

jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to . . . trade marks; and with reference to any such proceedings in Scotland, . . . the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and the "Court of Appeal" respectively mean the High Court of Justice in Ireland, and Her Majesty's Court of Appeal in Ireland.

(2) *If any rectification of a register under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority of the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.*

The old sub-sec. (2) is now omitted, but sec. 35, which relates to rectification, contains in sub-sec. (4) provisions of a similar nature, referring, however, to any order of "the Court."

It was held in England, under the Act of 1883, that an entry registered in the name of an Irish proprietor could be rectified by the English Courts.¹ It was also held in Ireland that the Irish Courts had no jurisdiction to rectify.² The Scotch Courts, on the other hand, held that they had jurisdiction to make a declaration of the invalidity of an entry in the register.³ The question whether the Scotch Courts had jurisdiction to order an entry to be expunged under the old sec. 90 has not, however, been decided.⁴

The special jurisdiction conferred on the Court is under the new Act of a larger nature, the Act in many sections providing for an appeal from the registrar to the Court. It is apprehended that the joint effect of secs. 3 and 69 is that this jurisdiction cannot be exercised by the Scotch or Irish Courts, and the repeal of sub-sec. (2) of sec. 111 raises the question whether the Scotch Courts have now the jurisdiction which, in *Dewar's* case it was held that they had.⁵ As to the jurisdiction of the Lancashire Palatine Court, see sec. 71 below.

¹ *Re King & Co.'s Tm.*, [1892] 2 Ch. 462; 9 R. P. C. 350, Kekewich, J., and C.A.

² *Bayer v. Connell Bros.*, 14 R. P. C. 275 (1897), Porter, M.R.

³ *Dewar & Sons, Ltd. v. J. H. Dewar*, 17 R. P. C. 341 (1901), Lord Ordinary

and Inner House: followed in *Dawson v. Stewart*, 22 R. P. C. 250 (1905), and *Reid v. Thomson & Co.*, 22 R. P. C. 376 (1905).

⁴ See pp. 285, 286.

⁵ See also notes to sec. 3, ante, p. 17.

The references to chapters and to pages in black type are to "Kerly on Trade Marks," 2nd ed.

Isle of Man.

70. This Act shall extend to the Isle of Man, and—

- (1) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man in proceedings for infringement or in any action or proceeding respecting a trade mark competent to those Courts :
- (2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour and with or without a fine not exceeding one hundred pounds, at the discretion of the Court :
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

This section is in exactly the same terms as section 112 of the Act of 1883.

Jurisdiction
of Lancashire
Palatine
Court.

71. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks, the registration whereof is applied for in the Manchester Branch, have the like jurisdiction under this Act as His Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly :

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that Court in other cases.

Notes.

Except for the substitution of Manchester Branch for Manchester office, this section is the same as sec. 112A of the Act of 1883, introduced into that Act by sec. 26 of the Act of 1888.

The Manchester Branch for cotton marks, that is for marks

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applied for in respect of cotton goods¹ at the date of the Act, is put under the direct statutory provisions of sec. 64, instead of, as formerly, being dealt with by the Rules only:² see sec. 64 and the notes thereto.³

This section, as regards such marks, confers on the Lancashire Palatine Court a co-ordinate jurisdiction with the High Court, not only in actions for infringement, but in any "other proceedings" in relation to any such trade mark. This includes the special jurisdiction exercised in rectification under sec. 35, and also jurisdiction upon appeals from the registrar.

72. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court. Offences in Scotland.

This exactly reproduces sec. 108 of the Act of 1883.

Offence punishable on summary conviction: see sec. 67, above.

Sec. 106 of the Act of 1883, which created an offence (the unauthorised assumption of the Royal arms) punishable on summary conviction, is not repealed. Such offence is not, it would seem, an "offence under this Act."⁴

Repeal; Savings.

73. The enactments described in the schedule to this Act are repealed to the extent mentioned in the third column, but this repeal shall not affect any rule, table of fees, or classification of goods made under any enactment so repealed, but every such rule, table of fees, or classification of goods shall continue in force as if made under this Act until superseded by rules, tables of fees, or classification under this Act. Repeal and saving for rules, &c.

For the schedule see p. 125.

The repeal is of all parts of the Acts of 1883 and 1888, which

¹ See notes to sec. 64, ante, p. 111.

³ Ante, p. 111.

² Rules 8 and 13 of 1890, as amended by the Rules of 1897.

⁴ The savings in the next two sections, 73 and 74, do not affect the question.

The references to chapters and to pages in black type are to "Kerly on Trade Marks," 2nd ed.

relate to trade marks, except secs. 103 and 104,¹ 106,² and secs. 82, 83 and 84, which relate to the constitution and seal of the Patent Office, and are expressly continued in regard to trade marks by sec. 74.

The rules in force at the passing of the Act were the Trade Mark Rules, 1890, as amended by the Trade Mark Rules, 1897 and 1898,³ the table of fees being contained in the first schedule, the prescribed forms in the second schedule, and the classification in the third schedule to the rules. These are, after March 31st, 1906, superseded by the Trade Mark Rules, 1906, with table of fees and classification, see post, p. 167.

The date of the commencement of the Act is (except where otherwise provided) April 1st, 1906.

This Act contains no general saving similar to those of sec. 113 of the Act of 1883, and sec. 27 of the Act of 1888; but the general provisions contained in sec. 38 of the Interpretation Act, 1889,⁴ apply.

Application
of 46 & 47
Vict. c. 57,
ss. 82-84.

74. The provisions of sections eighty-two to eighty-four of the Patents, Designs, and Trade Marks Act, 1883, as amended by any subsequent enactment, shall continue to apply with respect to the administration at the Patent Office of the Law relating to the registration of trade marks, and shall accordingly be construed as if this Act formed part of that Act.

See notes to the last section.

¹ International and colonial arrangements. These are applied to trade marks registrable under this Act: see sec. 65, ante, p. 117.

² Penalty on unauthorised use of Royal arms: see also sec. 68, ante, p. 119.

³ Pp. 691-720.

⁴ Appendix III., p. 167.

The references to chapters and to pages in black type are to "Kerly on Trade Marks," 2nd ed.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sections sixty-two to eighty-one, and, so far as they respectively relate to trade marks, sections eighty-five to ninety-nine, one hundred and one, one hundred and two, one hundred and five, one hundred and eight, and one hundred and eleven to one hundred and seventeen.
51 & 52 Vict. c. 50.	The Patents, Designs, and Trade Marks Act, 1888.	Sections eight to twenty, and, so far as they respectively relate to trade marks, sections twenty-one to twenty-six.

APPENDIX I.

THE TRADE MARKS ACT, 1905.

(5 EDW. VII. c. 15.)

An Act to consolidate and amend the Law relating to Trade Marks.
[11th August, 1905.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Trade Marks Act, 1905. Short title.
2. This Act shall, save as otherwise expressly provided, come into operation on the first day of April one thousand nine hundred and six. Commence-
ment of Act.

PART I.

Definitions.

3. In and for the purpose of this Act (unless the context otherwise requires):— Definitions.

A "mark" shall include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof:

A "trade mark" shall mean a mark used or proposed to be used upon or in connection with goods for the purpose of indicating that they are the goods of the proprietor of such trade mark by virtue of manufacture, selection, certification, dealing with, or offering for sale:

A "registrable trade mark" shall mean a trade mark which is capable of registration under the provisions of this Act:

"The register" shall mean the register of trade marks kept under the provisions of this Act:

A "registered trade mark" shall mean a trade mark which is actually upon the register:

"Prescribed" shall mean, in relation to proceedings before the

Court, prescribed by rules of court, and in other cases, prescribed by this Act or the Rules thereunder :

“The Court” shall mean (subject to the provisions for Scotland, Ireland, and the Isle of Man) His Majesty’s High Court of Justice in England.

Register of Trade Marks.

Register of trade marks.

4. There shall be kept at the Patent Office for the purposes of this Act a book called the Register of Trade Marks, wherein shall be entered all registered trade marks with the names and addresses of their proprietors, notifications of assignments and transmissions, disclaimers, conditions, limitations, and such other matters relating to such trade marks as may from time to time be prescribed. The register shall be kept under the control and management of the Comptroller-General of Patents, Designs, and Trade Marks, who is in this Act referred to as the Registrar.

