

TRADEMARKS AND SERVICE MARKS (EXCERPT)
Act 242 of 1969

429.43 Injunctions; damages; prosecution; exceptions.

Sec. 13. (1) Any owner of a mark registered under this act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction of record may grant injunctions to restrain such manufacture, use, display or sale as by the court may be deemed just and reasonable, and may require the defendants to pay to the owner all profits derived from or all damages suffered by reason of such wrongful manufacture, use, display, or sale, or both; and the court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court, or to the complainant, to be destroyed.

(2) The enumeration of any right of remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

(3) Notwithstanding any other provision of this act, the remedies given to the owner of the right infringed shall be limited as follows: (a) where an infringer is engaged solely in the business of printing the mark for others and establishes that he was an innocent infringer, the owner of the right infringed shall be entitled as against the infringer only to an injunction against future printing; (b) where the infringement complained of is contained in or is part of paid advertising matter in a newspaper, magazine, or other similar periodical the remedies of the owner of the right infringed as against the publisher or distributor of the newspaper, magazine, or other similar periodical shall be confined to an injunction against the presentation of such advertising matter in future issues of the newspapers, magazines, or other similar periodicals. These limitations shall apply only to innocent infringers; (c) injunction relief shall not be available to the owner of the right infringed in respect of an issue of a newspaper, magazine, or other similar periodical containing infringing matter when restraining the dissemination of such infringing matter in any particular issue of such periodical would delay the delivery of the issue after the regular time therefor, and the delay would be due to the method by which publication and distribution of the periodical is customarily conducted in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such infringing matter.

History: 1969, Act 242, Eff. Jan. 1, 1970.