

RECENT LEGISLATIONS

FIRST CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
Second Session

H. No. 1157

[REPUBLIC ACT NO. 166]

AN ACT TO PROVIDE FOR THE REGISTRATION AND PROTECTION OF TRADE-MARKS, TRADE-NAMES AND SERVICE-MARKS, DEFINING UNFAIR COMPETITION AND FALSE MARKING AND PROVIDING REMEDIES AGAINST THE SAME, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I.—*Powers, Duties and Functions of Patent Office*

SECTION 1. *Transfer of powers from Bureau of Commerce to Patent Office.*—The powers, duties and functions vested in, or performed and exercised by, the Bureau of Commerce in connection with the registration of trade-marks, trade-names and other marks are hereby transupon the Patent Office.

All books, records, documents and files of the Bureau of Commerce relating to trade-marks, trade-names and other marks, and such personnel of the said Bureau as is now discharging the functions or performing the duties of the Bureau of Commerce in connection with the registration of trade-marks, trade-names

and other marks together with the corresponding appropriation, are transferred to the Patent Office, and the Budget Commissioner shall make immediate provision for such transfer.

CHAPTER II.—*Registration of Marks and Trade-Names*

SEC. 2. *What are registrable.*—Trade-marks, trade-names and service-marks may be registered in accordance with the provisions of this Act.

SEC. 3. *Application by non-residents.*—Any person filing an application for the registration of a mark or trade-name, who is not a resident of the Philippines, must appoint an agent or representative in the Philippines upon whom notice or process relating to the application or registration of the mark or trade-name may be served. In the event of death, absence or inability of the agent or representative, a new agent or representative must be appointed, and notice thereof must be filed in the Patent Office. Upon failure to maintain an agent or representative of record in the Patent Office, service on the Director shall be deemed sufficient.

SEC. 4. *Registration of trade-marks, trade-names and service-marks.*—The owner of a trade-mark, trade-name or service-mark used to distinguish his goods, business or services from the goods, business or serv-

ices of others shall have the right to register the same, unless it:

(a) Consists of or comprises immoral, deceptive or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute;

(b) Consists of or comprises the flag or coat of arms or other insignia of the Philippines or any of its political subdivisions, or of any foreign nation, or any simulation thereof;

(c) Consists of or comprises a name, portrait, or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the Philippines, during the life of his widow, if any, except by the written consent of the widow;

(d) Consists of or comprises a mark or trade-name which so resembles a mark or trade-name registered in the Philippines or a mark or trade-name previously used in the Philippines by another and not abandoned, as to be likely, when applied to or used in connection with the goods, business or services of the applicant, to cause confusion or mistake or to deceive purchasers; or

(e) Consists of a mark or trade-name which, when applied to or used in connection with the goods, business or services of the applicant is merely descriptive or deceptively misdescriptive of them, or when applied to or used in connection with the goods, business or services of the applicant is primarily geographically

descriptive or deceptively misdescriptive of them, or is primarily merely a surname.

(f) Except as expressly excluded in paragraphs (a), (b), (c) and (d) of this section. Nothing herein shall prevent the registration of a mark or trade-name used by the applicant which has become distinctive of the applicant's goods, business or services. The Director may accept as *prima facie* evidence that the mark or trade-name has become distinctive, as applied to or used in connection with the applicant's goods, business or services, proof of substantially exclusive and continuous use thereof as a mark or trade-name by the applicant in connection with the sale of goods, business or services for the five years next preceding the date of the filing of the application for its registration.

SEC. 5. *Requirements of the application.*—The application for the registration of a mark or trade-name shall be in English or Spanish, or in the national language, with its corresponding English translation, and signed by the applicant, and shall include:

(a) Sworn statement of the applicant's domicile and citizenship, the date of the applicant's first use of the mark or trade-name, the date of the applicant's first use of the mark or trade-name in commerce or business, the goods, business or services in connection with which the mark or trade-name is used and the mode or manner in which the mark is used in connection with such goods, business or services, and that the person making

the application believes himself, or the firm, corporation or association on whose behalf he makes the verification, to be the owner of the mark or trade-name sought to be registered, that the mark or trade-name is in use in commerce or business, and that to the best of his knowledge no person, firm, corporation or association has the right to use such mark or trade-name in commerce or business either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive;

(b) Such number of specimens or facsimiles of the mark or trade-name as actually used as may be required by the Director;

(c) Power of attorney, if the filing is through attorney;

(d) The appointment of an agent or representative, if the applicant is not domiciled in the Philippines; and

(e) The required fee.

