in commerce on or in connection with some or all of the goods or services recited in the registration.

“(b) CONTENTS OF PETITION.—The petition, together with any supporting documents, shall—

“(1) identify the registration that is the subject of the petition;

“(2) identify each good or service recited in the registration for which it is alleged that the mark has never been used in commerce;

“(3) include a verified statement that sets forth the elements of the reasonable investigation the petitioner conducted to determine that the mark has
never been used in commerce on or in connection
with the goods and services identified in the petition,
and any additional facts that support the allegation
that the mark has never been used in commerce on
or in connection with the identified goods and serv-
ices;

“(4) include any supporting evidence on which
the petitioner relies; and

“(5) be accompanied by the fee prescribed by
the Director.

“(c) INITIAL DETERMINATION; INSTITUTION.—

“(1) PRIMA FACIE CASE DETERMINATION, IN-
stitution, AND NOTIFICATION.—The Director
shall, for each good or service identified under sub-
section (b)(2), determine whether the petition sets
forth a prima facie case of the mark having never
been used in commerce on or in connection with
each such good or service, institute an ex parte
expungement proceeding for each good or service for
which the Director determines that a prima facie
case has been set forth, and provide a notice to the
registrant and petitioner of the determination of
whether or not the proceeding was instituted. Such
notice should include a copy of the petition and any
supporting documents and evidence that were included with the petition.

“(2) Reasonable investigation guidance.—The Director shall promulgate regulations regarding what constitutes a reasonable investigation under subsection (b)(3) and the general types of evidence that could support a prima facie case that a mark has never been used in commerce, but the Director shall retain the discretion to determine whether a prima facie case is set out in a particular proceeding.

“(3) Determination by Director.—Any determination by the Director whether or not to institute a proceeding under this section shall be final and non-reviewable, and shall not prejudice any party’s right to raise any issue and rely on any evidence in any other proceeding, except as provided by subsection (j).

“(d) Ex Parte Expungement Procedures.—The procedures for ex parte expungement shall be the same as those for examination under section 12(b), except that the Director shall promulgate regulations establishing and governing a proceeding under this section, which may include regulations that set response and extension times particular to this type of proceeding, which, notwith-
standing section 12(b)(3) need not be extendable to six
months, set limits governing the timing and number of
petitions filed for a particular registration or by a par-
ticular petitioner or real parties in interest, and defining
the relation of a proceeding under this section to other
proceedings concerning the mark.

“(e) Registrant’s Evidence of Use.—A reg-
istrant’s documentary evidence of use must be consistent
with when ‘a mark shall be deemed to be in use in com-
merce’ as defined in section 45, but shall not be limited
in form to that of specimens as provided in section 1(a).

“(f) Excusable Nonuse.—During an ex parte
expungement proceeding, for a mark registered under sec-
tion 44(e) or an extension of protection under section 66,
the registrant may offer evidence showing that any nonuse
is due to special circumstances that excuse such nonuse.
In such a case, the examiner shall determine whether the
facts and evidence demonstrate excusable nonuse and shall
not find that the registration should be cancelled under
subsection (g) for any good or service for which excusable
nonuse is demonstrated.

“(g) Examiner’s Decision; Order to Cancel.—
For each good or service for which it is determined that
a mark has never been used in commerce, and for which
the provisions of subsection (f) do not apply, the examiner
shall find that the registration should be cancelled for each
such good or service. A mark may not be found to have
never been used in commerce if there is evidence of use
in commerce by the registrant that temporally would have
supported registration at the time the application was filed
or the relevant allegation of use was made, or after reg-
istration, but before the petition to expunge was filed
under subsection (a), or an ex parte expungement pro-
ceeding was instituted by the Director under subsection
(h). Unless overturned on review of the examiner’s deci-
sion, the Director shall issue an order cancelling the reg-
istration, in whole or in part, after the time for appeal
has expired or any appeal proceeding has terminated.

“(h) Ex Parte Expungement by the Direc-
tor.—

“(1) In General.—The Director may, on the
Director’s own initiative, institute an ex parte
expungement proceeding if the Director discovers in-
formation that supports a prima facie case of a
mark having never been used in commerce on or in
connection with any good or service covered by a
registration. The Director shall promptly notify the
registrant of such determination, at which time the
ex parte expungement proceeding shall proceed ac-
cording to the same procedures for ex parte
expungement established pursuant to subsection (d).