Trust not to be entered on register.

5. There shall not be entered in the register any notice of any trust expressed, implied, or constructive, nor shall any such notice be receivable by the Registrar.

Incorporation of existing register.

6. The register of trade marks existing at the date of the commencement of this Act, and all registers of trade marks kept under previous Acts, which are deemed part of the same book as such register, shall be incorporated with and form part of the register. Subject to the provisions of sections thirty-six and forty-one of this Act the validity of the original entry of any trade mark upon the registers so incorporated shall be determined in accordance with the statutes in force at the date of such entry, and such trade mark shall retain its original date, but for all other purposes it shall be deemed to be a trade mark registered under this Act.

Inspection of and extract from register.

7. The register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed ; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Registrable Trade Marks.

Trade mark must be for particular goods.

8. A trade mark must be registered in respect of particular goods or classes of goods.

Registrable trade marks.

9. A registrable trade mark must contain or consist of at least one of the following essential particulars :—

(1) The name of a company, individual, or firm represented in a special or particular manner ;

- (2) The signature of the applicant for registration or some predecessor in his business ;
- (3) An invented word or invented words ;
- (4) A word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname ;
- (5) Any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in the above paragraphs (1), (2), (3), and (4), shall not, except by order of the Board of Trade or the Court, be deemed a distinctive mark :

Provided always that any special or distinctive word or words, letter, numeral, or combination of letters or numerals used as a trade mark by the applicant or his predecessors in business before the thirteenth day of August one thousand eight hundred and seventy-five, which has continued to be used (either in its original form or with additions or alterations not substantially affecting the identity of the same) down to the date of the application for registration shall be registrable as a trade mark under this Act.

For the purposes of this section "distinctive" shall mean adapted to distinguish the goods of the proprietor of the trade mark from those of other persons.

In determining whether a trade mark is so adapted, the tribunal may, in the case of a trade mark in actual use, take into consideration the extent to which such user has rendered such trade mark in fact distinctive for the goods with respect to which it is registered or proposed to be registered.

10. A trade mark may be limited in whole or in part to one or more specified colours, and in such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide on the distinctive character of such trade mark. If and so far as a trade mark is registered without limitation of colour it shall be deemed to be registered for all colours.

Coloured trade marks.

11. It shall not be lawful to register as a trade mark or part of a trade mark any matter, the use of which would by reason of its being calculated to deceive or otherwise be disentitled to protection in a court of justice, or would be contrary to law or morality, or any scandalous design.

Restriction on registration.

Registration of Trade Marks.

12.—(1) Any person claiming to be the proprietor of a trade mark who is desirous of registering the same must apply in writing to the Registrar in the prescribed manner.

Application for registration.

(2) Subject to the provisions of this Act the Registrar may refuse

such application, or may accept it absolutely or subject to conditions, amendments, or modifications.

(3) In case of any such refusal or conditional acceptance the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving at the same, and such decision shall be subject to appeal to the Board of Trade or to the Court at the option of the applicant.

(4) An appeal under this section shall be made in the prescribed manner, and on such appeal the Board of Trade or the Court, as the case may be, shall, if required, hear the applicant and the Registrar, and shall make an order determining whether, and subject to what conditions, amendments, or modifications, if any, the application is to be accepted.

(5) Appeals under this section shall be heard on the materials so stated by the Registrar to have been used by him in arriving at his decision, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those stated by him, except by leave of the tribunal hearing the appeal. Where any further grounds of objection are taken the applicant shall be entitled to withdraw his application without payment of costs on giving notice as prescribed.

(6) The Registrar or the Board of Trade or the Court, as the case may be, may at any time, whether before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as they may think fit.

Advertise-
ment of
application.

13. When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions, the Registrar shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the prescribed manner. Such advertisement shall set forth all conditions subject to which the application has been accepted.

Opposition to
registration.

14.—(1) Any person may, within the prescribed time from the date of the advertisement of an application for the registration of a trade mark, give notice to the Registrar of opposition to such registration.

(2) Such notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(3) The Registrar shall send a copy of such notice to the applicant, and within the prescribed time after the receipt of such notice, the applicant shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

(4) If the applicant sends such counter-statement, the Registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions, registration is to be permitted.

(5) The decision of the Registrar shall be subject to appeal to the Court or, with the consent of the parties, to the Board of Trade.

(6) An appeal under this section shall be made in the prescribed manner, and on such appeal the Board of Trade or the Court, as the case may be, shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(7) On the hearing of any such appeal any party may either in the manner prescribed or by special leave of the tribunal bring forward further material for the consideration of the tribunal.

(8) In proceedings under this section no further grounds of objection to the registration of a trade mark shall be allowed to be taken by the opponent or the Registrar other than those stated by the opponent as herein-above provided except by leave of the tribunal hearing the appeal. Where any further grounds of objection are taken the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

(9) In any appeal under this section, the tribunal may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity of such trade mark, but in such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.

(10) The Registrar, or in the case of an appeal to the Board of Trade the Board of Trade, shall have power in proceedings under this section to award to any party such costs as they may consider reasonable, and to direct how and by what parties they are to be paid.

(11) If a party giving notice of opposition or of appeal neither resides nor carries on business in the United Kingdom, the tribunal may require such party to give security for costs of the proceedings before it relative to such opposition or appeal, and in default of such security being duly given may treat the opposition or appeal as abandoned.

15. If a trade mark contains parts not separately registered by the proprietor as trade marks, or if it contains matter common to the trade or otherwise of a non-distinctive character, the Registrar or the Board of Trade or the Court, in deciding whether such trade mark

Disclaimers.

shall be entered or shall remain upon the register, may require, as a condition of its being upon the register, that the proprietor shall disclaim any right to the exclusive use of any part or parts of such trade mark, or of all or any portion of such matter, to the exclusive use of which they hold him not to be entitled, or that he shall make such other disclaimer as they may consider needful for the purpose of defining his rights under such registration: Provided always that no disclaimer upon the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

Date of registration.

16. When an application for registration of a trade mark has been accepted and has not been opposed, and the time for notice of opposition has expired, or having been opposed the opposition has been decided in favour of the applicant, the Registrar shall unless the Board of Trade otherwise direct, register the said trade mark, and the trade mark, when registered, shall be registered as of the date of the application for registration, and such date shall be deemed for the purposes of this Act to be the date of registration.

Certificate of registration.

17. On the registration of a trade mark the Registrar shall issue to the applicant a certificate in the prescribed form of the registration of such trade mark under the hand of the Registrar, and sealed with the seal of the Patent Office.

Non-completion of registration.

18. Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in such notice.

Identical Trade Marks.

Identical marks.

19. Except by order of the Court or in the case of trade marks in use before the thirteenth day of August, one thousand eight hundred and seventy-five, no trade mark shall be registered in respect of any goods or description of goods which is identical with one belonging to a different proprietor which is already on the register with respect to such goods or description of goods, or so nearly resembling such a trade mark as to be calculated to deceive.

Rival claims to identical marks.

20. Where each of several persons claims to be proprietor of the same trade mark, or of nearly identical trade marks in respect of the same goods or description of goods, and to be registered as such proprietor, the Registrar may refuse to register any of them until their rights have been determined by the Court, or have been settled by

agreement in a manner approved by him or (on appeal) by the Board of Trade.

21. In case of honest concurrent user or of other special circumstances which, in the opinion of the Court, make it proper so to do, the Court may permit the registration of the same trade mark, or of nearly identical trade marks, for the same goods or description of goods by more than one proprietor subject to such conditions, and limitations, if any, as to mode or place of user or otherwise, as it may think it right to impose.

Concurrent user.

Assignment.

22. A trade mark when registered shall be assigned and transmitted only in connection with the goodwill of the business concerned in the goods for which it has been registered and shall be determinable with that goodwill. But nothing in this section contained shall be deemed to affect the right of the proprietor of a registered trade mark to assign the right to use the same in any British possession or protectorate or foreign country in connection with any goods for which it is registered together with the goodwill of the business therein in such goods.

Assignment and transmission of trade marks.

