

NEW TRADE-MARK LAW.

When, last year, the courts decided that the existing laws relative to United States trade-marks were unconstitutional, those persons whose trade-marks had become of great value to them in their business, were naturally much chagrined. Many trade marks had become so well known as to be worth thousands and thousands of dollars to their owners. It was like taking, in many instances, half the capital out of the business, to make the trade-mark valueless by removing the exclusive right to its use. The declaration of unconstitutionality of the law which gave originators vested rights in their trade-marks, was the cause of profound regret; yet at the same time it was felt that the Government, having received money for granting the privileges, would ultimately provide a law to meet the requirements, which would be constitutional.

A new act was carefully prepared and passed by the 46th Congress, receiving the approval of the President on the 3d of March. The Patent Office is now engaged in preparing rules and forms for the information and guidance of persons seeking to register their trade-marks.

An examination of the law shows that it differs from the act of 1870 on the subject, in that it authorizes the registration of trade-marks only by persons who are owners of trade-marks which are used in commerce with foreign countries or with the Indian tribes, and who are domiciled in the United States or in a foreign country which, by treaty, convention or law, permits citizens of the United States to register trade-marks. The new act seems to have been drawn in substantial acknowledgment of the propriety of the decision of the Supreme Court, which held that Congress had no right to regulate even the registration of trade-marks by citizens of the United States who were dealing only within this country. Owners of trade-marks which are chiefly or entirely used on merchandise of home consumption are, as heretofore, protected by common law, while the Registration Act merely authorizes the registration of trade-marks that relate to merchandise used in foreign commerce.

The following is the full text of the new law:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location and citizenship of the party applying; the class of merchandise and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of \$25, and complying with such regulations as may be prescribed by the Commissioner of Patents.

Sec. 2. That the application prescribed in the foregoing section, must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

Sec. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark

as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

Sec. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

Sec. 5. That a certificate of registry shall remain in force for 20 years from its date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a short period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of 20 years such registration may be renewed on the same terms and for a like period.

Sec. 6. That applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

Sec. 7. That registration of a trade-mark shall be prima facie evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

Sec. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

Sec. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.

Sec. 10. That nothing in this act shall prevent, lessen, impede, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

Sec. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade-mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless a trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

Sec. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

Sec. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose as is above allowed to foreigners, and have certificates thereof from the Patent Office.

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YANKEE NOTIONS IN RUSSIA.

A correspondent of the *Sun*, writing from St. Petersburg, says that while dining in that city, he found Russian and American viands side by side. He ate American canned oysters with an American sauce served in a casket of American make; and used silver-plated knives, forks and spoons manufactured in New York. American jellies and preserves were also served. On looking over the newspaper advertisements, he saw one offering an American sleigh for sale, another an American piano, and a third informing the public of the arrival of a new lot of the American furniture. The correspondent continues:

While walking on the Nevsky Prospect I noticed such signs as "American Dentist," "American Crackers—Wholesale and Retail,"

and "Depot of American Goods." The latter place I entered. There I found a great variety of our goods, sewing machines, parlor and kitchen stoves, kerosene stoves, washing machines, wringers, rollers, nickel-plated irons, scales, lamps, stoves, toys, gold pens, steel pens, pencils, safes, stocking knitters, pistols and guns, jewelry, kerosene and astral oil, locks, bronzed handles, opera glasses, inkstands, and a thousand and one patented articles. The depot was in charge of a New Yorker.

"How is business?" I asked.

"Our business is fair. The demand for our goods is increasing. American goods satisfy the taste and demands of the Russians. There is only one obstacle in the Russian-American trade. Articles used by the poorest people in New York, after paying Russian duties are accessible only to the rich in Russia. Take, for instance, this set of nickel-plated irons. In New York you may get it at retail at a dollar and a half. Here we sell it at ten roubles. The same way with other things. And yet we have many regular customers. You see, our goods now-a-days are much favored by the Russians."

"Are there depots like yours in other Russian cities?"

"Yes; there are such in Moscow, Odessa, and Kharkoff. In this city there are also special depots of the agricultural machines, of sewing machines, of printing presses and typographic apparatus, and of rubber goods."

At the agricultural machine depot I found mills working by steam, wind and hand, moving, trashing and winnowing machines, horse rakes, harrows, ploughs, hay presses, and a great variety of farming implements.

"Have you much competition in your line?" I asked.

"Yes; there are many machines and implements of the Russian make which are a great deal cheaper, and on that account mostly used; but as they are much inferior to ours; the rich can afford to buy a good thing. English merchants, however, try hard to undersell us."

"Do the peasants use American machines and tools?"

"No, they are too poor to buy anything beyond the simplest and cheapest implements of Russian make. Should the peasants be able to get our farming machines along with a little more land than they now possess, in a few years Russia would become one of the richest and most prosperous countries of the world. But I don't think we shall live to see such a change in the Czar's country."

At the American rubber store, which bore a complete resemblance to those I have seen down town in New York, I was told that the business is excellent—that the long and wet Russian Springs and Falls compel the people to use rubber goods in large quantities. The goods are sold at low prices, and are being bought by all classes.

I called also at the sewing machine depot, where I was informed that the sale of sewing machines increases each year. They now conduct the business on the same plan as in New York. Payment is made monthly or weekly. The old machines are taken in payment for the new ones, and lessons in sewing are given free of charge.

"Do you get a good profit on sewing machines?" I asked.

"Of course we do," was the reply; "and the Russians get a good return for their money. Russian women are found side by side with the best men in every progressive movement. Public schools, hospitals, and journals and magazines are, to a great extent, in charge of educated women. Institutes, boarding schools for ladies, medical schools for women, university courses for women, female gymnasiums, and numerous kindred institutions are now overfilled with girls and young ladies. They say here that Russia will be saved by the Russian women. In our turn we may say that the American sewing machine will save the Russian woman."