SEC. 6. Classification of goods and services.—The Director shall establish a classification of goods and services, for the convenience of the Patent Office administration, but not to limit or extend the applicant's rights. The applicant may register his mark or trade-name in one application for any or all of the goods or services included in one class, upon or in connection with which he is actually using the mark or trade-name. The Director may issue a single certificate for one mark or trade-name registered in a plurality of classes upon payment of a fee equaling the sum of the fees for each registration in each class.

SEC. 7. Examination and publication.—Upon the filing of an application for registration and the payment of the required fee, the Director shall cause an examination of the application to be made, and, if on such examination it shall appear that the applicant is entitled to registration, the Director, upon payment of the required fee, shall cause the mark or trade-name to be published in the *Official Gazette*.

If the applicant is found not entitled to registration, the Director shall advise the applicant thereof and of the reasons therefor. The applicant shall have a period of three months in which to reply or amend his application, which shall then be re-examined. This procedure may be repeated until the Director finally refuses registration or the applicant fails within the required period to reply or amend or appeal, whereupon the application shall be deemed to have been abandoned, unless it can be shown to the satisfaction of the Director that the delay in responding was unavoidable, in which event such time may be extended in the discretion of the Director. An abandoned application may be revived as a pending application within three months from the date of abandonment, upon good cause shown and the payment of the required fee.

SEC. 8. Opposition.—Any person who believes that he would be damaged by the registration of a mark or trade-name may, upon payment of the required fee and within thirty days after the publication under the first paragraph of section seven here-

of, file with the Director an opposition to the application. Such opposition shall be in writing and verified by the oppositor, or by any person on his behalf who knows the facts, and shall specify the grounds on which it is based and include a statement of the facts relied upon. Copies of certificates of registration of marks or trade-names registered in other countries or other supporting documents mentioned in the opposition shall be filed therewith, together with the translation thereof into English, if not in the English language. For good cause shown and upon payment of the required surcharge, the time for filing an opposition may be extended for an additional thirty days by the Director, who shall notify the applicant of such extension.

SEC. 9. Notice and hearing.—Upon the filing of an opposition, the Director shall forthwith serve notice of the filing on the applicant, and of the date of the hearing thereof upon the applicant and the oppositor and all other persons having any right, title or interest in the mark or trade-name covered by the application, as appear of record in the Patent Office.

SEC. 10. Issuance and publication of certificates.—When the period for filing the opposition has expired, or when the Director shall have denied the opposition, the Director, upon payment of the required fee, shall issue the certificate of registration. Upon issuance of a certificate of registration, notice thereof making reference to the publication of the application shall be published in the *Official Gazette*.

SEC. 11. Issuance and contents of the certificate.—Certificates of registration shall be issued in the name of the Republic of the Philippines under the seal of the Patent Office, and shall be signed by the Director, and a record thereof together with a copy of the specimen or facsimile and the statement of the applicant, shall be kept in books for that purpose. The certificate shall reproduce the specimen or facsimile of the mark or trade-name, contain the statement of the applicant and state that the mark or trade-name is registered under this Act, the date of the first use, the date of the first use in commerce or business, the particular goods or services for which it is registered, the number and date of the registration, the term thereof, the date on which the application for registration was received in the Patent Office, a statement of the requirement that in order to maintain the registration, periodical affidavits of use within the specified times hereinafter in section twelve provided, shall be filed, and such other data as the rules and regulations may from time to time prescribe.

SEC. 12. Duration.—Each certificate of registration shall remain in force for twenty years: *Provided*, That registrations under the provisions of this Act shall be cancelled by the Director, unless within one year following the fifth, tenth and fifteenth anniversaries of the date of issue of the certificate of registration, the registrant shall file in the Patent Office an affidavit showing that the mark or trade-name is still in use or

showing that its non-use is due to special circumstances which excuse such non-use and is not due to any intention to abandon the same, and pay the required fee.

The Director shall notify the registrant who files the above-prescribed affidavits of his acceptance or refusal thereof and, if a refusal, the reasons therefor.