If the Director determines, based on the Director’s own initiative, to institute an expungement proceeding, the Director shall transmit or make available the information that formed the basis for that determination as part of the institution notice sent to the registrant.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit any other authority of the Director.

“(i) TIME FOR INSTITUTION.—

“(1) WHEN PETITION MAY BE FILED, EX PARTE EXPUNGEMENT PROCEEDING INSTITUTED.—

A petition for ex parte expungement of a registration under subsection (a) may be filed, or the Director may institute on the Director’s own initiative an ex parte expungement proceeding of a registration under subsection (h), at any time following the expiration of three years after the date of registration and before the expiration of ten years following the date of registration.

“(2) EXCEPTION.—Notwithstanding paragraph (1), for a period of three years after the date of enactment of this Act, a petition for expungement of a registration under subsection (a) may be filed, or
the Director may institute on the Director’s own ini-
tiative an ex parte expungement proceeding of a reg-
istration under subsection (h), at any time following
the expiration of three years after the date of reg-
istration.

“(j) LIMITATION ON LATER EX PARTE
EXPUNGEMENT PROCEEDINGS.—

“(1) NO CO-PENDING PROCEEDINGS.—With re-

spect to a particular registration, while an ex parte
expungement proceeding is pending, no later ex
parte expungement proceeding can be instituted with
respect to the same goods or services that are the
subject of a pending ex parte expungement pro-
ceeding.

“(2) ESTOPPEL.—With respect to a particular
registration, for goods or services previously subject
to an instituted expungement proceeding for which,
in that proceeding, it was determined that the reg-
istrant had used the mark for particular goods or
services, as relevant, and the registration was not
cancelled as to those goods or services, no further ex
parte expungement proceedings may be initiated as
to those goods or services, regardless of the identity
of the petitioner.
“(k) USE IN COMMERCE REQUIREMENT NOT ALTERED.—Nothing in this section shall affect the requirement for use in commerce of a mark registered under section 1(a) or section 23.”.

(b) NEW GROUNDS FOR CANCELLATION.—Section 14 of the Trademark Act of 1946 (15 U.S.C. 1064) is amended—

(1) by striking the colon at the end of paragraph (5) and inserting a period;

(2) by adding after paragraph (5) the following:

“(6) At any time after the three-year period following the date of registration, if the registered mark has never been used in commerce on or in connection with some or all of the goods or services recited in the registration;”; and

(3) in the flush left text, by inserting “Nothing in paragraph (6) shall be construed to limit the timing applicable to any other ground for cancellation. A registration under sections 44(e) or 66 shall not be cancelled pursuant to paragraph (6) if the registrant demonstrates that any nonuse is due to special circumstances that excuse such nonuse.” after “identical certification mark is applied.”.

(c) EX PARTE REEXAMINATION.—The Trademark Act of 1946 (15 U.S.C. 1066), as amended by subsection
(a), is further amended by inserting after section 16A, the following new section:

“SEC. 16B. EX PARTE REEXAMINATION.

“(a) PETITION FOR REEXAMINATION.—Any person may file a petition to reexamine a registration of a mark on the basis that the mark was not in use in commerce on or in connection with some or all of the goods or services recited in the registration on or before the relevant date.

“(b) RELEVANT DATE.—In this section, the term ‘relevant date’ means, with respect to an application for the registration of a mark with an initial filing basis of—

“(1) section 1(a) and not amended at any point to be filed pursuant to section 1(b), the date on which the application was initially filed; or

“(2) section 1(b) or amended at any point to be filed pursuant to section 1(b), the date on which—

“(A) an amendment to allege use under section 1(c) was filed; or

“(B) the period for filing a statement of use under section 1(d) expired, including all approved extensions thereof.

