

[REPUBLIC ACT NO. 638, June 11, 1951]

AN ACT TO AMEND SECTIONS FOUR AND THIRTY-SEVEN OF, AND TO ADD NEW SECTIONS TWO-A, NINE-A, TEN-A, NINETEEN-A, AND TWENTY-ONE-A, AND NEW CHAPTERS II-A- THE PRINCIPAL REGISTER, AND IV-A-THE SUPPLEMENTAL REGISTER TO REPUBLIC ACT NUMBERED ONE HUNDRED AND SIXTY-SIX, ENTITLED "AN ACT TO PROVIDE FOR THE REGISTRATION AND PROTECTION OF TRADEMARKS, 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:

SECTION 1. A new section is hereby added to Republic Act Numbered One hundred and sixty-six, immediately after section two thereof, to read as follows:

*"SEC. 2-A. Ownership of trademarks, trade-names and service-marks; how acquired.-*Anyone who lawfully produces or deals in merchandise of any kind or who engages in any lawful business, or who renders any lawful service in commerce, by actual use thereof in manufacture or trade, in business, and in the service rendered, may appropriate to his exclusive use a trade-mark, a trade-name, or a service-mark not so appropriated by another, to distinguish his merchandise, business or service from the merchandise, business or services of others. The ownership or possession of a trade-mark, trade-name, service-mark, heretofore or hereafter appropriated, as in this 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".

SEC. 2. The following is hereby inserted between section three and section four of Republic Act Numbered One hundred and sixty-six:

"CHAPTER II-A.-The principal register"

SEC. 3. Section four, of Republic Act Numbered One hundred and sixty-six is hereby amended to read as follows:

*"SEC. 4, Registration of trade-marks, trade-names and service-marks on the principal register.-*There is hereby established a register of trade-marks, trade-names and service-marks which shall be known as the principal register. The owner of a trade-mark, trade-name or service-mark used to distinguish his goods, business or services from the goods, business or services of others shall have the right to register the same on the principal register, 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 applicants'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. 4. A new section is hereby added to Republic Act Numbered One hundred and sixty-six, immediately after section nine thereof, to read as follows:

"SEC. 9-A. *Equitable principles to govern proceedings.*- In opposition proceedings and in all other inter parties proceedings in the patent office under this act, equitable principles of laches, estoppel, and acquiescence, where applicable, may be considered and applied".

SEC. 5. The following new section is hereby added to Republic Act Numbered One hundred and sixty-six, immediately after section ten thereof:

"SEC. 10-A. *Interference.*-An interference is a proceeding instituted for the purpose of determining the question of priority of adoption and use of a trade-mark, trade-name, or service-mark between two or more parties claiming ownership of the same or substantially similar trademark, trade-name, or service-mark.