23. In any case where from any cause, whether by reason of dissolution of partnership or otherwise, a person ceases to carry on business, and the goodwill of such person does not pass to one successor but is divided, the Registrar may (subject to the provisions of this Act as to associated trade marks), on the application of the parties interested, permit an apportionment of the registered trade marks of the person among the persons in fact continuing the business, subject to such conditions and modifications, if any, as he may think necessary in the public interest. Any decision of the Registrar under this section shall be subject to appeal to the Board of Trade.

Apportionment of marks on dissolution of partnership

Associated Trade Marks.

24. If application be made for the registration of a trade mark so closely resembling a trade mark of the applicant already on the register for the same goods or description of goods as to be calculated to deceive or cause confusion if used by a person other than the applicant, the tribunal hearing the application may require as a condition of registration that such trade marks shall be entered on the register as associated trade marks.

Associated trade marks.

25. If the proprietor of a trade mark claims to be entitled to the exclusive use of any portion of such trade mark separately he may apply to register the same as separate trade marks. Each such

Combined trade marks.

separate trade mark must satisfy all the conditions and shall have all the incidents of an independent trade mark, except that when registered it and the trade mark of which it forms a part shall be deemed to be associated trade marks and shall be entered on the register as such, but the user of the whole trade mark shall for the purposes of this Act be deemed to be also a user of such registered trade marks belonging to the same proprietor as it contains.

Series of
trade marks.

26. When a person claiming to be the proprietor of several trade marks for the same description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

- (a) statements of the goods for which they are respectively used or proposed to be used; or
- (b) statements of number, price, quality, or names of places; or
- (c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
- (d) colour;

seeks to register such trade marks, they may be registered as a series in one registration. All the trade marks in a series of trade marks so registered shall be deemed to be, and shall be registered as, associated trade marks.

Assignment
and user of
associated
trade marks.

27. Associated trade marks shall be assignable or transmissible only as a whole and not separately, but they shall for all other purposes be deemed to have been registered as separate trade marks. Provided that where under the provisions of this Act user of a registered trade mark is required to be proved for any purpose, the tribunal may if and so far as it shall think right accept user of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for such user.

Renewal of Registration.

Duration of
registration.

28. The registration of a trade mark shall be for a period of fourteen years, but may be renewed from time to time in accordance with the provisions of this Act.

Renewal of
registration.

29. The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of such trade mark for a period of fourteen years from the expiration of the original registration or of the last renewal of registration, as the case may be, which date is herein termed "the expiration of the last registration."

Procedure on
expiry of
period of
registration.

30. At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the

prescribed manner to the registered proprietor at his registered address of the date at which the existing registration will expire and the conditions as to payment of fees and otherwise upon which a renewal of such registration may be obtained, and if at the expiration of the time prescribed in that behalf such conditions have not been duly complied with, the Registrar may remove such trade mark from the register, subject to such conditions (if any) as to its restoration to the register as may be prescribed.

31. Where a trade mark has been removed from the register for nonpayment of the fee for renewal, such trade mark shall, nevertheless, for the purpose of any application for registration during one year next after the date of such removal, be deemed to be a trade mark which is already registered, unless it is shown to the satisfaction of the Registrar that there had been no *bonâ fide* trade user of such trade mark during the two years immediately preceding such removal.

Status of
unrenewed
trade mark.

Correction and Rectification of the Register.

32. The Registrar may, on request made in the prescribed manner by the registered proprietor or by some person entitled by law to act in his name,—

Correction of
register.

- (1) Correct any error in the name or address of the registered proprietor of a trade mark; or
- (2) Enter any change in the name or address of the person who is registered as proprietor of a trade mark; or
- (3) Cancel the entry of a trade mark on the register; or
- (4) Strike out any goods or classes of goods from those for which a trade mark is registered; or
- (5) Enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of such trade mark.

Any decision of the Registrar under this section shall be subject to appeal to the Board of Trade.

33. Subject to the provisions of this Act where a person becomes entitled to a registered trade mark by assignment, transmission, or other operation of law, the Registrar shall, on request made in the prescribed manner, and on proof of title to his satisfaction, cause the name and address of such person to be entered on the register as proprietor of the trade mark. Any decision of the Registrar under this section shall be subject to appeal to the Court or, with the consent of the parties, to the Board of Trade.

Registration
of assign-
ments, &c.

34. The registered proprietor of any trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter such trade mark in any manner not substantially affecting the identity of

Alteration of
registered
trade mark.

the same, and the Registrar may refuse such leave or may grant the same on such terms as he may think fit, but any such refusal or conditional permission shall be subject to appeal to the Board of Trade. If leave be granted, the trade mark as altered shall be advertised in the prescribed manner.

Rectification
of register.

35. Subject to the provisions of this Act—

- (1) The Court may on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, make such order for making, expunging, or varying such entry, as it may think fit :
- (2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register :
- (3) In case of fraud in the registration or transmission of a registered trade mark, the Registrar may himself apply to the Court under the provisions of this section :
- (4) Any order of the Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner, who shall upon receipt of such notice rectify the register accordingly.

Trade marks
registered
under pre-
vious Acts.

36. No trade mark which is upon the register at the commencement of this Act and which under this Act is a registrable trade mark shall be removed from the register on the ground that it was not registrable under the Acts in force at the date of its registration. But nothing in this section contained shall subject any person to any liability in respect of any act or thing done before the commencement of this Act to which he would not have been subject under the Acts then in force.

Non-user of
trade mark.

37. A registered trade mark may, on the application to the Court of any person aggrieved, be taken off the register in respect of any of the goods for which it is registered, on the ground that it was registered by the proprietor or a predecessor in title without any *bonâ fide* intention to use the same in connection with such goods, and there has in fact been no *bonâ fide* user of the same in connection therewith, or on the ground that there has been no *bonâ fide* user of such trade mark in connection with such goods during the five years immediately preceding the application, unless in either case such non-user is shown to be due to special circumstances in the trade, and not to any intention not to use or to abandon such trade mark in respect of such goods.

Effect of Registration.

38. Subject to the provisions of this Act—

Powers of
registered
proprietor.

(1) The person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from such register to be vested in any other person, have power to assign the same, and to give effectual receipts for any consideration for such assignment:

(2) Any equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

39. Subject to the provisions of section forty-one of this Act and to any limitations and conditions entered upon the register, the registration of a person as proprietor of a trade mark shall, if valid, give to such person the exclusive right to the use of such trade mark upon or in connection with the goods in respect of which it is registered: Provided always that where two or more persons are registered proprietors of the same (or substantially the same) trade mark in respect of the same goods no rights of exclusive user of such trade mark shall (except so far as their respective rights shall have been defined by the Court) be acquired by any one of such persons as against any other by the registration thereof, but each of such persons shall otherwise have the same rights as if he were the sole registered proprietor thereof.

Rights of
proprietor of
trade mark.

40. In all legal proceedings relating to a registered trade mark (including applications under section thirty-five of this Act) the fact that a person is registered as proprietor of such trade mark shall be *primâ facie* evidence of the validity of the original registration of such trade mark and of all subsequent assignments and transmissions of the same.

Registration
to be *primâ*
facie evidence
of validity.

41. In all legal proceedings relating to a registered trade mark (including applications under section thirty-five of this Act) the original registration of such trade mark shall after the expiration of seven years from the date of such original registration (or seven years from the passing of this Act, whichever shall last happen) be taken to be valid in all respects unless such original registration was obtained by fraud, or unless the trade mark offends against the provisions of section eleven of this Act:

Registration
to be con-
clusive after
seven years.

Provided that nothing in this Act shall entitle the proprietor of a registered trade mark to interfere with or restrain the user by any person of a similar trade mark upon or in connection with goods upon or in connection with which such person has, by himself or his predecessors in business, continuously used such trade mark from a date anterior to the user of the first-mentioned trade mark by the proprietor thereof or his predecessors in business, or to object (on

such user being proved) to such person being put upon the register for such similar trade mark in respect of such goods under the provisions of section twenty-one of this Act.

Unregistered
trade mark.

42. No person shall be entitled to institute any proceeding to prevent or to recover damages for the infringement of an unregistered trade mark unless such trade mark was in use before the thirteenth of August one thousand eight hundred and seventy-five, and has been refused registration under this Act. The Registrar may, on request, grant a certificate that such registration has been refused.

Infringement.