SEC. 13. *Disclaimers before issue.*

—The Director shall require unregistrable matter to be disclaimed, but such disclaimer shall not prejudice or affect the applicant's or owner's rights then existing or thereafter arising in the disclaimed matter, nor shall such disclaimer prejudice or affect the applicant's or owner's rights of registration on another application of later date if the disclaimed matter has become distinctive of the applicant's or owner's goods, business or services.

SEC. 14. *Voluntary surrender, cancellation, amendment and disclaimer after registration.*—At any time, upon application of the registrant and payment of the required fee, the Director may permit any registration to be surrendered, cancelled, or for good cause shown to be amended, and he may permit any registered mark or trade-name to be disclaimed in whole or in part: *Provided*, That the registration when so amended shall still contain registrable matter and the mark or trade-name as amended shall still be registrable as a whole, and that such amendment or disclaimer does not involve such changes in the registration as to alter materially the character of the mark

or tradename. The Director shall make appropriate entry upon the records of the Patent Office and upon the certificate of registration or, if said certificate is lost or destroyed, upon a certified copy thereof. The Director in his discretion and upon payment of the required fee, may issue a substitute certificate limited to the term of the original certificate and incorporating such amendment or correction.

CHAPTER III.—*Renewals of Certificate of Registration*

SEC. 15. *Renewal.*—Each certificate of registration may be renewed for periods of twenty years from the end of the expiring period upon the filing of an application therefor and the payment of the required fee. Such application for renewal shall include a sworn statement of the applicant's domicile and citizenship, the specific goods, business or services in connection with which the mark or trade-name is still in use, the period of any non-use in reference to the specific goods, business or services covered by original or renewed certificates of registration and any rights granted third parties for the use of the mark or trade-name, any additional goods, business or services to which the mark or trade-name has been extended during the period of the original or renewed certificates of registration, and any material variation in the manner of display of the mark or trade-name from that shown in the original or renewed certificate of registration. The applicant shall file the application within six months before the expiration of

the period for which the certificate of registration was issued or renewed, or it may be made within three months after such expiration for good cause shown and upon payment of the required surcharge.

In the event the applicant for renewal be not domiciled in the Philippines, he shall be subject to and comply with the provisions of paragraph (d), section five, Chapter II hereof.

SEC. 16. *Effect of failure to renew registration.*—Mere failure to renew any registration shall not affect the right of the registrant to apply for and obtain a new registration under the provisions of this Act, nor shall such failure entitle any other person to register a mark or trade-name unless he is entitled thereto in accordance with the provisions of this Act.

CHAPTER IV.—*Cancellation of Registration*

SEC. 17. *Grounds for cancellation.*—Any person, who believes that he is or will be damaged by the registration of a mark or trade-name, may, upon the payment of the prescribed fee, apply to cancel said registration upon any of the following grounds:

(a) That the registered mark or trade-name becomes the common descriptive name of an article or substance on which the patent has expired;

(b) That it has been abandoned;

(c) That the registration was obtained fraudulently or contrary to the provisions of section four, Chapter II hereof;

(d) That the registered mark or trade-name has been assigned, and

is being used by, or with the permission of, the assignee so as to misrepresent the source of the goods, business or services in connection with which the mark or trade-name is used; or

(e) That cancellation is authorized by other provisions of this Act.

SEC. 18. *Requirements of petition; notice and hearing.*—Insofar as applicable, the petition herein shall be in the same form as that provided in section eight, Chapter II hereof, and notice and hearing shall be as provided in section nine, Chapter II hereof.

SEC. 19. *Cancellation of registration.*—If the Director finds that a case for cancellation has been made out he shall order the cancellation of the registration. The order shall not become effective until the period for appeal has elapsed, or if appeal is taken, until the judgment on appeal becomes final. When the order or judgment becomes final, any right conferred by such registration upon the registrant or any person in interest of record shall terminate. Notice of cancellation shall be published in the *Official Gazette*.

CHAPTER V.—*Rights and Remedies*

SEC. 20. *Certificate of registration prima facie evidence of validity.*—A certificate of registration of a mark or trade-name shall be *prima facie* evidence of the validity of the registration, the registrant's ownership of the mark or trade-name, and of the registrant's exclusive right to use the same in connection with the goods, business or services specified in the

certificate, subject to any conditions and limitations stated therein.

