

## [ Act No. 666, March 06, 1903 ]

### **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, PROVIDING REGISTRATION FOR TRADE-MARKS AND TRADE-NAMES, AND DEFINING THE EFFECT TO BE GIVEN TO REGISTRATION UNDER THE SPANISH ROYAL DECREE OF EIGHTEEN HUNDRED AND EIGHTY-EIGHT RELATING TO THE REGISTRATION OF TRADE-MARKS, AND THE EFFECT TO BE GIVEN TO REGISTRATION UNDER THIS ACT.**

*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 the foregoing section provided, shall be recognized and protected in the same manner and to the 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 be 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