

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 578

S. P. 213

In Senate, February 3, 1981

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Collins of Knox.

Cosponsor: Representative Jackson of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Clarifying the Laws Relating to the Registration and Protection of Trademarks.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 10 MRSA § 1522, sub-§ 1, ¶ E, last sentence, as enacted by PL 1979, c. 572, § 2, is amended to read:

The Secretary of State may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this State or elsewhere for the 5 years next preceding the date of the filing of the application for registration; or

Sec. 2. 10 MRSA § 1522, sub-§ 1, ¶ F, as enacted by PL 1979, c. 572, § 2, is amended to read:

F. Consists of or comprises a mark which so resembles a corporate name or a mark registered in this State or a mark or trade name previously used in this State by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive; or.

Sec. 3. 10 MRSA § 1522, sub-§ 1, ¶ G, as enacted by PL 1979, c. 572, § 2, is repealed.

Sec. 4. 10 MRSA § 1522, sub-§ 2, next to last ¶, as enacted by PL 1979, c. 572, § 2, is amended to read:

The application shall be accompanied by a specimen or facsimile of the mark in ~~triplicate duplicate~~.

Sec. 5. 13-A MRSA § 301, sub-§ 1, ¶ C, as enacted by PL 1979, c. 572, § 8, is amended to read:

C. Shall not be the same as, or deceptively similar to, any ~~trade-mark trademark~~ or service mark registered by another under Title 10, chapter 301-A, if, when used in connection with the business of that corporation, it is likely to cause confusion or mistake, or to deceive.

Sec. 6. 13-A MRSA § 301, sub-§ 5, first sentence, as amended by PL 1979, c. 572, § 9, is further amended to read:

Any corporation may grant to any domestic corporation or any foreign corporation authorized to transact business in this State, or to any person, by executing and filing with the Secretary of State, as provided in ~~section sections~~ 104 and 106, proof of a resolution of its board of directors making such grant, the exclusive right thereafter to authorize the use of a name similar to that of the granting corporation by any other corporation or corporations, or person for use as a name or as a ~~trade-mark trademark~~ or service mark as defined in Title 10, chapter 301-A, provided such use as a trademark or service mark is not likely to cause confusion or mistake, or to deceive.

Sec. 7. 13-A MRSA § 303, sub-§ 1, as amended by PL 1979, c. 572, § 10, is further amended to read:

1. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this Act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State, or the name of any foreign corporation authorized to transact business in this State, or any corporate name reserved or registered under this Act, or any ~~trade-mark trademark~~ or service mark registered by another under Title 10, chapter 301-A, provided such use is not likely to cause confusion or mistake, or to deceive.

Sec. 8. 13-B MRSA § 301, sub-§ 1, ¶ C, as enacted by PL 1979, c. 572, § 12, is amended to read:

C. Shall not be the same as, or deceptively similar to, any ~~trade-mark trademark~~ or service mark registered by another under Title 10, chapter 301-A, if, when used in connection with the business of that corporation, it is likely to cause confusion or mistake, or to deceive.

Sec. 9. 13-B MRSA § 301, sub-§ 3, first sentence, as repealed and replaced by PL 1979, c. 663, § 72, is amended to read:

Any corporation may grant to any domestic business or nonprofit corporation or any foreign business or nonprofit corporation authorized to carry on activities in this State, or to any person, by executing and filing with the Secretary of State as

provided in sections 104 and 106 proof of a resolution of its board of directors making such grant, the exclusive right thereafter to authorize the use of a name similar to that of the granting corporation by any other corporation or corporations, or person for use as a name or as a ~~trade-mark~~ trademark or service mark as defined in Title 10, chapter 301-A, **provided such use as a trademark or service mark is not likely to cause confusion or mistake, or to deceive.**

Sec. 10. 13-B MRSA § 303, sub-§ 1, as amended by PL 1979, c. 572, § 14, is further amended to read:

1. Name registered. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this Act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic business or nonprofit corporation existing under the laws of this State, or the name of any foreign business or nonprofit corporation authorized to carry on activities in this State, or any corporate name reserved or registered under Title 13-A or this section or section 302, or any ~~trade-mark~~ trademark or service mark registered under Title 10, chapter 301-A, **provided such use is not likely to cause confusion or mistake, or to deceive.**

STATEMENT OF FACT

This bill makes certain amendments to existing statutes which relate to the registration and protection of trademarks and service marks. These amendments are made in light of experience during the first year of operation of the new trademark law enacted in 1979, Title 10, section 1521 et seq.