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Foreword

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NUMBER 1

UNFAIR COMPETITION: PROTECTION OF COMMERCIAL PROPERTY RIGHTS AGAINST FOREIGN AND DOMESTIC PRACTICES

A SYMPOSIUM

FOREWORD

BEVERLY W. PATTISHALL †

THIS issue of the *St. John's Law Review* offers a trilogy of lead articles dealing with certain aspects of the rather specialized subject of industrial property rights. The articles by Professor William J. Keating and Mr. Albert E. Strasser should prove of special interest and value to the many general practitioners who are now finding themselves called upon to advise and assist their businessmen-clients in coping with one of the problems of greatly increased foreign commerce, namely, the copying of successful American products by foreign competitors.

Both of these articles are written to be entirely comprehensible to the non-specialist who is confronted with these industrial property problems, and together they

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provide an excellent background well deserving the attention of all who may encounter such questions.

Mr. John H. Andrew's article, "Domestic Protection of Commercial Designs: The Federal-State Conflict," is a discussion of the effect of the recent twin decisions of the Supreme Court in *Sears, Roebuck & Co. v. Stiffel Co.*¹ and *Compco Corp. v. Day-Brite Lighting, Inc.*² and subsequent state and federal court decisions. Generally, the *Sears* and *Compco* decisions may be said to have held that the states could not extend the protection of common-law prohibitions against unfair competition to novel commercial designs, as this is an area reserved to the federal government by the patent and copyright clause of the Constitution. After examining the constitutional basis of *Sears* and *Compco*, Mr. Andrew argues that these decisions are not the license for design piracy that some commentators have suggested. His study of the Supreme Court decisions, together with certain Court of Customs and Patent Appeals decisions respecting related questions, leads him to suggest that, in this limited area of application, the Court of Customs and Patent Appeals may be treating the Lanham Trademark Act as though it were based upon the patent and copyright clause of the Constitution rather than the commerce clause.

I believe the entire trilogy offers to the readers of the *Review* a contribution to this area of legal writing which will be found both informative and stimulating.

¹ 376 U.S. 225 (1964).

² 376 U.S. 234 (1964).