“(c) REQUIREMENTS FOR THE PETITION.—The petition, together with any supporting documents, shall—
“(1) identify the registration that is the subject
of the petition;

“(2) identify each good and service recited in
the registration for which it is alleged that the mark
was not in use in commerce on or in connection with
on or before the relevant date;

“(3) include a verified statement that sets forth
the elements of the reasonable investigation the peti-
tioner conducted to determine that the mark was not
in use in commerce on or in connection with the
goods and services identified in the petition on or be-
fore the relevant date, and any additional facts that
support the allegation that the mark was not in use
in commerce on or before the relevant date on or in
connection with the identified goods and services;

“(4) include supporting evidence on which the
petitioner relies; and

“(5) be accompanied by the fee prescribed by
the Director.

“(d) INITIAL DETERMINATION; INSTITUTION.—

“(1) PRIMA FACIE CASE DETERMINATION, IN-
STITUTION, AND NOTIFICATION.—The Director
shall, for each good or service identified under sub-
section (c)(2), determine whether the petition sets
forth a prima facie case of the mark having not been
in use in commerce on or in connection with each
such good or service, institute an ex parte reexam-
ination proceeding for each good or service for which
the Director determines that the prima facie case
has been set forth, and provide a notice to the reg-
istrant and petitioner of the determination of wheth-
er or not the proceeding was instituted. Such notice
should include a copy of the petition and any sup-
porting documents and evidence that were included
with the petition.

“(2) REASONABLE INVESTIGATION GUID-
ANCE.—The Director shall promulgate regulations
regarding what constitutes a reasonable investigation
under subsection (c)(3) and the general types of evi-
dence that could support a prima facie case that the
mark was not in use in commerce on or in connec-
tion with a good or service on or before the relevant
date, but the Director shall retain discretion to de-
termine whether a prima facie case is set out in a
particular proceeding.

“(3) DETERMINATION BY DIRECTOR.—Any de-
termination by the Director whether or not to insti-
tute a reexamination proceeding under this section
shall be final and non-reviewable, and shall not prej-
udice any party’s right to raise any issue and rely
on any evidence in any other proceeding, except as provided by subsection (j).

“(e) REEXAMINATION PROCEDURES.—The procedures for reexamination shall be the same as those established under section 12(b) except that the Director shall promulgate regulations establishing and governing a proceeding under this section, which may include regulations that set response and extension times particular to this type of proceeding, which, notwithstanding section 12(b)(3) need not be extendable to six months; set limits governing the timing and number of petitions filed for a particular registration or by a particular petitioner or real parties in interest; and define the relation of a reexamination proceeding under this section to other proceedings concerning the mark.

“(f) REGISTRANT’S EVIDENCE OF USE.—A registrant’s documentary evidence of use must be consistent with when ‘a mark shall be deemed to be in use in commerce’ as defined in section 45, but shall not be limited in form to that of specimens as provided in section 1(a).

“(g) EXAMINER’S DECISION; ORDER TO CANCEL.—For each good or service for which it is determined that the registration should not have issued because the mark was not in use in commerce on or before the relevant date, the examiner shall find that the registration should be
cancelled for each such good or service. Unless overturned on review of the examiner’s decision, the Director shall issue an order cancelling the registration, in whole or in part, after the time for appeal has expired or any appeal proceeding has terminated.

“(h) **REEXAMINATION BY DIRECTOR.—**

“(1) **IN GENERAL.—** The Director may, on the Director’s own initiative, institute an ex parte reexamination proceeding if the Director discovers information that supports a prima facie case of the mark having not been used in commerce on or in connection with some or all of the goods or services covered by the registration on or before the relevant date. The Director shall promptly notify the registrant of such determination, at which time reexamination shall proceed according to the same procedures established pursuant to subsection (e). If the Director determines, based on the Director’s own initiative, to institute an ex parte reexamination proceeding, the Director shall transmit or make available the information that formed the basis for that determination as part of the institution notice.

“(2) **RULE OF CONSTRUCTION.—** Nothing in this subsection may be construed to limit any other authority of the Director.
“(i) TIME FOR INSTITUTION.—A petition for ex parte reexamination may be filed, or the Director may institute on the Director’s own initiative an ex parte reexamination proceeding, at any time not later than five years after the date of registration of a mark registered based on use in commerce.

