

1 urer of the United States and the other half to the party
2 injured.

3 In any action to recover damages for wrongful seizure
4 or sale under this section the sureties upon the bond of the
5 petitioner may be made parties defendant, and judgment may
6 be rendered against them in said action.

7 ARTICLES BEARING IMITATIONS OF A REGISTERED TRADE-
8 MARK OR OF A COMMERCIAL NAME FORBIDDEN
9 ENTRY.

10 SEC. 33. No article of imported merchandise to which is
11 affixed—

- 12 1. An imitation of a registered trade-mark, or
- 13 2. An imitation of the commercial name of a resident of
14 the United States or of a citizen or subject of a gov-
15 ernment which by treaty or convention affords simi-
16 lar privileges to citizens of the United States, or of
17 a person who has a bona fide industrial or commercial
18 establishment in the territory of such government, or
- 19 3. A name calculated to induce the public to believe
20 that the article is manufactured or produced in the
21 United States or in a foreign country or a place
22 other than the country or place in which it
23 was in fact manufactured or produced shall be
24 admitted to entry at any custom-house of the
25 United States.





12 The Secretary of the Treasury may make rules permit-
13 ting, in the case of mistake, the removal of the imitation
14 mark or commercial name or false name of country or place,
15 and such prohibition of entry shall, when such rules are com
16 plied with, be removed.

18 SEC. 34. There shall be paid to the Commissioner of
19 Patents:

22 On filing each application for the renewal of the regis-
22 tration of a trade-mark, five dollars;

24 On an appeal from the examiner in charge of trade-
25 marks to the Commissioner of Patents, ten dollars;

1 On an appeal from the Commissioner of Patents to the
2 court of appeals for the District of Columbia, ten dollars;

3 For certified and uncertified copies of certificates of reg-
4 istration and other papers, and for recording assignments and
5 other papers, the same fees as required by law for copies of
6 patents and for recording assignments and other papers relat-
7 ing to patents.

8 COSTS.

9 In all cases of notice of opposition to registration or of
10 application for an interference, or for the cancellation of a
11 registration or of appeal from a decision therein, the person
12 giving notice, applying, or appealing shall file with the notice,
13 application, or appeal security for costs to be paid to the op-
14 posing party if successful, and in default of such security, the
15 Commissioner may refuse to entertain such proceeding and
16 the court may dismiss the appeal.

17 The Commissioner of Patents shall fix, by rule, the costs
18 to be paid to the successful party in any such proceeding or
19 appeal in the Patent Office and the form of security therefor.
20 The Supreme Court of the United States shall fix, by rule,
21 the costs on appeal to or from the court of appeals of the Dis-
22 trict of Columbia, and the form of security therefor.

23 SAVING CLAUSE.

24 SEC. 35. The repeal of a law or any part of it speci-
25 fied in the annexed schedule shall not affect or impair

1 any act done or right accruing, accrued, or acquired, or lia-
 2 bility, forfeiture, or penalty incurred, prior to January first,
 3 nineteen hundred and three, under or by virtue of any law so
 4 repealed, but the same may be asserted, enforced, prosecuted
 5 or inflicted as fully and to the same extent as if such law had
 6 not been repealed; and all actions and proceedings, civil or
 7 criminal, commenced under or by virtue of the law so repealed,
 8 and pending on December thirty-first, nineteen hundred and
 9 two, may be prosecuted and defended to final effect in the
 10 same manner as they might under laws then existing, unless
 11 it shall be otherwise specially provided by law.

12 CONSTRUCTION OF TERMS.

13 SEC. 36. In construing this Act, or an indictment or
 14 other pleading in a case provided for by this Act, the fol-
 15 lowing rules must be observed, except when a contrary
 16 intent is plainly apparent from the context thereof.

17 TERRITORY.—The term “territory” includes the Terri-
 18 tories, the District of Columbia, and all other territory in the
 19 possession or under the jurisdiction or control of the United
 20 States not included within a State.

