

MAINE STATE LEGISLATURE

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SIXTY-FIRST LEGISLATURE.

HOUSE.

No. 183.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
EIGHTY-THREE.

AN ACT concerning trade-marks and their registra-
tion.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

SECTION 1. Any person entitled to the exclusive
2 use of any lawful trade-mark, or who intends to
3 adopt and use any lawful trade-mark not previously
4 adopted or used by another, may file for record in
5 the office of the secretary of this state a certificate
6 setting forth his name, residence and place of
7 business; the class of merchandise and the particu-
8 lar description of goods comprised in such class to
9 which such trade-mark has been or is to be appro-
10 priated; a description of such trade-mark, and of
11 the mode in which it is to be applied and used;

12 the date when such trade-mark was first used or
13 adopted; that he has a right to the use of it; and
14 that no other person, firm or corporation has the
15 right to such use, either in the identical form, or
16 having such near resemblance thereto as might be
17 calculated to deceive. A fac simile of such trade-
18 mark shall be incorporated in or annexed to said
19 certificate, and a duplicate shall be filed therewith,
20 to be pasted or bound into the record book, if
21 practicable. Such certificate shall be signed by
22 the person in whose behalf it is filed, or by his
23 agent, and the person so signing it shall make
24 oath or affirm that all the statements therein con-
25 tained are true, to the best of his knowledge and
26 belief.

·SECT. 2. Any person who shall wilfully swear
2 or affirm falsely in any such affirmation or affida-
3 davit, as to any matter therein required to be set
4 forth, shall be guilty of perjury, and shall pay
5 treble damages to every party injured thereby.

·SECT. 3. If the secretary of the state has reason
2 to apprehend, on the filing of any such certificate,
3 that the statements therein contained, or any of
4 them are untrue, he may decline to record the
5 same unless the party filing it shall obtain a writ

6 of mandamus to compel such recording. Such
7 writ may be granted, but without costs to the
8 secretary, by any proper court, on due proof that
9 all the statements in such certificate be true, but
10 no final hearing on the application therefor shall
11 be had until such notice thereof, as the said court
12 may order, has been advertised in one or more
13 newspapers published in the county where the
14 party filing said certificate resides; and any per-
15 sons who desire may appear and intervene as
16 parties defendant, and oppose the granting of such
17 writ, and shall be liable to judgment for any costs
18 occasioned by such intervention.

SECT. 4. Every party having the lawful right to
2 make and file such certificate and affidavit, upon
3 the recording of the same in said office, shall be-
4 come entitled to the exclusive use of the trade-
5 mark therein described for so long as he or his
6 assigns shall continue to be engaged in the manu-
7 facture or sale of the merchandise or description of
8 goods to which it is appropriated, and such right
9 shall be assignable in writing; but all assignments
10 thereof shall be good only against the assignor and
11 his personal representatives until lodged for record
12 in said office.

SECT. 5. The secretary of this state shall retain
2 all such certificates on file, and cause the same and
3 all assignments of trade-mark rights to be recorded
4 at length in his office, and shall be entitled to a fee
5 of three dollars for each certificate, and one dollar
6 for each assignment so filed and recorded. Copies
7 of the record of any such certificate attested by
8 him under the seal of the state, shall be *prima*
9 *facie* evidence of the right of the party filing such
10 certificate to the exclusive use of the trade-mark
11 therein described for the periods limited to section
12 four.

SECT. 6. Any person who shall reproduce, copy,
2 counterfeit, or imitate any such recorded trade-
3 mark, knowing the same to have been recorded and
4 affix such reproduction, copy, counterfeit, or imita-
5 tion to goods resembling or designed to resemble
6 those to which trade-mark is so appropriated, shall
7 pay to the owner of such trade-mark double dam-
8 ages, and also such sum, not exceeding five hun-
9 dred dollars, as the court before which the action
10 is brought may order to be added to the damages
11 found by the verdict or judgment.

SECT. 7. This act shall not abridge any rights
2 to any existing trade-marks, whether the same

3 shall be hereafter recorded or not, nor any reme-
4 dies or rights of action otherwise or heretofore ex-
5 isting in favor of owners of trade-marks.

SECT. 8. Every person who fraudulently and
2 with intent to deceive, affixes any trade-mark re-
3 corded under this act, or any such imitation
4 thereof as is calculated to deceive, to any goods,
5 receptacle or package similar in descriptive prop-
6 erties to those to which such trade-mark is appro-
7 priated, or who fraudulently and with intent to
8 deceive, places in any receptacle or package to
9 which is lawfully affixed a recorded trade-mark,
10 goods other than those which said trade-mark is
11 designed and appropriated to protect; or who
12 fraudulently and with intent to deceive, deals in or
13 keeps for sale any goods with a trade-mark fraud-
14 ulently affixed, as above described in this section,
15 or any goods contained in any package or recepta-
16 cle having a lawful trade-mark, but not being such
17 goods as said trade-mark was designed and appro-
18 priated to protect, shall be fined not more than five
19 hundred dollars, or imprisoned not more than thirty
20 days, or both.

SECT. 9. The word "person" in this act in-
2 cludes any person or persons, firm or corporation.

STATE OF MAINE.

In HOUSE OF REPRESENTATIVES, }
March 6, 1883. }

Reported by Mr. HEATH, from Committee on the Judiciary,
and ordered printed.

ORAMANDAL SMITH, *Clerk.*