SEC. 21. Requirements of notice of registration of trade-mark.—The registrant of a trade-mark, heretofore registered or registered under the provisions of this Act, shall give notice that his mark is registered by displaying with the same as used the words "Registered in the Philippines Patent Office" or "Reg. Phil. Pat. Off."; and in any suit for infringement under this Act by a registrant failing so to mark the goods bearing the registered trade-mark, no damages shall be recovered under the provisions of this Act, unless the defendant has actual notice of the registration.

SEC. 22. Infringement, what constitutes.—Any person who shall use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of any registered mark or trade-name in connection with the sale, offering for sale, or advertising of any goods, business or services on or in connection with such use is likely to cause confusion or mistake or to deceive purchasers or others as to the source or origin of such goods or services, or identity of such business; or reproduce, counterfeit, copy or colorably imitate any such mark or trade-name and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used upon or in connection with such goods, business or services, shall be liable to a civil action by the regis-

trant for any or all of the remedies herein provided.

SEC. 23. Actions, and damages and injunction for infringement.—Any person entitled to the exclusive use of a registered mark or trade-name may recover damages in a civil action from any person who infringes his rights, and the measure of the damages suffered shall be either the reasonable profit which the complaining party would have made, had the defendant not infringed his said rights, or the profit which the defendant actually made out of the infringement, or in the event such measure of damages cannot be readily ascertained with reasonable certainty, then the court may award as damages a reasonable percentage based upon the amount of gross sales of the defendant of the value of the services in connection with which the mark or trade-name was used in the infringement of the rights of the complaining party. In cases where actual intent to mislead the public or to defraud the complaining party shall be shown, in the discretion of the court, the damages may be doubled.

The complaining party, upon proper showing, may also be granted injunction.

SEC. 24. Power of court to order infringing material destroyed.—In any action arising under this Act, in which a violation of any right of the registrant shall have been established, the court may order that all labels, signs, prints, packages, wrappers, receptacles and advertisements in the possession of the defendant, bearing the registered mark or trade-name or

any reproduction, counterfeit, copy or colorable imitation thereof, and all plates, molds, matrices and other means of making the same, shall be delivered up and destroyed.

SEC. 25. Authority to determine right to registration.—In any action involving a registered mark or trade-name the court may determine the right to registration, order the cancellation of registrations, in whole or in part, restore cancelled registration, and otherwise rectify the register with respect to the registration of any party to the action. Judgments and orders shall be certified by the court to the Director, who shall make appropriate entry upon the records of the Patent Office, and shall be controlled thereby.

SEC. 26. Action for false or fraudulent declaration.—Any person who shall procure registration in the Patent Office of a mark or trade-name by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable in a civil action by any person injured thereby for any damages sustained in consequence thereof.

SEC. 27. Jurisdiction of Court of First Instance.—All actions under this Chapter and Chapters VI and VII hereof shall be brought before the proper Court of First Instance.

SEC. 28. Appeal.—Appeal may be taken from any judgment or final order of the Court of First Instance in the same manner as in other actions.

CHAPTER VI.—*Unfair Competition*

SEC. 29. Unfair competition, rights and remedies.—A person who has

identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a mark or trade-name is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights. Such a person shall have the remedies provided in section twenty-three, Chapter V hereof.

Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefor.

In particular, and without in any way limiting the scope of unfair competition, the following shall be deemed guilty of unfair competition:

(a) Any person, who in selling his goods shall give them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or 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, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud an-

other 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;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

CHAPTER VII.—False Designation of Origin and False Description

SEC. 30. False designation of origin and false description forbidden.—Any person who shall affix, apply, annex or use in connection with any goods or services, or any container or containers for goods, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such goods or services to enter into commerce, and any person who shall with knowledge of the falsity of such designation of origin or description or representation cause or procure the same to enter into commerce, shall be liable to a civil action for damages and injunction provided in section twenty-three, Chapter V hereof, by any person doing business in the locality falsely indicated as that of origin or in the region in which said locality

is situated, or by any person who believes that he is or is likely to be damaged by the use of any such false description or representation.

CHAPTER VIII.—Assignment and Transmission of Rights

SEC. 31. Rights assignable and term of assignment.—A registered mark or trade-name, or one for which application to register has been filed shall be assignable with the goodwill of the business in which the mark or trade-name is used, or with that part of the goodwill of the business connected with the use of and symbolized by the mark or trade-name, and in any such assignment it shall not be necessary to include the goodwill of the business connected with the use of and symbolized by any other mark or trade-name used in the business or by the name or style under which the business is conducted. Upon payment of the required fee, the Director shall record assignments in due form in books kept for that purpose.