21 PERSON.—The term “person” or any word or term used
 22 to designate the applicant or registrant or other entitled to a
 23 benefit or privilege under this Act includes a partnership,
 24 association, company, corporation, public or private, commu-
 25 nity, union of persons, or State, as well as a natural person.



1 NUMBER—GENDER.—The singular number includes the
2 plural, and the plural includes the singular. The masculine
3 gender includes the feminine and neuter.

4 APPLICANT—REGISTRANT.—The terms “applicant”
5 and “registrant” embrace the successors and assigns of such
6 applicant or registrant.

7 INFRINGEMENT.—The term “infringement” includes
8 every wrongful or unauthorized use in commerce with foreign
9 nations or among the several States or with the Indian tribes,
10 or in the territory of the United States, or the reproduction
11 or imitation of any registered trade-mark affixed to goods
12 of substantially the same class as those described in the
13 certificate of registration.

14 IMITATION.—An “imitation” of a trade-mark is that
15 which so far resembles a genuine trade-mark as to be likely
16 to induce the belief that it is genuine, whether by the use of
17 words or letters similar in appearance or in sound, or by any
18 sign, device, or other means whatsoever.

19 AFFIXED.—A trade-mark is deemed to be “affixed” to
20 an article of merchandise when it is placed in any manner in
21 or upon either—

22 First. The article itself; or,

23 Second. A box, bale, barrel, bottle, case, cask, or other
24 vessel or package, or a cover, wrapper, stopper, brand, label,



1 or other thing, in, by, or with which the goods are packed,
2 inclosed, or otherwise prepared for sale or disposition.

3 KNOWINGLY.—The term “knowingly” imports a knowl-
4 edge that the facts exist which constitute the act or omission
5 unlawful and does not require knowledge of the unlawfulness
6 of the act or omission.

7 COUNTRY OF ORIGIN.—The words “country of origin”
8 as applied to trade-marks refer to the country in which the
9 trade-mark was first registered and of which the applicant is
10 a citizen or subject, or in which he has a bona fide industrial or
11 commercial establishment.

12 MARK.—The term “mark” includes marks, trade-marks,
13 and symbols.

14 CONSTRUCTION OF ACT.

15 SEC. 37. The provisions of this Act, so far as they
16 are substantially the same as those of laws existing on De-
17 cember thirty-first, nineteen hundred and two, shall be con-
18 strued as a continuation of such laws, modified or amended
19 to the language employed in this Act and not as new enact-
20 ments; a reference in laws not repealed to provisions of law
21 incorporated into this Act and repealed shall be construed as
22 applying to the provisions so incorporated.

23 PENDING APPLICATIONS.

24 SEC. 38. All applications for registration pending when
25 this Act shall take effect may be proceeded with there-
26 under subject to its requirements, and for such purpose the



1 applicant shall amend his application to conform to the pro-
2 visions of this Act.

3 REGISTRATIONS HERETOFORE MADE—ACT OF EIGHTEEN
4 HUNDRED AND SEVENTY.

5 SEC. 39. All trade-marks registered prior to the third
6 day of March, eighteen hundred and eighty-one, shall be
7 deemed abandoned unless application for registration thereof
8 as prescribed in this Act be made prior to the first day of May,
9 nineteen hundred and three, in default whereof the registrant
10 shall not thereafter be entitled to notice from the Commissioner
11 of Patents under section eleven of this Act.

12 ACT OF EIGHTEEN HUNDRED AND EIGHTY-ONE.

13 All registrations made after the third day of March,
14 eighteen hundred and eighty-one, and prior to the first day of
15 January, nineteen hundred and three, shall remain in full force
16 and effect to the end of the term for which originally granted,
17 unless surrendered and reregistered; but the registrants shall
18 be entitled to institute proceedings for infringement provided
19 herein only when such infringement takes place in commerce
20 with foreign nations or with the Indian tribes.

21 . REGISTRATION BY RESIDENTS OF HAWAII.

