§ 66-154. Remedies.

(a) Except as provided herein, actual or threatened misappropriation of a trade secret may be preliminarily enjoined during the pendency of the action and shall be permanently enjoined upon judgment finding misappropriation for the period that the trade secret exists plus an additional period as the court may deem necessary under the circumstances to eliminate any inequitable or unjust advantage arising from the misappropriation.

(1) If the court determines that it would be unreasonable to enjoin use after a judgment finding misappropriation, an injunction may condition such use upon payment of a reasonable royalty for any period the court may deem just. In appropriate circumstances, affirmative acts to protect the trade secret may be compelled by order of the court.

(2) A person who in good faith derives knowledge of a trade secret from or through misappropriation or by mistake, or any other person subsequently acquiring the trade secret therefrom or thereby, shall be enjoined from disclosing the trade secret, but no damages shall be awarded against any person for any misappropriation prior to the time the person knows or has reason to know that it is a trade secret. If the person has substantially changed his position in good faith reliance upon the availability of the trade secret for future use, he shall not be enjoined from using the trade secret but may be required to pay a reasonable royalty as deemed just by the court. If the person has acquired inventory through such knowledge or use of a trade secret, he can dispose of the inventory without payment of royalty. If his use of the trade secret has no adverse economic effect upon the owner of the trade secret, the only available remedy shall be an injunction against disclosure.

(b) In addition to the relief authorized by subsection (a), actual damages may be recovered, measured by the economic loss or the unjust enrichment caused by misappropriation of a trade secret, whichever is greater.

(c) If willful and malicious misappropriation exists, the trier of fact also may award punitive damages in its discretion.

(d) If a claim of misappropriation is made in bad faith or if willful and malicious misappropriation exists, the court may award reasonable attorneys' fees to the prevailing party. (1981, c. 890, s. 1.)