

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

W.7/29/Add.6
8 November 1952
Special Distribution

ACCESSION OF JAPAN

Statements submitted by the Japanese Observers to the
Seventh Session

LAW FOR THE PREVENTION OF UNFAIR COMPETITION

(Law No. 14 as amended by the Law No. 2 of 1938
and the Law No. 90 of 1950)

Article 1. In case there are those whose acts fall under any one of the following items, a person who is in danger of his business interest being injured, may demand the stoppage thereof:

1. Acts creating confusion between his and another person's merchandise by using the same or similar indications such as another person's name, trade-name, trade-mark, container, package or any other indication showing that it is another person's merchandise which are widely recognised as such in the area where this Law is in force, or by selling, distributing or exporting merchandise bearing such indications:
2. Acts creating confusion between his and another person's business facilities or activities by using the same or similar indications such as another person's name, trade-name, label, or any other indication showing that the business is another person's which are widely known as such in the area where this Law is in force:
3. Acts creating misconception as to the place of origin by using a false indication on merchandise or advertisement thereof or by selling, distributing or exporting merchandise bearing such indication:
4. Acts of making such indications on merchandise or advertisement thereof, as tend to create a false or mistaken impression that it was produced, manufactured or processed in places other than the country where the merchandise was actually produced, manufactured or processed or acts of selling, distributing or exporting merchandise bearing such indications:

5. Acts of making such indications on merchandise or advertisement thereof, as create false or mistaken impression with respect to quality, contents or quantity of merchandise, or acts of selling, distributing or exporting merchandise bearing such indications:
6. Acts of making or spreading false statement which is detrimental to the business reputation of another person who is in competitive relation with him.

Article 1-(2). Any person who has committed, intentionally or through negligence, any act falling under any one of the items of the preceding Article shall be liable to damages to a person whose business interest has been injured thereby.

Against any person who has injured the business reputation of another person by committing an act under item 1 or 2 of the preceding Article or who has committed an act under item 6 of the same Article, the court may, on the application of the injured person, order such measures as may be necessary for restoring the latter's business reputation in lieu of or in addition to the compensation for damages.

Article 2. The provisions of the preceding two Articles and Article 5 shall not apply to any act which falls under any one of the following items:

1. Any act of using, by method in general use, a common name of merchandise or any indication customarily used in the course of ordinary transactions for the same kind of merchandise, or any act of selling, distributing or exporting merchandise bearing such name or indications:
2. Any act of using, by method in general use, a name or any other indication customarily used in the course of ordinary transactions for the same kind of business:
3. Any act of using in good faith one's own name, or any act of selling, distributing or exporting merchandise bearing such a name;
4. Any act of using the indication under Article 1 items 1 or 2 or one similar thereto in good faith by one who has been using it since before the said indication became generally known in the area where this Law is in force or by one who has succeeded in the use of it together with the business itself to him, or any act of selling, distributing or exporting merchandise bearing the said indication by him.

Any person who is in danger of his business interests being injured by a person who commits any act under item 3 or 4 of the preceding paragraph, may demand such person to use, in addition, an indication suitable to prevent confusion of merchandise or business facilities or activities: provided that, the same shall not necessarily apply to those who simply sell, distribute, or export merchandise.

Article 3. Except as otherwise provided in Treaty or an equivalent thereto, foreign nationals other than those belonging to signatory powers of the International Convention for the Protection of Industrial Property who have neither domiciles nor business premises in the area in which this law is in force may not make the applications under Article 1, Article 1 (2) and paragraph 2 of the preceding Article.

Article 4. No marks identical with or similar to such national crests, flag-marks or other emblems of foreign powers as may be specified by the competent Minister of State may be used as trade marks, nor may goods on which they are used as trade marks be sold or disseminated, always except with the permission of the competent authorities of such powers.

No emblems referred to in the preceding paragraph may be used in business in such a manner as may cause a mistake to be made as to the place of origin of the goods, nor may goods on which such use is made be sold or disseminated, always except with the permission of the competent authorities of the power concerned.

Nothing identical with, or similar to, such a seal or mark for official inspecting or certifying purposes of a foreign power as may be specified by the competent Minister of State may be used as a trade mark on identical or similar goods, nor may goods on which such use is made be sold or disseminated, always except with the permission of the competent authorities of the power concerned.

When permission has been obtained from the competent authorities to use a crest, flag-mark or other emblem or a seal or mark for official inspecting or certifying purposes of Japan, the provisions of the preceding three paragraphs shall not apply even though it may be identical with, or similar to a national crest, flag-mark or any other emblem or a seal or mark for official inspecting or certifying purposes of a foreign power.

Article 5. Any person coming under any one of the following items shall be punished with penal servitude not exceeding 3 years or a fine not exceeding 200,000 yen:

1. Any person who has made a false indication which creates a false or mistaken impression with respect to the place of origin, contents or quantity of merchandise on his merchandise or advertisement thereof;
2. Any person who has, for the purpose of unfair competition, committed any act under Article 1 items 1 and 2;
3. Any person who has for the purpose of unfair competition, committed any act under Article 1 items 3 to 5 inclusive;
4. Any person who has acted in violation of the provisions of the preceding Article.

Article 5-(2). In case a representative of juridical person, or a proxy, employee or any other worker of a juridical person or natural person has, in connection with the business of the said juridical person or natural person, committed the violation under the preceding Article, such juridical person or natural person shall be punished with a fine under the same Article, in addition to the punishment imposed upon the offender.

Article 6. The provisions of Article 1 items 1 and 2, Article 1-(2), Article 4, paragraphs 1 to 3 inclusive and Article 5 item thereof shall not apply to acts which are to be deemed to be an exercise of rights under the Patent Law, the Utility Model Law, Design Law of Trade Mark Law.

SUPPLEMENTARY PROVISIONS

Law No. 1 of 1934:

The date of enforcement of this Law shall be determined by Imperial Ordinance. (The Law was put into force by Imperial Ordinance No. 341 of 1934 as from January 1, 1935).

Law No. 2 of 1938:

The date of enforcement of this Law shall be determined by Imperial Ordinance. (The Law was put into force by Imperial Ordinance No. 521 of 1938 as from August 1, 1938).

Law No. 90 of 1950:

This Law shall come into force as from the day after ~~one~~ month computing from the day of its promulgation. (The Law ~~was~~ put into force as from May 1, 1951).