Act of August 14th, 1876

"An Act to punish the counterfeiting of trade--mark goods, and the sale or dealing in, of counterfeit trade--mark goods."

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled.

Sec. 1. Dealers Penalty for Infringement. Every person who shall, with intent to defraud, deal in or sell, or keep or offer for sale, or cause or procure the sale of, any goods of substantially the same descriptive properties as those referred to in the registration of any trade--mark, pursuant to the statutes of the United States, to which, or to the package in which the same are put up, is fraudulently affixed said trade--mark, or any colorable imitation thereof, calculated to deceive the public, knowing the same to be counterfeit or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, or imprisonment not more than two years, or both such fine and imprisonment.

Sec. 2. Penalty for Wrongful Application of Trade--Mark. Every person who fraudulently affixes or causes or procures to be fraudulently affixed, any trade--mark registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, to any goods, of substantially the same descriptive properties as those referred to in said registration, or to the package in which they are put up, knowing the same to be counterfeit, or not the genuine goods, referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Sec. 3. Penalty for Wrongful Filling of Package. Every person who fraudulently fills, or causes or procures to be fraudulently filled, any package to which is affixed any trade--mark, registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, with any goods of substantially the same descriptive properties as those referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Sec. 4. Penalty for Wrongful Casting or Engraving. Any person or persons who shall, with intent to defraud any person or persons, knowingly and wilfully cast, engrave or manufacture, or have in his, her or their possession, or buy, sell, offer for sale, or deal in, any die or dies, plate or plates, brand or brands, engraving or engravings, on wood, stone, metal, or other substance, moulds, or any false rerepresentation, likeness, copy or colorable imitation of any die, plate, brand, engraving or mould or any private label, brand, stamp, wrapper, engraving on paper or other substance, or trade--mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

Sec. 5. Penalty for Making Labels. Any person or persons who shall, with intent to defraud any person or persons, knowingly and wilfully make, forge or counterfeit, or have in his, her or their possession, or buy, sell, offer for sale, or deal in, any

representation, likeness, similitude, copy or colorable imitation of any private label, brand, stamp, wrapper, engraving, mould or trade--mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

Sec. 6. Penalty for Possessing Wrongfully Marked Empty Packages. Any person who shall, with intent to injure or defraud the owner of any trade--mark, or any other person lawfully entitled to use of protect the same, buy, sell, offer for sale, deal in or have in his possession any used or empty box, envelope, wrapper, case, bottle or other package, to which is affixed, so that the same may be obliterated without substantial injury to such box or other thing aforesaid, any trade--mark, registered pursuant to the statutes of the United States, not so defaced, erased, obliterated and destroyed as to prevent its fraudulent use, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Sec. 7. Issue of Search Warrants. If the owner of any trade--mark, registered pursuant to the statutes of the United States, or his agent, make oath, in writing, that he has reason to believe, and does believe, that any counterfeit dies, plates, brands, engravings on wood, stone, metal or other substance, or moulds of his said registered trade--mark, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, or makes such oaths, that any counterfeits or colorable imitations of his said trade--mark, label, brand, stamp, wrapper, engraving on paper or other substance, or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed said registered trade--mark not so defaced, erased, obliterated, and destroyed, as to prevent its fraudulent use, are in the possession of any person with intent to use the same for the purpose of deception and fraud, then the several judges of the circuit and district courts of the United States, and the commissioners of the circuit courts may, within their respective jurisdictions, proceed under the law relating to search warrants, and may issue a search warrant authorizing and directing the marshal of the United States for the proper district to search and seize all said counterfeit dies, plates, brands, engravings on wood, stone, metal or other substance, moulds and said counterfeit trade--marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper, or other substance, and said empty boxes, envelopes, wrappers, cases, bottles or other packages that can be found; and upon satisfactory proof being made the such counterfeit dies, plates, brands, engravings on wood, stone, metal or other substance, moulds, counterfeit trade--marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles or other packages, are to be used by the holder or owner for the purposes of deception and fraud, that any of said judges shall have full power to order all said counterfeit dies, plates, brands, engravings on wood, stone, metal or other substance, moulds, counterfeit trade--marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles or other packages, to be publicly destroyed.

Sec. 8. Penalty for Accomplice. Any person who shall, with intent to defraud any person or persons, knowingly and wilfully aid or abet in the violation of any of the provisions of

this act, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not more than one year, or both such fine and imprisonment.