

AN ACT AMENDING SECTIONS SEVEN AND EIGHT OF ACT NUMBERED SIX HUNDRED AND SIXTY-SIX OF THE PHILIPPINE COMMISSION, DEFINING AND PENALIZING UNFAIR COMPETITION.

Act No. 3423, December 09, 1927

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section seven of Act Numbered Six hundred and sixty-six is hereby amended so as to read as follows:

"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 the manner of their manufacture, 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 who holds a duly registered patent therefor or who has long been accustomed to manufacture or sell such goods and who is 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 trade-mark 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 may be inferred from similarity in the appearance of the goods as packed or offered for sale to those of the complaining party."

SEC. 2. Section eight of the same Act is hereby amended by adding thereto the following:

"When the plaintiff in any case alleges under oath that he is the holder of a duly registered patent and that the defendant has in his possession goods, wares, or merchandise so manufactured, marked, stamped, or designed, and offered for sale by the defendant in such a way that the public might be easily deceived, believing such articles or things to be those for which the plaintiff holds a duly registered patent, thus constituting unfair competition as defined in the preceding section, then upon the filing of such complaint and the execution of an attachment bond by plaintiff in favor of the defendant in an amount to be fixed by the court in accordance with the Code of Civil Procedure, a writ of attachment may thereupon be issued, ordering the seizure of such goods, wares and articles as the defendant may have in his possession, unless the said defendant shall file a bond which the court may determine to be held pending final adjudication of the case, and should final judgment be rendered in behalf of the plaintiff, such goods thus seized may be confiscated and sold by the order of the court and the proceeds of the sale thereof applied toward the payment of the damages sustained by the injured party, if any be proven, and the cost of the proceedings and payment of the fines which may be imposed upon the

defendant, and the balance delivered to him: Provided, further, That any person who knowingly assists in the manufacturing, marketing, stamping, designing, sale or offering for sale of articles so manufactured, marked, stamped, or designed for the purpose of deceit as penalized herein, shall be subject to the same penalties as those established herein for the person primarily liable."

SEC. 3. This Act shall take effect on its approval.

Approved, December 9, 1927.

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