43. In an action for the infringement of a trade mark the Court trying the question of infringement shall admit evidence of the usages of the trade in respect to the get-up of the goods for which the trade mark is registered, and of any trade marks or get-up legitimately used in connection with such goods by other persons.

User of name,
address, or
description
of goods.

44. No registration under this Act shall interfere with any *bonâ fide* use by a person of his own name or place of business or that of any of his predecessors in business, or the use by any person of any *bonâ fide* description of the character or quality of his goods.

"Passing off"
action.

45. Nothing in this Act contained shall be deemed to affect rights of action against any person for passing off goods as those of another person or the remedies in respect thereof.

Legal Proceedings.

Certificate of
validity.

46. In any legal proceeding in which the validity of the registration of a registered trade mark comes into question and is decided in favour of the proprietor of such trade mark, the Court may certify the same, and if it so certifies then in any subsequent legal proceeding in which such validity comes into question the proprietor of the said trade mark on obtaining a final order or judgment in his favour shall have his full costs, charges, and expenses as between solicitor and client, unless in such subsequent proceeding the Court certifies that he ought not to have the same.

Registrar to
have notice
of proceeding
for rectifi-
cation.

47. In any legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court. Unless otherwise directed by the Court, the Registrar in lieu of appearing and being heard may submit to the Court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting the same or of the practice of the office in like cases, or of such other matters relevant to the issues, and within his knowledge as such Registrar, as he shall think fit, and such statement shall be deemed to form part of the evidence in the proceeding.

Costs.

48. In all proceedings before the Court under this Act the costs of the Registrar shall be in the discretion of the Court, but the Registrar shall not be ordered to pay the costs of any other of the parties.

Costs of proceedings before the Court.

Evidence.

49. In any proceeding under this Act before the Board of Trade or the Registrar, the evidence shall be given by statutory declaration in the absence of directions to the contrary, but, in any case in which it shall think it right so to do, the tribunal may (with the consent of the parties) take evidence *vivâ voce* in lieu of or in addition to evidence by declaration. Any such statutory declaration may in the case of appeal be used before the Court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

Mode of giving evidence.

In case any part of the evidence is taken *vivâ voce* the Board of Trade or the Registrar shall in respect of requiring the attendance of witnesses and taking evidence on oath be in the same position in all respects as an Official Referee of the Supreme Court.

50. Printed or written copies or extracts of or from the register, purporting to be certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence in all courts in His Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Sealed copies to be evidence.

51. A certificate purporting to be under the hand of the Registrar as to any entry, matter, or thing which he is authorised by this Act, or rules made thereunder, to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done.

Certificate of Registrar to be evidence.

52.—(1) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

Certificate of Board of Trade to be evidence.

(2) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

PART II.

Powers and Duties of Registrar of Trade Marks.

53. Where any discretionary or other power is given to the Registrar by this Act or rules made thereunder he shall not exercise

Exercise of discretionary

power by
Registrar.

that power adversely to the applicant for registration or the registered proprietor of the trade mark in question without (if duly required so to do within the prescribed time) giving such applicant or registered proprietor an opportunity of being heard.

Appeal from
Registrar.

54. Except where expressly given by the provisions of this Act or rules made thereunder there shall be no appeal from a decision of the Registrar otherwise than to the Board of Trade, but the Court, in dealing with any question of the rectification of the register (including all applications under the provisions of section thirty-five of this Act), shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made.

Recognition
of agents.

55. Where by this Act any act has to be done by or to any person in connection with a trade mark or proposed trade mark or any procedure relating thereto, such act may under and in accordance with the rules made under this Act or in particular cases by special leave of the Board of Trade be done by or to an agent of such party duly authorised in the prescribed manner.

Registrar
may take
directions of
law officers.

56. The Registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to His Majesty's Attorney-General or Solicitor-General for England for directions in the matter.

Annual
reports of
Comptroller.
46 & 47 Vict.
c. 57.

57. The Comptroller-General of Patents, Designs, and Trade Marks shall in his yearly report on the execution by or under him of the Patents, Designs, and Trade Marks Act, 1883, and Acts amending the same, include a report respecting the execution by or under him of this Act as though it formed a part of or was included in such Acts.

Powers and Duties of the Board of Trade.

Proceedings
before Board
of Trade.

58. All things required or authorised under this Act to be done by to or before the Board of Trade may be done by to or before the President or a secretary or an assistant secretary of the Board or any person authorised in that behalf by the President of the Board.

Appeals to
Board of
Trade.

59. Where under this Act an appeal is made to the Board of Trade, the Board of Trade may, if they think fit, refer any such appeal to the Court in lieu of hearing and deciding it themselves, but, unless the Board so refer the appeal, it shall be heard and decided by the Board, and the decision of the Board shall be final.

Power of
Board of
Trade to
make rules.

60.—(1) Subject to the provisions of this Act the Board of Trade may from time to time make such rules, prescribe such forms, and generally do such things as they think expedient—

(a) For regulating the practice under this Act :

(b) For classifying goods for the purposes of registration of trade marks :

(c) For making or requiring duplicates of trade marks and other documents :

(d) For securing and regulating the publishing and selling or distributing in such manner as the Board of Trade think fit, of copies of trade marks and other documents :

(e) Generally, for regulating the business of the office in relation to trade marks and all things by this Act placed under the direction or control of the Registrar, or of the Board of Trade.

(2) Rules made under this section shall, whilst in force, be of the same effect as if they were contained in this Act.

(3) Before making any rules under this section the Board of Trade shall publish notice of their intention to make the rules and of the place where copies of the draft rules may be obtained in such manner as the Board consider most expedient, so as to enable persons affected to make representations to the Board before the rules are finally settled.

(4) Any rules made in pursuance of this section shall be forthwith advertised twice in the Trade Marks Journal, and shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament.

(5) If either House of Parliament within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

Fees.

61. There shall be paid in respect of applications and registration and other matters under this Act, such fees as may be, with the sanction of the Treasury, prescribed by the Board of Trade. Fees.

Special Trade Marks.

62. Where any association or person undertakes the examination of any goods in respect of origin, material, mode of manufacture, quality, accuracy, or other characteristic, and certifies the result of such examination by mark used upon or in connection with such goods, the Board of Trade may, if they shall judge it to be to the public advantage, permit such association or person to register such mark as a trade mark in respect of such goods, whether or not such association or person be a trading association or trader or possessed Standardiza-
tion, &c.,
trade marks.

of a goodwill in connection with such examination and certifying. When so registered such trade mark shall be deemed in all respects to be a registered trade mark, and such association or person to be the proprietor thereof, save that such trade mark shall be transmissible or assignable only by permission of the Board of Trade.

Sheffield Marks.

Sheffield
marks.

63. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called the Cutlers' Company), and the marks or devices (in this Act called Sheffield marks) assigned or registered by the master, wardens, searchers, and assistants of that company, the following provisions shall have effect:—

- (1) The Cutlers' Company shall continue to keep at Sheffield the register of trade marks (in this Act called the Sheffield register) kept by them at the date of the commencement of this Act, and, save as otherwise provided by this Act, such register shall for all purposes form part of the register:
- (2) The Cutlers' Company shall, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the first day of January one thousand eight hundred and eighty-four, but which have not been entered in such register before the passing of this Act:
- (3) An application for registration of a trade mark used on metal goods shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company:
- (4) Every application so made to the Cutlers' Company shall be notified to the Registrar in the prescribed manner, and, unless the Registrar within the prescribed time gives notice to the Cutlers' Company of any objection to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner:
- (5) If the Registrar gives notice of an objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may in the prescribed manner appeal to the Court:
- (6) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the Registrar, who shall thereupon enter the mark in the register of trade marks; and such registration shall bear date as of the

day of application to the Cutlers' Company, and have the same effect as if the application had been made to the Registrar on that day :

- (7) The provisions of this Act, and of any rules made under this Act with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this section (and notwithstanding anything in any Act relating to the Cutlers' Company), apply to the registration of trade marks on metal goods by the Cutlers' Company, and to all matters relating thereto ; and this Act and any such rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield register, for the Registrar, the Patent Office, and the Register of Trade Marks respectively ; and notice of every entry, cancellation, or correction made in the Sheffield register shall be given to the Registrar by the Cutlers' Company :
- (8) When the Registrar receives from any person not carrying on business in Hallamshire or within six miles thereof an application for registration of a trade mark used on metal goods, he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :
- (9) Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the Court :
- (10) For the purposes of this section the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal.
- (11) For the purpose of legal proceedings in relation to trade marks entered in the Sheffield register a certificate under the hand of the Master of the Cutlers' Company shall have the same effect as the certificate of the Registrar.