The assignment must be in writing, acknowledged before a notary public or other officer authorized to administer oaths or perform other notarial acts and certified under the hand and official seal of the notary or other officer.

An assignment shall be void as against any subsequent purchaser for a valuable consideration without notice, unless it is recorded in the Patent Office within three months after the date thereof or prior to such subsequent purchase.

SEC. 32. *Issuance of certificate of registration to assignee.*—A certificate of registration of a mark or trade-name may be issued to the assignee of the applicant, but the assignment must first be recorded in the Patent Office. In case of change of ownership the Director shall, at the request of the owner and upon proper showing and payment of the required fee, issue to such assignee a new certificate of registration of the said mark or trade-name in the name of such assignee, and for the unexpired part of the original period.

CHAPTER IX.—*Review of Orders or Decisions of Director*

SEC. 33. *Appeal from action of Director.*—Any party who has been denied registration of a mark or trade-name, or to the renewal of the registration, or to any cancellation proceeding in the Patent Office, may appeal to the Supreme Court from the final order or decision of the Director.

SEC. 34. *Procedure on appeal.*—Sections sixty-three to seventy-three, inclusive, Chapter VIII, of Republic Act No. 165 entitled "An Act creating a Patent Office, prescribing its powers and duties, regulating the issuance of patents, and appropriating funds therefor," shall be applicable to the appeals herein provided.

CHAPTER X.—*Importations Prohibited*

SEC. 35. *Goods bearing infringing marks or trade-names.*—No article of imported merchandise which shall copy or simulate the name of any domestic product, or manufacturer,

or dealer, or of any manufacturer or dealer located in any foreign country which, by treaty, convention or law affords similar privileges to citizens of the Philippines, or which shall copy or simulate a mark or trade-name registered in accordance with the provisions of this Act, or shall bear a mark or trade-name calculated to induce the public to believe that the article is manufactured in the Philippines, or that it is manufactured in any foreign country or locality other than the country or locality where it is in fact manufactured, shall be admitted to entry at any customhouse of the Philippines. In order to aid the officers of the customs service in enforcing this prohibition, any person who is entitled to the benefits of this Act, may require his name and residence, and the name of the locality in which his goods are manufactured, a copy of the certificate of registration of his mark or trade-name to be recorded in books which shall be kept for this purpose in the Bureau of Customs, under such regulations as the Collector of Customs with the approval of the Secretary of Finance shall prescribe, and may furnish to the said Bureau facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered mark or trade-name, and thereupon the Collector of Customs shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the Bureau of Customs.

SEC. 36. *Goods with false designation of origin and false description.*

—Any goods marked or labeled in contravention of the provisions of section thirty, Chapter VII hereof, shall not be imported into the Philippines or admitted to entry at any customhouse in the Philippines.

CHAPTER XI.—*Provisions in Reference to Foreign Industrial Property*

SEC. 37. *Rights of foreign registrants.*—Persons who are nationals of, domiciled in, or have a bona fide or effective business or commercial establishment in any foreign country, which is a party to any international convention or treaty relating to marks or trade-names, or the repression of unfair competition to which the Philippines may be a party, shall be entitled to the benefits and subject to the provisions of this Act to the extent and under the conditions essential to give effect to any such convention and treaties so long as the Philippines shall continue to be a party thereto, except as provided in the following paragraphs of this section.

No registration of a mark or trade-name in the Philippines by a person described in the preceding paragraph of this section shall be granted until such mark or trade-name has been registered in the country of origin of the applicant, unless the applicant alleges use in commerce.

For the purposes of this section, the country of origin of the applicant is the country in which he has a bona fide and effective industrial or commercial establishment, or if he has not such an establishment in

the country in which he is domiciled, or if he has not a domicile in any of the countries described in the first paragraph of this section, the country of which he is a national.