“(j) LIMITATION ON LATER EX PARTE REEXAMINATION PROCEEDINGS.—

“(1) NO CO-PENDING PROCEEDINGS.—With respect to a particular registration, while an ex parte reexamination proceeding is pending, no later ex parte reexamination proceeding can be instituted with respect to the same goods or services that are the subject of a pending ex parte reexamination proceeding.

“(2) ESTOPPEL.—With respect to a particular registration, for any goods or services previously subject to an instituted ex parte reexamination proceeding for which, in that proceeding, it was determined that the registrant had used the mark for particular goods or services before the relevant date, and the registration was not cancelled as to those goods or services, no further ex parte reexamination proceedings may be initiated as to those goods or services, regardless of the identity of the petitioner.
“(k) SUPPLEMENTAL REGISTER.—The provisions of subsection (b) apply, as appropriate, to registrations under section 23. Nothing in this section shall be construed to limit the timing of a cancellation action under section 24 of the Act.”

(d) APPEAL.—

(1) APPEAL TO TRADEMARK TRIAL AND APPEAL BOARD.—Section 20 of the Trademark Act of 1946 (15 U.S.C. 1070) is amended by inserting “or a final decision by an examiner in an ex parte expungement proceeding or ex parte reexamination proceeding” after “registration of marks”.

(2) APPEAL TO COURTS.—

(A) EXPUNGEMENT OR EX PARTE REEXAMINATION.—Section 21(a)(1) of the Trademark Act of 1946 (15 U.S.C. 1071(a)(1)) is amended by striking “or an applicant for renewal” and inserting the following: “an applicant for renewal, or a registrant subject to an ex parte expungement proceeding or an ex parte reexamination proceeding”.

(B) EXCEPTION.—Section 21(b)(1) of the Trademark Act of 1946 (15 U.S.C. 1071(b)(1)) is amended by inserting “except for a registrant subject to an ex parte expungement proceeding
or an ex parte reexamination proceeding” before “is dissatisfied”.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Trademark Act of 1946 (15 U.S.C. 1051 et seq.) is amended—

(1) in section 15, by striking “paragraphs (3) and (5)” and inserting “paragraphs (3), (5) and (6)”; and

(2) in section 26, by adding at the end the following: “Registrations on the supplemental register are subject to ex parte expungement and ex parte reexamination under sections 16A and 16B, respectively.”.

(f) DEADLINE FOR PROCEDURES.—Not later than one year after the date of the enactment of this Act, the Director shall issue regulations to carry out sections 16A and 16B of the Trademark Act of 1946, as added by subsections (a) and (e).

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the expiration of the one year period beginning on the date of enactment of this Act, and shall apply to any mark registered before, on, or after that effective date.
SEC. 6. REBUTTABLE PRESUMPTION OF IRREPARABLE HARM.

(a) AMENDMENT.—Section 34 of the Trademark Act of 1946 (15 U.S.C. 1116) is amended in subsection (a) by inserting after the first sentence the following new sentence: “A plaintiff seeking any such injunction shall be entitled to a rebuttable presumption of irreparable harm upon a finding of a violation identified in this subsection in the case of a motion for a permanent injunction or upon a finding of likelihood of success on the merits for a violation identified in this subsection in the case of a motion for a preliminary injunction or temporary restraining order.”.

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to mean that a plaintiff seeking an injunction was not entitled to a presumption of irreparable harm before the date of the enactment of this Act.

SEC. 7. REPORT ON DECLUTTERING INITIATIVES.

(a) STUDY.—The Comptroller General of the United States shall consult with the Director to conduct a study on the efforts of the Director during the period beginning 12 months after the date of the enactment of this Act and ending 30 months after the date of the enactment of this Act to address inaccurate and false claims of use in trademark applications and registrations. Inaccurate and false
claims of use include any declaration of use by a trademark applicant or registrant that cannot be supported by use in commerce as defined in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) or the regulations relevant to the definition of specimens under section 1 of the Trademark Act of 1946 (15 U.S.C. 1051), as applicable.