Cotton Marks.

64.—(1) The Manchester Branch of the Trade Marks Registry of Patent Office (herein-after called "the Manchester Branch") shall be continued according to its present constitution. A chief officer of the Manchester Branch shall be appointed who shall be styled "the Keeper of Cotton Marks," and shall act under the direction of the Registrar. The present keeper of the Manchester Branch shall be the first Keeper of Cotton Marks. Cotton marks.

(2) As regards cotton goods which have hitherto constituted

classes 23, 24, and 25, under the classification of goods under the Patents, Designs, and Trade Marks Acts, 1883 to 1902, the Register of Trade Marks for all such goods, except such as may be prescribed, shall be called "the Manchester Register," and a duplicate thereof shall be kept at the Manchester Branch.

(3) All applications for registration of trade marks for such cotton goods in the said classes (herein-after referred to as "cotton marks") shall be made to the Manchester Branch.

(4) Every application so made to the Manchester Branch shall be notified to the Registrar in the prescribed manner together with the report of the Keeper of Cotton Marks thereon, and unless the Registrar, after considering the report and hearing, if so required, the applicant, within the prescribed time gives notice to the Keeper of Cotton Marks of objection to the acceptance of the application, it shall be advertised by the Manchester Branch and shall be proceeded with in the prescribed manner.

(5) If the Registrar gives notice of objection as aforesaid the application shall not be proceeded with, but any person aggrieved may in the prescribed manner appeal to the Court or the Board of Trade, at the option of the applicant.

(6) Upon the registration of a trade mark in the Manchester Register the Keeper of Cotton Marks shall upon notice thereof from the Registrar thereupon enter the mark in the duplicate of the Manchester Register, and such registration shall bear date as of the day of application to the Manchester Branch, and shall have the same effect as if the application had been made to the Registrar on that day.

(7) When any mark is removed from or any cancellation or correction made in the Manchester Register notice thereof shall be given by the Registrar to the Keeper of Cotton Marks, who shall alter the duplicate register accordingly.

(8) For the purpose of all proceedings in relation to trade marks entered in the Manchester Register a certificate under the hand of the Keeper of Cotton Marks shall have the same effect as a certificate of the Registrar.

(9) In every application for registration of a cotton mark, if such mark has been used by the applicant or his predecessors in business prior to the date of application, the length of time of such user shall be stated on the application.

(10) As from the passing of this Act—

(a) In respect of cotton piece goods and cotton yarn no mark consisting of a word or words alone (whether invented or otherwise) shall be registered, and no word or words shall be deemed to be distinctive in respect of such goods:

- (b) In respect of cotton piece goods no mark consisting of a line heading alone shall be registered, and no line heading shall be deemed to be distinctive in respect of such goods :
- (c) No registration of a cotton mark shall give any exclusive right to the use of any word, letter, numeral, line heading, or any combination thereof.

(11) The right of inspection of the Manchester Register shall extend to and include the right to inspect all applications whatsoever that have been since the passing of the Trade Marks Registration Act, 1875, and hereafter shall have been made to the Manchester Branch in respect of cotton goods in classes 23, 24, and 25, whether registered, refused, lapsed, expired, withdrawn, abandoned, cancelled, or pending. 39 & 40 Vict.
c. 33.

(12) The Keeper of Cotton Marks shall, on request, and on production of a facsimile of the mark, and on payment of the prescribed fee, issue a certified copy of the application for registration of any cotton mark, setting forth in such certificate the length of time of user (if any) of such mark as stated on the application, and any other particulars he may deem necessary.

(13) As regards any rules or forms affecting cotton marks which are proposed by the Board of Trade to be made, the draft of the same shall be sent to the Keeper of Cotton Mark, and also to the Manchester Chamber of Commerce. And the said Keeper, and also the said Chamber, shall, if they or either of them so request, be entitled to be heard by the Board of Trade upon such proposed rules before the same are carried into effect.

(14) The existing practice whereby the keeper of the Manchester Branch consults the Trade and Merchandise Marks Committee appointed by the Manchester Chamber of Commerce upon questions of novelty or difficulty arising on applications to register cotton marks shall be continued by the Keeper of Cotton Marks.

International and Colonial Arrangements.

65. The provisions of sections one hundred and three and one hundred and four of the Patents, Designs, and Trade Marks Act, 1883 (as amended by the Patents, Designs, and Trade Marks (Amendment) Act, 1885), relating to the registration of trade marks both as enacted in such Acts and as applied by any Order in Council made thereunder, shall be construed as applying to trade marks registrable under this Act. International
and Colonial
arrange-
ments.
48 & 49 Vict.
c. 63.

Offences.

66. If any person makes or causes to be made a false entry in the register kept under this Act, or a writing falsely purporting to be a Falsification
of entries in
register.

copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

Penalty on falsely representing a trade mark as registered.

67.—(1) Any person who represents a trade mark as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

(2) A person shall be deemed, for the purposes of this enactment, to represent that a trade mark is registered, if he uses in connection with the trade mark the word "registered," or any words expressing or implying that registration has been obtained for the trade mark.

Royal Arms.

Unauthorised assumption of Royal Arms.

68. If any person, without the authority of His Majesty, uses in connection with any trade, business, calling, or profession, the Royal Arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Royal Arms, or if any person without the authority of His Majesty or of a member of the Royal Family, uses in connection with any trade, business, calling, or profession any device, emblem, or title in such manner as to be calculated to lead to the belief that he is employed by or supplies goods to His Majesty or such member of the Royal Family he may, at the suit of any person who is authorised to use such arms or such device, emblem, or title, or is authorised by the Lord Chamberlain to take proceedings in that behalf, be restrained by injunction or interdict from continuing so to use the same: Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing any such arms, device, emblem, or title to continue to use such trade mark.

Courts.

General saving for jurisdiction of Courts.

69. The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to trade marks; and with reference to any such proceedings in Scotland the term "the Court" shall mean the Court of Session; and with reference to any such proceedings in Ireland the term "the Court" shall mean the High Court of Justice in Ireland.

Isle of Man.

70. This Act shall extend to the Isle of Man, and—

(1) Nothing in this Act shall affect the jurisdiction of the Courts

in the Isle of Man in proceedings for infringement or in any action or proceeding respecting a trade mark competent to those Courts :

- (2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour and with or without a fine not exceeding one hundred pounds, at the discretion of the Court :
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

71. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks, the registration whereof is applied for in the Manchester Branch, have the like jurisdiction under this Act, as His Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly :

Jurisdiction
of Lancashire
Palatine
Court.

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that Court in other cases.

72. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court.

Offences in
Scotland.

Repeal ; Savings.

73. The enactments described in the schedule to this Act are repealed to the extent mentioned in the third column, but this repeal shall not affect any rule, table of fees, or classification of goods made under any enactment so repealed, but every such rule, table of fees, or classification of goods shall continue in force as if made under this Act until superseded by rules, tables of fees, or classification under this Act.

Repeal and
saving for
rules, &c.

74. The provisions of sections eighty-two to eighty-four of the Patents, Designs, and Trade Marks Act, 1883, as amended by any subsequent enactment, shall continue to apply with respect to the administration at the Patent Office of the Law relating to the registration of trade marks, and shall accordingly be construed as if this Act formed part of that Act.

Application
of 46 & 47
Vict. c. 57,
ss. 82—84.

Sect. 73.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sections sixty-two to eighty-one, and, so far as they respectively relate to trade marks, sections eighty-five to ninety-nine, one hundred and one, one hundred and two, one hundred and five, one hundred and eight, and one hundred and eleven to one hundred and seventeen.
51 & 52 Vict. c. 50.	The Patents, Designs, and Trade Marks Act, 1888.	Sections eight to twenty, and, so far as they respectively relate to trade marks, sections twenty-one to twenty-six.

APPENDIX II.

THE PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883, AS AMENDED BY THE ACT OF 1888 (SO FAR AS RELATING TO TRADE MARKS).