An application for registration of a mark or trade-name under the provisions of this Act filed by a person described in the first paragraph of this section who has previously duly filed an application for registration of the same mark or trade-name in one of the countries described in said paragraph shall be accorded the same force and effect as would be accorded to the same application if filed in the Philippines on the same date on which the application was first filed in such foreign country: *Provided, That—*

(a) The application in the Philippines is filed within six months from the date on which the application was first filed in the foreign country; and within three months from the date of filing or within such time as the Director shall in his discretion grant, the applicant shall furnish a certified copy of the application for or registration in the country of origin of the applicant, together with a translation thereof into English, if not in the English language;

(b) The application conforms as nearly as practicable to the requirements of this Act, but use in commerce need not be alleged;

(c) The rights acquired by third parties before the date of the filing of the first application in the foreign country shall in no way be affected by a registration obtained on an ap-

plication filed under this paragraph; and

(d) Nothing in this paragraph shall entitle the owner of a registration granted under this section to sue for acts committed prior to the date on which his mark or trade-name was registered in this country unless the registration is based on use in commerce.

The registration of a mark under the provisions of this section shall be independent of the registration in the country of origin and the duration, validity or transfer in the Philippines of such registration shall be governed by the provisions of this Act.

Trade-names of persons described in the first paragraph of this section shall be protected without the obligation of filing or registration whether or not they form parts of marks.

Any person designated in the first paragraph of this section as entitled to the benefits and subject to the provisions of this Act shall be entitled to effective protection against unfair competition, and the remedies provided herein for infringement of marks and trade-names shall be available so far as they may be appropriate in repressing acts of unfair competition.

Citizens or residents of the Philippines shall have the same benefits as are granted by this section to persons described in the first paragraph hereof.

CHAPTER XII.—*Construction and Definitions*

SEC. 38. *Words and terms defined and construed.*—In the construction

of this Act, unless the contrary is plainly apparent from the context—

The term "trade-name" includes individual names and surnames, firm names, trade-names, devices or words used by manufacturers, industrialists, merchants, agriculturists, and others to identify their business, vocations or occupations; the names or titles lawfully adopted and used by natural or juridical persons, unions, and any manufacturing, industrial, commercial, agricultural or other organizations engaged in trade or commerce.

The term "trade-mark" includes any word, name, symbol, emblem, sign or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured, sold or dealt in by others.

The term "service-mark" means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others and includes without limitation the marks, names, symbols, titles, designations, slogans, character names, and distinctive features of radio or other advertising.

The word "business" includes vocations or occupations.

The term "mark" includes any trade-mark or service-mark entitled to registration under this Act whether registered or not.

The word "registrant" includes the owner of a registered mark or trade-name.

CHAPTER XIII.—*Fees*

SEC. 39. *Fees.*—The following fees shall be paid:

For filing application for registration for each class included in the application, fifty pesos;

For filing application for revival of abandoned application for registration, twenty-five pesos;

For publication in the *Official Gazette* of allowance of application, fifty pesos;

For filing of opposition, fifty pesos;

For issuance and publication of certificate of registration, twenty-five pesos;

For filing each affidavit required by section twelve, Chapter II hereof, twenty-five pesos;

For filing disclaimer, amendment, surrender, or cancellation after registration, twenty pesos;

For issuance of a substitute certificate of registration following correction of a registrant's mistake, twenty-five pesos;

For issuance of a new certificate of registration following change of ownership of a mark, twenty-five pesos;

For filing petition for renewal of certificate of registration for each class, fifty pesos;

For filing petition for cancellation, fifty pesos;

For surcharge for any delayed payment or any delayed action of an applicant or registrant, twenty-five pesos;

For notice of appeal from orders or decisions of Commissioner, twenty-five pesos;

For recording assignments for each mark or trade-name, ten pesos;

For issuance of a certificate regarding the registration or nonregistration

of each mark or trade-name, ten pesos;

For issuance of an affirmative or negative certificate regarding the registration of any document in connection with a mark or trade-name, ten pesos;

For filing any other documents in connection with marks or trade-names not required by law to be filed, ten pesos;!

For certifying a copy to be a true and exact copy, one peso;

For copies of records, two pesos per photostat sheet; one peso per one hundred words of typewritten copy; and

For services not otherwise specified, the Director shall, by regulation, provide the fees therefor.

SEC. 40. *Collective marks and collective trade-names.*— Collective marks and collective trade-names belonging to co-operatives, associations or other collective groups or organization may also be registered under the provisions of this Act, even though the said collectivities may not possess an industrial, commercial or agricultural establishment. Foreign collectivities may not, however, procure such registration if the existence of such collectivities is contrary to the laws of the country of origin.

Such collective marks and collective trade-names, when registered, shall be entitled to the protection provided herein in the case of marks and trade-names, except when used so as to represent falsely that the owner or a user makes or sells the goods on which the mark or trade-name is used, or so as to represent

falsely the origin of the goods or services.

