

TRADE MARKS.

What shall be
deemed Trade
Marks.

91. And whereas it is expedient to make provision for the better ascertaining and determining the right of manufacturers or others to enjoy the exclusive use, within this Province, of trade marks claimed by them: Therefore, for the purposes of this Act, all marks, names, brands, labels, packages or other business devices, which may be adopted for use by any person in his trade, business, occupation or calling, for the purpose of distinguishing any manufacture, product or article of any description by him manufactured, produced, compounded, packed or offered for sale, no matter how applied, whether to such manufacture, product or article, or to any package, parcel, case, box or other vessel or receptacle of any description whatever containing the same, shall be considered and known as Trade Marks, and may be registered for the exclusive use of the party registering the same in the manner hereinafter provided; and thereafter he shall have the exclusive right to use the same, to designate articles manufactured or sold by him.

Register of
Trade Marks.

92. The Commissioner of Patents shall keep, at the said Bureau, a book or books, to be denominated the "Trade Marks Register," in which all proprietors of trade marks may cause the same to be registered, by depositing with the said Commissioner a drawing and description in duplicate of such trade mark, together with a declaration that such drawing and description correctly represent the same, and that such trade mark is not in use, to his knowledge, by any other person than himself at the time of his adoption thereof, on application for registration: Provided however that if such trade mark will not admit of a drawing, the Commissioner is hereby authorized to dispense therewith; and the declaration of the applicant shall be varied accordingly: And the said Commissioner on receipt of the fee hereinafter provided, shall examine the said trade mark to ascertain whether it resembles any other trade mark already registered; and if he find that such trade mark is not identical with or does not so closely resemble as to be confounded with any other trade mark already registered, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with his certificate thereto, that the said trade mark has been duly registered in accordance with the provisions of this Act; And he shall further state in such certificate the day, month and year of the entry thereof in the said Trade Marks Register; and every such certificate shall be received in all Courts of Law or Equity in Canada as evidence of the facts therein alleged, without proof of the signature of the said Commissioner or of the seal of the Bureau.

Provide: as to
drawings.

Examination
of Trade Mark
offered.

Certificate,
its form and
effect.

Interfering
claims to a
Trade Mark.

93. If any person shall make application to register, as his own, any trade mark which has been already registered, the Commissioner shall notify all parties interested therein to appear, in person or by Attorney, before him with their witnesses, for the purpose of establishing which is the rightful owner of the trade mark, and after having heard the parties and their witnesses, he shall order such entry or cancellation, or both, to be made as he shall deem just.

Penalty on
persons illegally
using
any Trade
Mark.

94. If any person, other than the party who has registered the same, shall mark any goods or any articles of any description whatever with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself or to any package or thing containing such article, or by using any package or thing so marked which has