(46 & 47 VICT. c. 57; 51 & 52 VICT. c. 50.)

PART I.—PRELIMINARY.¹

1. THIS Act may be cited as the Patents, Designs, and Trade Marks Act, 1883. Short title.

2. This Act is divided into parts, as follows:—

Division
of Act
into parts.

Part I.—PRELIMINARY.

II.—PATENTS.

III.—DESIGNS.

IV.—TRADE MARKS.

V.—GENERAL.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December one thousand eight hundred and eighty-three. Commence-
ment of Act.

[The Act of 1888 shall, except so far as is thereby otherwise specially provided, commence and come into operation on the first day of January one thousand eight hundred and eighty-nine.] Act, 1888,
s. 28.

PART IV.—TRADE MARKS.

Registration of Trade Marks.

62.—(1) *The Comptroller may, on application by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark.* *Application
for registra-
tion.*

(2) *The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to [such place and in such manner as may be prescribed].* Act 1888,
s. 8.

¹ The unrepealed sections are printed in Roman type. Amendments made by the Act of 1888 are indicated by square brackets.

(3) *The application must be accompanied by the prescribed number of representations of the trade mark, and must state the particular goods or classes of goods in connexion with which the applicant desires the trade mark to be registered.*

(4) *The Comptroller may, if he thinks fit, refuse to register a trade mark, but any such refusal shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the Comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.*

(5) *The Board of Trade may, however, if it appears expedient, refer the appeal to the Court; and in that event the Court shall have jurisdiction to hear and determine the appeal and may make such order as aforesaid.*

Act, 1888,
s. 8.

[*(6) Where an applicant for the registration of a trade mark otherwise than under an international convention is out of the United Kingdom at the time of making the application he shall give the Comptroller an address for service in the United Kingdom, and if he fails to do so the application shall not be proceeded with until the address has been given.*]

Limit of time
for proceeding
with applica-
tion.

Act, 1888,
s. 9.

63. *Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, [the Comptroller shall give notice of non-completion to the agent employed on behalf of the applicant, and, if at the expiration of fourteen days from that notice the registration is not completed, shall give the like notice to the applicant, and if at the expiration of the latter fourteen days, or such further time as the Comptroller may in special cases permit, the registration is not completed, the application shall not be deemed to be abandoned].*

Conditions of
registration of
trade mark.

Act, 1888,
s. 10.

64.—*[(1) For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:—*

- (a) *A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or*
- (b) *A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or*
- (c) *A distinctive device, mark, brand, heading, label, or ticket; or*
- (d) *An invented word or invented words; or*
- (e) *A word or words having no reference to the character or quality of the goods, and not being a geographical name.*

(2) *There may be added to any one or more of the essential particulars mentioned in this section any letters, words, or figures, or combination of letters, words, or figures, or of any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his*

application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the Register.

(3) Provided as follows :

(i.) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof :

(ii.) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures, used as a trade mark before the thirteenth day of August one thousand eight hundred and seventy-five, may be registered as a trade mark under this part of this Act.]

65. A trade mark must be registered for particular goods or classes of goods.

Connection of trade mark with goods.

66. When a person claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of (a) the statement of the goods for which they are respectively used or proposed to be used, or (b) statements of numbers, or (c) statements of price, or (d) statements of quality, or (e) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole, but for all other purposes each of the trade marks composing a series shall be deemed and treated as registered separately.

Registration of a series of marks.

67. A trade mark may be registered in any colour [or colours], and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour [or colours].

Trade marks may be registered in any colour.

Act, 1888, s. 11.

68. Every application for registration of a trade mark under this part of this Act shall as soon as may be after its receipt be advertised by the Comptroller [unless the Comptroller refuse to entertain the application].

Advertisement of application.

69.—(1) Any person may within [one month or such further time, not exceeding three months, as the Comptroller may allow] of the advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration of the trade mark, and the Comptroller shall send one copy of such notice to the applicant.

Act, 1888, s. 12.

Opposition to registration.

Act, 1888, s. 13, sub-ss. 1, 2.

(2) Within [one month] after receipt of such notice or such further time as the Comptroller may allow, the applicant may send to the Comptroller a counter-statement in duplicate of the grounds on which he relies for his application, and if he does not do so, shall be deemed to have abandoned his application.

Act, 1888, s. 13, sub-s. 3.

[(3) If the applicant sends such counter-statement the Comptroller shall

Act, 1888, s. 13.

furnish a copy thereof to the person who gave notice of opposition, and shall, after hearing the applicant and the opponent, if so required, decide whether the trade mark is to be registered, but his decision shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the opponent and the Comptroller, and may make an order determining whether, and subject to what conditions (if any), registration is to be permitted.]

[(4) The Board of Trade may, however, if it appears expedient, refer the appeal to the Court, and in that event the Court shall have jurisdiction to hear and determine the appeal, and may make such order as aforesaid.]

[(5) If the applicant abandons his application after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of the opposition as the Comptroller may determine to be reasonable.]

[(6) Where the opponent is out of the United Kingdom, he shall give the Comptroller an address for service in the United Kingdom.]

Assignment and transmission of trade mark.

70. *A trade mark, when registered, shall be assigned and transmitted only in connexion with the goodwill of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that goodwill.*

Conflicting claims to registration.

71. *Where each of several persons claims to be registered as proprietor of the same trade mark, the Comptroller may refuse to register any of them until their rights have been determined according to law, and the Comptroller may himself submit or require the claimants to submit their rights to the Court.*

Restrictions on registration.

72.—(1) *Except where the Court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the Comptroller shall not register in respect of the same goods or description of goods a trade mark identical with one already on the Register with respect to such goods or description of goods.*

Act, 1888, s. 14.

(2) *[Except as aforesaid] the Comptroller shall not register with respect to the same goods or description of goods a trade mark [having such resemblance to] a trade mark already on the Register with respect to such goods or description of goods as to be calculated to deceive.*

Further restriction on registration.

Act, 1888, s. 15.

73. *It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive use of which would by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a court of justice, or any scandalous design.*

Saving for power to provide for entry on Register of common marks as additions to trade marks.

74.—(1) *Nothing in this Act shall be construed to prevent the Comptroller entering on the Register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark—*

(a) *In the case of an application for registration of a trade mark used*

before the thirteenth day of August one thousand eight hundred and seventy-five—

Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words, or figures, though the same is common to the trade in the goods with respect to which application is made ;

(b) *In the case of an application for registration of a trade mark not used before the thirteenth day of August one thousand eight hundred and seventy-five—*

Any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made ;

[2] *The applicant for registration of any such addition must, however, state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the Register.* Act, 1888, s. 16.

Provided that a person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.]

(3) *Any device, mark, brand, heading, label, ticket, letter, word, figure, or combination of letters, words, or figures, which was or were, before the thirteenth day of August one thousand eight hundred and seventy-five, publicly used by more than three persons on the same or a similar description of goods shall, for the purposes of this section, be deemed common to the trade in such goods.*

Effect of Registration.

75. *[Application for registration of a trade mark shall be deemed to be equivalent to public use of the trade mark, and the date of the application shall for the purposes of this Act be deemed to be, and as from the first day of January one thousand eight hundred and seventy-six to have been, the date of the registration.]* Registration equivalent to public use. Act, 1888, s. 17.

76. *The registration of a person as proprietor of a trade mark shall be prima facie evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.* Right of first proprietor to exclusive use of trade mark.

77. *A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act, or of an enactment repealed by this* Restrictions on actions for infringement, and on defence to action in certain cases.

Act, or, in the case of any other trade mark in use before the thirteenth of August one thousand eight hundred and seventy-five, registration thereof under this part of this Act, or of an enactment repealed by this Act, has been refused. The Comptroller may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Certificate as to exclusive use and costs thereon.

Act, 1888, s. 18.

[77a. In an action for infringement of a registered trade mark the Court or a judge may certify that the right to the exclusive use of the trade mark came in question, and if the Court or a judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the Court or judge trying the subsequent action certifies that he ought not to have the same.]

Register of Trade Marks.

Register of trade marks.

78. There shall be kept at the Patent Office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Removal of trade mark after fourteen years, unless fee paid.

79.—(1) At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a trade mark, the Comptroller shall send notice to the registered proprietor that the trade mark will be removed from the Register unless the proprietor pays to the Comptroller before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee: and if such fee be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice send a second notice to the same effect.