The other provisions of this Act relating to marks and trade-names shall apply to collective marks and collective trade-names, except that the part of paragraph (e), section four, Chapter II hereof, relating to geographically descriptive marks or trade-names shall not be applicable in appropriate cases.

A "collective mark" or "collective trade-name" is a mark or trade-name used by the members of a co-operative, an association or other collective group or organization.

CHAPTER XIV.—*Miscellaneous Provisions*

SEC. 41. *Reservation in favor of prior registration.*—Owners of marks or trade-names registered under the provisions of the laws in force prior hereto, the registrations of which are still subsisting under the said laws, are hereby granted the right:

(a) Within one year after the taking effect of this Act to surrender their certificates of registration and procure the issuance of new certificates, in which event they shall be entitled to the benefits and subject to the provisions of this Act; or

(b) Within one year before the expiration of the period for which the certificates of registration was issued or renewed, the registrant may renew the registration upon filing an application therefor, as provided in section fifteen, Chapter III hereof. If said application is granted a renewal certificate shall be issued by

the Director in accordance with the provisions of this Act.

SEC. 42. *Renewal of registrations which expired during the war.*—The provisions of this Act to the contrary notwithstanding, registrations under prior laws which expired after the eighth day of December, nineteen hundred forty-one, and which the owners were not able to renew for causing arising out of the war, may be renewed within one year after this Act takes effect, and non-use of the mark or trade-name may be shown to be due to special circumstances. If the application for renewal is granted, a renewal certificate to commence from the date of the expiration of the prior registration shall be issued by the Director in accordance with the provisions of this Act.

SEC. 43. *Pending applications.*—All applications for registration pending on the effective date of this Act may be amended, if practicable, to bring them under the provisions of this Act, without the payment of any additional fee. The prosecution of such applications whether amended or not and the grant of registrations thereon shall conform to the provisions of this Act.

SEC. 44. *Repealing clause.*—Act Numbered Six hundred and sixty-six of the Philippine Commission, approved March six, nineteen hundred and three, and all laws amendatory thereto; Act Numbered Thirty hundred and seventy of the Philippine Legislature, approved March sixteen, nineteen hundred and twenty-three; Act Numbered Thirty-two hundred and two, approved December three,

nineteen hundred and twenty-four, and all other acts, or parts of acts inconsistent herewith, are hereby repealed.

SEC. 45. *Effective date.*—This Act shall take effect on its approval.

Approved, June 20, 1947.

(REPUBLIC ACT NO. 124)

AN ACT TO PROVIDE FOR THE MEDICAL INSPECTION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS, COLLEGES AND UNIVERSITIES IN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Effective July first, nineteen hundred, and forty-seven, it shall be the duty of the principal, director and/or president of a private school, college or university, with a total enrollment of three hundred or more to provide part or full time physician for the yearly medical inspection of the pupils and students enrolled therein, who shall render reports at the end of every quarter, to wit: end of September, December, March and June of each school year, of their school health activities to the Director of Health. Said physician shall be placed under the direct supervision of the Bureau of Health.

SEC. 2. It shall be incumbent on the Bureau of Health to formulate a school health medical inspection program to be observed by private schools, colleges and universities in the Philippines.

SEC. 3. Any principal, director or president of a private school, college or university who fails to comply with this or part of this Act, shall, upon conviction, pay a fine of not more than five hundred pesos.

SEC. 4. Any Act or part thereof in conflict with the provisions of this Act is hereby repealed.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 14, 1947.

(REPUBLIC ACT NO. 133)

AN ACT TO AUTHORIZE THE MORTGAGE OF PRIVATE REAL PROPERTY IN FAVOR OF ANY INDIVIDUAL, CORPORATION, OR ASSOCIATION SUBJECT TO CERTAIN CONDITIONS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any provision of law to the contrary notwithstanding, private real property may be mortgaged for a period not exceeding five years, renewable for another five, in favor of any individual, corporation, or association, but the mortgagee or his successor in interest, if disqualified to acquire or hold lands of the public domain in the Philippines, shall not bid or take part in any sale of such real property as a consequence of such mortgage.

SEC. 2. All laws, orders or regulations, or parts thereof inconsistent with the provisions of this Act, are repealed or modified accordingly.

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

Approved, June 14, 1947.

