

AN ACT DEFINING PROPERTY IN TRADE-MARKS AND IN TRADE-NAMES AND PROVIDING FOR THE PROTECTION OF THE SAME, DEFINING UNFAIR COMPETITION AND PROVIDING REMEDIES AGAINST THE SAME, PRO...

Act No. 666, March 06, 1903

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By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. A trade-mark is a name, emblem, sign, or device employed by any person, firm, or corporation to designate the goods dealt in or manufactured by such person, firm, or corporation, for the purpose of enabling the public to recognize such goods and manufactures, and to distinguish them from the goods and manufactures of others.

SEC. 2. Anyone who produces or deals in merchandise of any kind by actual use thereof in trade may appropriate to his exclusive use a trade-mark, not so appropriated by another, to designate the origin or ownership thereof: Provided, That a designation or part of a designation which relates only to the name, quality, or description of the merchandise or geographical place of its production or origin can not be the subject of a trade-mark.

SEC. 3. The ownership or possession of a trade-mark, heretofore or hereafter appropriated, as in Hie foregoing section provided, shall be recognized and protected in the same manner and to the Right of action for same extent, as are other property rights known to the law. To this end any person entitled to the exclusive use of a trade-mark to designate the origin or ownership of goods he has made or deals in may recover damages in a civil action from any person who has sold goods of a similar kind, bearing such trade-mark, and the measure of the damages suffered, at the option of the complaining party, shall be either the reasonable profit which the complaining party would have made had the defendant not sold the goods with the trade-mark aforesaid, or the profit which the defendant actually made out of the sale of the goods with the trade-mark, and in cases where actual intent to mislead the public or to defraud the owner of the trade-mark shall he shown, in the discretion of the court, the damages may be doubled. The complaining party, upon proper showing, may have a preliminary injunction, restraining the defendant temporarily from use of the trade-mark pending the hearing, to be granted or dissolved in the manner provided in the Code of Civil Procedure, and such injunction upon final hearing, if the complainant's property in the trade-mark and the defendant's violation thereof shall be fully established, shall be made perpetual, and this injunction shall be part of the judgment for damages to be rendered in the same cause as above provided.

SEC. 4. In order to justify recovery for violation of trade-mark rights in the preceding sections defined, it shall not be necessary to show that the trade-marks have been registered under the royal decree of eighteen hundred and eighty-eight, providing for registration of trade-marks in the Philippine Islands, in force during the Spanish sovereignty in these Islands, nor shall it be necessary to show that the trade-mark has been registered under this Act. It shall be sufficient to invoke protection of his property in a trademark if the party complaining shall prove that he has used the trade-mark claimed by him upon his goods a sufficient length of time so that the use of the trade-mark by another would be an injury to him and calculated to deceive the public into the belief that the goods

of that other were the goods manufactured or dealt in by the complaining party.

SEC. 5. A trade-name is the name, device, or mark by which is intended to be distinguished from that of others the business, profession, trade, or occupation in which one may be engaged and in which goods are manufactured or sold to the public, work is done for the public, or professional services are rendered to the public. It is not essential that the trade-name should appear on the goods manufactured or dealt in by the person owning or using the same. It is sufficient if the trade-name is used by way of advertisements, signs over the place of business, upon letter heads, and in other ways to furnish to the public a method of distinguishing the business, trade, or occupation of the person owning and using such name. Property in trade-names shall be as fully protected as property in a trade-mark by the civil remedies provided in section three of this Act for the protection of property in trade-marks.

SEC. 6. Any person who, with intent to defraud the public or the owner of a trade-mark or trade-name, shall use the trade-mark of another on his goods offered, for sale, or the trade-name of another in his business, occupation, or profession, and any person who, knowing that a trade-mark has been fraudulently used on goods with the intent aforesaid, shall sell such goods or offer the same for sale, and any person who shall knowingly aid or abet another in such fraudulent use of a trade-mark or trade-name, shall be punished by a fine of not exceeding two thousand five hundred dollars, or by imprisonment not exceeding three years, or both, in the discretion of the court. Any person who knowing the purposes for which such trade-mark or trade-name is to be used, and that it is the property of one person, prints, lithographs, or in any way reproduces such trade-mark or trade-name, or a colorable imitation thereof, for another person to enable that other person fraudulently to use such trade-mark or trade-name in the deception of the public and the defrauding of the real owner of the trade-mark or trade-name, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding eighteen months, or both, in the discretion of the court.

SEC. 7. Any person who in selling his goods shall give them the general appearance of goods of another manufacturer or dealer, either in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer other than the actual manufacturer or dealer, and who clothes the goods with such appearance for the purpose of deceiving the public and defrauding another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose, shall be guilty of unfair competition, and shall be liable to an action for damages, in which the measure shall be the same as that provided for a violation of trademark rights, together with discretionary power in the court to impose double damages, if the circumstances call for the same. The injured party may also have a remedy by injunction similar to that provided for in cases of violation of trade-marks. This section applies in cases where the deceitful appearance of the goods, misleading as to origin or ownership, is effected not by means of technical trade-marks, emblems, signs, or devices, but by the general appearance of the package containing the goods, or by the devices or words thereon, even though such packages, devices, or words are not by law capable of appropriation as trade-marks; and in order that the action shall lie under this section, actual intent to deceive the public and defraud a competitor shall affirmatively appear on the part of the person sought to be made liable, but such intent may be inferred from similarity in the appearance of the goods as packed or ordered for sale to those of the complaining party.