(2) If such fee be not paid before the expiration of such fourteen years the Comptroller may after the end of three months from the expiration of such fourteen years remove the mark from the Register, and so from time to time at the expiration of every period of fourteen years.

(3) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the Comptroller may without removing such trade mark from the Register accept the said fee as if it had been paid before the expiration of the said fourteen years.

(4) Where after the said three months a trade mark has been removed from the Register for non-payment of the prescribed fee, the Comptroller may, if satisfied that it is just so to do, restore such trade mark to the Register on payment of the prescribed additional fee.

(5) Where a trade mark has been removed from the Register for non-payment of the fee or otherwise, such trade mark shall nevertheless for the purpose of any application for registration during the five years [one year] next after the date of such removal, be deemed to be a trade mark which is already registered [unless it is shown to the satisfaction of the Comptroller that the non-payment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark].

Act, 1888, s. 19, sub-s. 1.

Act, 1888, s. 19, sub-s. 2.

Fees.

80. There shall be paid in respect of applications and registration and other matters under this part of this Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

Fees for registration, &c.

Sheffield Marks.

81. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called the Cutlers' Company) and the marks or devices (in this Act called Sheffield marks) assigned or registered by the master, wardens, searchers, and assistants of that company, the following provisions shall have effect:

Registration by Cutlers' Company of Sheffield marks.

(1) The Cutlers' Company shall establish and keep at Sheffield a new Register of trade marks (in this Act called the Sheffield Register):

[(2) The Cutlers' Company shall enter in the Sheffield Register, in respect of metal goods as defined in this section, all the trade marks entered before the first day of January one thousand eight hundred and eighty-nine in respect of metal goods either in the Register established under the Trade Marks Registration Act, 1875, or in the Register of trade marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers' Company shall also, on request made in the prescribed manner, enter in the Sheffield Register, in respect of metal goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the first day of January one thousand eight hundred and eighty-four, but which have not been entered in either of the said other Registers:]

Act, 1888, s. 20, sub-s. 1.

(3) An application for registration of a trade mark used [on metal goods] shall, if made after the commencement of this Act by a

Act, 1888, s. 20, sub-s. 2.

person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company :

- (4) Every application so made to the Cutlers' Company shall be notified to the Comptroller in the prescribed manner, and unless the Comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner :
- (5) If the Comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the Court :
- (6) Upon the registration of a trade mark in the Sheffield Register the Cutlers' Company shall give notice thereof to the Comptroller, who shall thereupon enter the mark in the Register of trade marks ; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the Comptroller on that day :
- [(7) The provisions of this Act and of any general Rules made under this Act with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this section, apply to the registration of trade marks on metal goods by the Cutlers' Company, and to all matters relating thereto ; and this Act and any such general Rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield Register, for the Comptroller, the Patent Office, and the Registrar of Trade Marks, respectively ; and notice of every entry, cancellation, or correction made in the Sheffield Register shall be given to the Comptroller by the Cutlers' Company : provided that this section shall not affect any life estate and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield Register :]
- (8) Where the Comptroller receives from any person not carrying on business in Hallamshire or within six miles thereof an application for registration of a trade mark used [on metal goods], he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :
- (9) At the expiration of five years from the commencement of this Act the Cutlers' Company shall close the Cutlers' register of corporate trade marks, and thereupon all marks entered therein shall, unless entered in the Sheffield Register, be deemed to have been abandoned :

Act, 1888,
s. 20, sub-s. 3.

Act, 1888,
s. 20, sub-s. 2.

- (10) *A person may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield Register as proprietor of two or more trade marks :*
- (11) *A body of persons, corporate or not corporate, may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield Register as proprietor of a trade mark or trade marks :*
- (12) *Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the Comptroller, who shall have power to confirm, reverse or modify the decision, but the decision of the Comptroller shall be subject to a further appeal to the Court :*
- (13) *So much of the Cutlers' Company's Acts as applies to the summary punishment of persons counterfeiting Sheffield corporate marks, that is to say, the fifth section of the Cutlers' Company's Act of 1814, and the provisions in relation to the recovery and application of the penalty imposed by such last-mentioned section contained in the Cutlers' Company's Act of 1791, shall apply to any mark entered in the Sheffield Register :*
- [(14) *For the purposes of this section the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal.*] Act, 1888, s. 20, sub-s. 4.
- [(15) *For the purpose of legal proceedings in relation to trade marks entered in the Sheffield Register, a certificate under the hand of the master of the Cutlers' Company shall have the same effect as the certificate of the Comptroller.*]

PART V.—GENERAL.

Patent Office and Proceedings thereat.

82.—(1) The Treasury may provide for the purposes of this Act Patent Office. an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2) Until a new patent office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks existing at the commencement of this Act shall be the patent office within the meaning of this Act.

(3) The patent office shall be under the immediate control of an officer called the Comptroller-General of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

(4) Any act or thing directed to be done by or to the Comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

Officers and clerks.

83.—(1) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the Comptroller-General of patents, designs, and trade marks, and so many examiners and other officers and clerks with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

Seal of patent office.

84. There shall be a seal for the patent office, and impressions thereof shall be judicially noticed and admitted in evidence.

Trusts not to be entered in Registers.

85. *There shall not be entered in any Register kept under this Act, or be receivable by the Comptroller, any notice of any trust expressed, implied, or constructive.*

Refusal to grant patent, &c. in certain cases.

86. *The Comptroller may refuse to grant a patent for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality.*

Entry of assignments and transmissions in Registers.

87. *Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the Comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the Register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the Register of patents, designs, or trade marks, as proprietor of a patent, copyright in a design or trade mark, as the case may be, shall, subject to [the provisions of this Act and to] any rights appearing from such Register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, licence, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property.*

Act, 1888, s. 21.

Inspection of and extracts from Registers.

Act, 1888, s. 22.

88. *Every Register kept under this Act shall at all convenient times be open to the inspection of the public, subject to [the provisions of this Act and to] such regulations as may be prescribed; and certified copies, sealed with the seal of the patent office, of any entry in such Register shall be given to any person requiring the same on payment of the prescribed fee.*

Sealed copies to be received in evidence.

89. *Printed or written copies or extracts, purporting to be certified by*

the Comptroller and sealed with the seal of the patent office, of or from patents specifications disclaimers and other documents in the patent office, and of or from Registers and other books kept there, shall be admitted in evidence in all Courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

90.—(1) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person [or of any other particulars] from any Register kept under this Act, or by any entry made without sufficient cause in any such Register, make such order for making, expunging, or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

Rectification of Registers by Court.
Act, 1888,
s. 23.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a Register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the Court rectifying a Register shall direct that due notice of the rectification be given to the Comptroller.

91. The Comptroller may, on request in writing accompanied by the prescribed fee—

Power for Comptroller to correct clerical errors.

(a) Correct any clerical error in or in connexion with an application for a patent, or for registration of a design or trade mark; or

(b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design, or trade mark.

(c) Cancel the entry or part of the entry of a trade mark on the Register: provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the Register as the proprietor of the said trade mark.

[(d) Permit an applicant for registration of a design or trade mark to amend his application by omitting any particular goods or classes of goods in connexion with which he has desired the design or trade mark to be registered.]

Act, 1888,
s. 24.

92.—(1) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

Alteration of registered mark.

(2) Notice of any intended application to the Court under this section shall be given to the Comptroller by the applicant; and the Comptroller shall be entitled to be heard on the application.

(3) If the Court grants leave, the Comptroller shall, on proof thereof

and on payment of the prescribed fee, cause the Register to be altered in conformity with the order of leave.

Falsification of entries in registers.

93. If any person makes or causes to be made a false entry in any Register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such Register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

Exercise of discretionary power by Comptroller.

94. Where any discretionary power is by this Act given to the Comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Power of Comptroller to take directions of law officers.

95. The Comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

Certificate of Comptroller to be evidence.

96. A certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Applications and notices by post.

97.—(1) Any application, notice, or other document authorised or required to be left, made, or given at the patent office or to the Comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Provision as to days for leaving documents at office.

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

Declaration by infant, lunatic, &c.