22 SEC. 40. Residents of the Territory of Hawaii, if quali-
23 fied under section five, may file applications for registration
24 of marks under this Act with the treasurer of the Territory of
25 Hawaii, who shall transmit the same to the Commissioner of



1 Patents. The date of filing of such applications in the United
 2 States Patent Office shall, for the purposes of this Act, be
 3 deemed to be the same as the date of filing with the treasurer
 4 of the Territory of Hawaii.

5 In proceedings upon applications so filed the time al-
 6 lowed within which an act may be done, a notice may be
 7 given, a document may be filed, or an appeal may be taken,
 8 shall be double the time elsewhere provided in this Act.

9 INTERNATIONAL REGISTRATION OF TRADE-MARKS.

10 SEC. 41. Upon and after the adhesion of the United
 11 States to the agreement for the international registra-
 12 tion of trade-marks concluded at Madrid April fourteenth,
 13 eighteen hundred and ninety-one, all correspondence with the
 14 International Bureau at Berne in regard to marks to be reg-
 15 istered under such agreement by citizens of the United States or
 16 aliens entitled to the advantages of citizens under such agree-
 17 ment shall be conducted by the Commissioner of Patents,
 18 and all necessary rules, forms, and orders as to procedure and
 19 for carrying this Act into effect shall be prescribed and may
 20 be amended by him from time to time.

21 AMENDATORY AND REPEALING STATUTES.

22 SEC. 42. No provision of this Act, or any part thereof,
 23 shall be deemed repealed, altered, or amended by the passage
 24 of any subsequent statute inconsistent therewith unless such



1 statute shall explicitly refer thereto and directly repeal, alter,
2 or amend this Act accordingly.

3 REPEAL.

4 SEC. 43. The laws or parts thereof specified in the
5 schedule hereto annexed and all other Acts and parts of Acts
6 inconsistent with the provisions of this Act are repealed.

SCHEDULE OF LAWS REPEALED.

REVISED STATUTES.

Date.	Title.	Chapter.	Section.	Subject.
June 22, 1874.	XXXIII	-----	2496	Prohibition upon importation of simulated watch movements, etc. Re-enactment of chapter 125, March 3, 1871.
June 22, 1874.	LX	2	4937 to 4947	Registration of trade-marks, etc. Re-enactment of chapter 230, sections 77 to 84, July 8, 1870.

• STATUTES AT LARGE.

Date.	Chapter.	Section.	Volume.	Page.	Subject.
July 8, 1870.	230	77 to 84	16	210 to 212	Registration of trade-marks, etc.
Mar. 3, 1871.	125	-----	16	580	Prohibition upon importation of simulated watch movements.
Aug. 14, 1876.	274	All.	19	141	To punish the counterfeiting of trade-marks, etc.
Mar. 3, 1881.	138	All.	21	502	Registration of trade-marks, etc.
Aug. 4, 1882.	393	All.	22	298	Registration of marks used prior to March 3, 1881.
Aug. 27, 1894.	349	5	28	547	Marks on foreign-made goods.
Aug. 27, 1894.	349	6	28	547	Foreign-made goods bearing domestic marks excluded.
July 24, 1897.	11	8	30	205	Marks on foreign-made goods. Re-enactment of chapter 349, August 27, 1894.
July 24, 1897.	11	11	30	207	Foreign-made goods bearing domestic marks excluded. Re-enactment of chapter 349, August 27, 1894.



1 WHEN ACT TO TAKE EFFECT.

2 SEC. 44. This Act shall take effect January first, nine-
 3 teen hundred and three. When construed in connection with
 4 other statutes, it must be deemed to have been enacted on
 5 the day of , nineteen hundred and two, so
 6 that any statute enacted after that day is to have the same
 7 effect as if it had been enacted after this statute.

57TH CONGRESS, }
 1ST SESSION. } **H. R. 15027.**

A BILL

To regulate and protect marks, trade-marks,
 commercial names, and symbols used in com-
 merce, and to enforce treaties regarding the
 same.

By Mr. REEVES.

JUNE 10, 1902.—Referred to the Committee on Patents
 and ordered to be printed.