SEC. 8. Any person guilty of unfair competition, as defined in the preceding section, in addition to the civil remedies to which he may be subject, shall also be liable criminally, in case of conviction for the same, to a fine of not exceeding two thousand dollars, or imprisonment not exceeding two years, or both, in the discretion of the court.

SEC. 9. No action, or suit, or criminal prosecution shall be maintained under the provisions of this Act in any case where the violation of the trade-mark or trade-name or the unfair competition complained of has been in any unlawful business, or with respect to any article, trade in which is unlawful, or is against public policy, or in any case where the trade-mark, trade-name, or the indicia of origin, ownership, or manufacture have been used by the complaining and injured party for the purpose of himself deceiving the public with respect to the character of the merchandise sold by him or of the business or profession or occupation carried on by him.

SEC. 10. The use of a trade-mark or trade-name by the assignee of the original manufacturer or dealer who first used and established the exclusive right to use such trade-mark or trade-name in his business, shall be lawful and shall be protected under this Act if the fact of the assignment from the original owner is shown in association with the trade-mark or trade-name wherever used by the assignee.

SEC. 11. The owners of trade-marks or trade-names domiciled in the Philippine Islands, or the United States, or in any foreign country which by treaty, convention, or law affords similar privileges to the citizens of the United States and of the Philippine Islands, may obtain registration of such trade-marks or trade-names by complying with the following requirements:

First. By causing to be recorded in the Bureau of Patents, Copyrights, and Trade-Marks a statement specifying the name, domicile, location, and citizenship of the applicant; the general class or classes of merchandise to which the trade-mark claimed has been appropriated; or in case of a trade-name the description of the business, profession, or occupation it is to distinguish; a description of the trade-mark or trade-name itself, with facsimiles thereof, and a statement of the mode in which the same is applied and affixed to goods, or is to be used in the business, profession, or occupation, and the length of time during which the trade-mark or trade-name has been used.

Second. By paying into the Bureau of Patents, Copyrights, and Trade-Marks the sum of twenty-five dollars, in money of the United States, and complying with such regulations as may be prescribed by the Chief of said Bureau.

SEC. 12. The application prescribed in the foregoing section must be accompanied by a written declaration verified by the person, or by a member of the firm, or by an officer of the corporation applying, to the effect that such party has at the time a right to the use of the trade-mark or trade-name sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; and that the description and facsimiles presented for registry truly represent the trademark sought to be registered.

SEC. 13. The time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark or trade-name shall be registered which is merely the name, quality, or description of the merchandise upon which it is to be used or the geographical place of its production or origin, or which is identical with a registered or known trade-mark owned by another and appropriate to the same class of merchandise, or which so nearly resembles another person's lawful trade-mark or trade-name as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Chief of the Bureau of Patents, Copyrights, and Trade-Marks shall decide the presumptive lawfulness of claim to the alleged trade-mark.

SEC. 14. Certificates of registration of trade-marks and trade-names under the Spanish sovereignty in these Islands, unannulled under the royal decree of eighteen hundred and eighty-eight, shall be conclusive evidence of the exclusive right of ownership of such trade-marks or trade-names in respect to the goods and articles of merchandise or the business, profession, or occupation to which they by the terms of the registration apply.

SEC. 15. Certificates of registry of trade-marks and trade-names of shall be issued in the name of the Insular

Government of the Philippine Archipelago, under the seal of the Department of the Interior, and shall be signed by the Chief of the Bureau of Patents, Copyrights, and Trade-Marks, and a record thereof, together with printed copies of the specific trade-marks or trade-names, shall be kept by him in books for that purpose. Certified copies of trade-marks or trade-names and of statements and declaration filed therewith, and original certificates of registry, shall be evidence in any suit in which such trade-marks or trade-names shall be brought into controversy. But registration of trade-marks and trade-names under this Act shall only be prima facie evidence of the exclusive right by the person securing the registration to use the same.

SEC. 16. A certificate of registry shall remain in force for thirty years from its date, except in cases where the trade-mark is claimed for, and applied to, articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this Act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years, such registration may be renewed on the same terms and for a like period.

SEC. 17. Applicants for registration under this Act shall be credited for any fee or part of a fee heretofore paid into the Bureau of Patents, Copyrights, and Trade-Marks with intent to procure protection for the same trade-mark or trade-name.

SEC. 18. Any person who shall procure the registry of a trade-mark, or of himself as the owner a trade-mark or trade-name, or an entry respecting a trade-mark or trade-name, in the Bureau of Patents, Copyrights, and Trade-Marks, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, or any person who shall aid or abet such fraudulent procuring of registry, shall be liable to pay any damages sustained in consequence thereof to the injured party; and shall further be liable to criminal prosecution, and upon conviction shall be punished by a fine of not more than one thousand dollars, or imprisonment for not more than one year and one day, or both, in the discretion of the court.

SEC. 19. The Chief of the Bureau of Patents, Copyrights, and Trade-Marks is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks or trade-names and for recording such transfers in his office.

SEC. 20. The citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose, as is above allowed to foreigners, and have certificate thereof from the Bureau of Patents, Copyrights, and Trade-Marks, upon payment of the same fee as that required by section eleven.

SEC. 21. All the duties appertaining to the Bureau of Patents, Copyrights, and Trade-Marks are hereby devolved upon the Chief of the Bureau of Forestry.

SEC. 22. The royal decree of eighteen hundred and eighty-eight as to the registration of trade-marks, as continued in force by military order, is hereby repealed.

SEC. 23. This Act shall take effect on its passage.

Enacted, March 6, 1903.

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