(b) CONTENTS OF STUDY.—In conducting the study under subsection (a), the Comptroller General shall assess the following:

(1) With respect to sections 16A and 16B of the Trademark Act of 1946, as added by section 5—

(A) the number of petitions filed under each such section for which a decision not to institute was issued;

(B) the number of petitions filed under each such section for which a decision to institute was issued;

(C) the number of in-process and completed proceedings instituted under each such section, including any proceedings instituted by the Director’s own initiative;

(D) the average time taken to resolve proceedings instituted under each such section, including the average time between—
(i) the filing of a petition under each such section and an examiner’s final decision under section 16A(g) and 16B(g), or the last decision issued by the examiner if the registrant failed to respond to the latest-in-time decision by the examiner; and

(ii) the institution of a proceeding under each such section, including any proceedings instituted by the Director’s own initiative, and an examiner’s final decision under section 16A(g) and 16B(g), or the last decision issued by the examiner if the registrant fails to respond to the latest-in-time decision by the examiner;

(E) the number of appeals of decisions of examiners to the Trademark Trial and Appeal Board and to the courts for each such proceeding; and

(F) an accounting of the final outcome of each such proceeding instituted by identifying the number of goods or services for which such proceedings were instituted, and the number of goods or services for each involved registration that were cancelled pursuant to such proceedings.
(2) With respect to section 1(f) of the Trademark Act of 1946, as added by section 3—

(A) the number of third-party submissions filed under such section for which the third-party asserts in the submission that the mark has not been used in commerce; and

(B) of those applications identified in paragraph (A) above, the number of applications in which the third-party submission evidence is included in the application; and

(C) of those applications identified in paragraph (B) above, the number of applications—

(i) refused registration based on an assertion by the examiner that the mark has not been used in commerce; and

(ii) for which the examiner requested additional information from the applicant related to claims of use.

(3) The effectiveness of—

(A) the proceedings under sections 16A and 16B of the Trademark Act of 1946, as added by section 5, in addressing inaccurate and false claims of use in trademark registrations; and
(B) any additional programs conducted by
the Director designed to address inaccurate and
false claims of use in trademark applications
and registrations, including the post-registra-
tion use audit, as implemented at the date of
enactment of this Act under sections 2.161(h)
and 7.37(h) of title 37, Code of Federal Regu-
lations.

(e) REPORT TO CONGRESS.—Not later than three
years after the date of enactment of this Act, the Com-
troller General of the United States shall submit to the
Committee on the Judiciary of the House of Representa-
tives and the Committee on the Judiciary of the Senate
a report—

(1) on the results of the study conducted under
this section; and

(2) that includes any recommendations, based
on the results of the study, for any changes to laws
or regulations that will improve the integrity of the
trademark register or reduce inaccurate or false
claims of use.

SEC. 8. AMENDMENTS TO CONFIRM AUTHORITY OF THE DI-
RECTOR.

(a) AMENDMENTS.—
(1) Section 18 of the Trademark Act of 1946 (15 U.S.C. 1068) is amended by inserting after “established in the proceedings” the following: “. The authority of the Director under this section includes the authority to reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board”.

(2) Section 20 of the Trademark Act of 1946 (15 U.S.C. 1070) is amended by inserting at the end the following: “The Director may reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board under this section.”.

(3) Section 24 of the Trademark Act of 1946 (15 U.S.C. 1092) is amended by inserting after “shall be canceled by the Director” the following: “, unless the Director reconsiders the decision of the Board, and modifies or sets aside, such decision”.

(b) RULES OF CONSTRUCTION.—

(1) AUTHORITY BEFORE DATE OF ENACTMENT.—The amendments made by subsection (a) may not be construed to mean that the Director lacked the authority to reconsider, and modify or set aside, a decision of the Trademark Trial and Appeal Board before the date of the enactment of this Act.
(2) Authority with respect to particular decisions.—The amendments made by subsection (a) may not be construed to require the Director to reconsider, modify, or set aside any particular decision of the Trademark Trial and Appeal Board.

Amend the title so as to read: “A bill to amend the Trademark Act of 1946 to provide for third-party submission of evidence relating to a trademark application, to establish expungement and ex parte proceedings relating to the validity of marks, to provide for a rebuttable presumption of irreparable harm in certain proceedings, and for other purposes.”.