99. If any person is, by reason of infancy, lunacy or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or judge possessing jurisdiction in respect of the property of incapable persons, upon the

petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

101.—(1) *The Board of Trade may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—*

Power for Board of Trade to make general rules for classifying goods and regulating business of patent office.

- (a) *For regulating the practice of registration under this Act :*
- (b) *For classifying goods for the purposes of designs and trade marks :*
- (c) *For making or requiring duplicates of specifications, amendments, drawings, and other documents :*
- (d) *For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments and other documents :*
- (e) *For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office ; and providing for the inspection of indexes and abridgments and other documents :*
- (f) *For regulating (with the approval of the Treasury) the presentation of copies of patent office publications to patentees and to public authorities, bodies and institutions at home and abroad :*
- (g) *Generally for regulating the business of the patent office, and all things by this Act placed under the direction or control of the Comptroller, or of the Board of Trade.*

(2) *Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.*

(3) *General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.*

(4) *Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the Comptroller.*

(5) *If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything*

done in the meantime under such rules or rule or to the making of any new rules or rule.

Annual reports of Comptroller.

102. *The Comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.*

Proceedings of Board of Trade.

Act, 1888, s. 25.

[102a.—(1) *All things required or authorized under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant-secretary of the Board.]*

[(2) *All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant-secretary of the Board, or by any person authorized in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.]*

[(3) *A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.]*

International and Colonial Arrangements.

International arrangements for protection of inventions, designs, and trade marks.

103.—(1) *If Her Majesty is pleased to make any arrangement with the government or governments of any foreign state or states for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design or trade mark in any such state, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained [date of the application] in such foreign state.*

Act, 1885, s. 6.

Provided that his application is made, in the case of a patent within seven months, and in the case of a design or trade mark within four months, from his applying for protection in the foreign state with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be.

(2) *The publication in the United Kingdom, or the Isle of Man,*

during the respective periods aforesaid, of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark.

(3) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act: provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act.

(4) The provisions of this section shall apply only in the case of those foreign states with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each state as the Order in Council shall continue in force with respect to that state.

104.—(1) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time by Order in Council to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

Provision for colonies and India.

(2) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act.

Offences.

105.—(1) *Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.*

Penalty on falsely representing articles to be patented.

(2) *A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.*

Penalty on unauthorized assumption of Royal Arms.

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connexion with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Scotland, Ireland, &c.

Summary proceedings in Scotland.

108. *In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court.*

General saving for jurisdiction of Courts.

111.—(1) *The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to patents or to designs or to trade marks; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and the "Court of Appeal" respectively mean the High Court of Justice in Ireland and her Majesty's Court of Appeal in Ireland.*

(2) *If any rectification of a Register under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the Comptroller, and he shall rectify the Register accordingly.*

Isle of Man.

112. *This Act shall extend to the Isle of Man, and—*

- (1) *Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts;*
- (2) *The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;*
- (3) *Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.*

[112a. *The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly.*

Jurisdiction of Lancashire Palatine Court. Act, 1888, s. 26.

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that Court in other cases.]

Repeal, Transitional Provisions, Savings.

113. *The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—*

Repeal and saving for past operation of repealed enactments, &c.

- (a) *Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or*
- (b) *Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or*
- (c) *Take away or abridge any protection or benefit in relation to any such action or proceeding.*

114.—(1) *The Registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the Register of patents kept under this Act.*

Former registers to be deemed continued.

(2) *The Registers of designs and of trade marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the Register of designs and the Register of trade marks kept under this Act.*

115. *All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed altered or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal alteration or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.*

Saving for existing rules.

*General Definitions.**General definitions.*

117.—(1) *In and for the purposes of this Act, unless the context otherwise requires,—*

“ Person ” includes a body corporate :

“ The Court ” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England :

“ Law officer ” means Her Majesty’s Attorney-General or Solicitor-General for England :

“ The Treasury ” means the Commissioners of Her Majesty’s Treasury :

“ Comptroller ” means the Comptroller General of Patents, Designs, and Trade Marks :

“ Prescribed ” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act :

“ British possession ” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act :

“ Legislature ” includes any person or persons who exercise legislative authority in the British possession ; and where there are local legislatures as well as a central legislature, means the central legislature only.

In the application of this Act to Ireland, “ summary conviction ” means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District, the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

SCHEDULES.**THE FIRST SCHEDULE.**

Section 62.

FORMS OF APPLICATION, &c.**THE THIRD SCHEDULE.**

Section 113.

Enactments repealed.

38 & 39 Vict. c. 91. The Trade Marks Registration Act, 1875.
[1875.]

39 & 40 Vict. c. 33. The Trade Marks Registration Amendment Act,
[1876.] 1876.

40 & 41 Vict. c. 37. The Trade Marks Registration Extension Act,
[1877.] 1877.

APPENDIX III.

STATUTORY RULES AND ORDERS, 1906.

No. 233.

TRADE MARK.

TRADE MARKS RULES, 1906. DATED MARCH 24, 1906.

ARRANGEMENT OF RULES.

- Rule 1. Preliminary.
- „ 2. Interpretation.
- „ 3. Fees.
- „ 4. Forms.
- „ 5. Classification of goods.
- Rules 6—9. Documents and address.
- Rule 10. Agents.
- Rules 11—16. Registrable trade marks.
- „ 17—28. Application for registrations.
- „ 29—34. Procedure on receipt of application.
- „ 35—41. Special applications under paragraph 5 of sec. 9.
- „ 42—46. Special trade marks under sec. 62.
- „ 47—50. Advertisement of application.
- „ 51—61. Opposition to registration.
- Rule 62. Non-completion.
- „ 63. Refusal after acceptance.
- Rules 64—67. Entry on the register.
- „ 68—75. Renewal.
- „ 76—81. Assignment.
- Rule 82. Alteration of address.
- Rules 83—86. Discretionary power.
- „ 87—89. Applications under sec. 23.
- „ 90—92. Applications under sec. 32.
- „ 93—94. Applications under sec. 34.
- Rule 95. Search.
- „ 96. Hours of inspection.
- „ 97. Power to dispense with evidence.
- „ 98. Amendments.
- Rules 99—101. Enlargement of time.

ARRANGEMENT OF RULES—*continued.*

Rules 102—104.	Certificates.
„ 105—106.	Declarations.
„ 107—112.	Cutlers' Company.
„ 113—120.	Cotton marks.
Rule 121.	Appeals to the Court.
Rules 122—127.	Appeal to Board of Trade.
Rule 128.	Withdrawal of appeals.
Rules 129—130.	Applications to, and orders of, the Court.

By virtue of the provisions of the Trade Marks Act, 1905, the Board of Trade do hereby make the following Rules:—

Preliminary.

1. These Rules may be cited as the Trade Marks Rules, 1906, and shall come into operation from and immediately after the 31st day of March, 1906.

Interpretation.

Interpreta-
tion.

2. In the construction of these Rules any words herein used the meaning of which is defined by the said Act or the Interpretation Act, 1889,¹ shall have the meanings thereby assigned to them respectively.

“Agent” means an agent duly authorised to the satisfaction of the Registrar.

“Office” means Patent Office, Trade Marks Branch, 25, Southampton Buildings, London, W.C.

“Journal” means “Trade Marks Journal.”

Fees.

Fees.

3. The fees to be paid in pursuance of the said Act shall be the fees specified in the First Schedule to these Rules.

Forms.

Forms.

4. The forms herein referred to are the forms contained in the Second Schedule to these Rules and such forms shall be used in all cases to which they are applicable, and shall be modified as directed by the Registrar to meet other cases.

¹ NOTE.—The more material definitions of the Interpretation Act are:—

“Statutory Declaration” means a declaration made by virtue of the Statutory Declarations Act, 1835.

“Month” means calendar month.

“Person,” unless the contrary intention appears, includes any body of persons corporate or incorporate.

Words in the singular shall include the plural and words in the plural shall include the singular. See *post*, p. 224.

Classification of Goods.

5. For the purposes of trade marks registration and of these Rules goods are classified in the manner appearing in the Third Schedule hereto. Classification of goods.

If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the Registrar.

Documents.

6. Subject to any other directions that may be given by the Registrar, all applications, notices, counter-statements, papers having representations affixed, or other documents required by the said Act or by these Rules to be left with or sent to the Registrar or to the Keeper of Cotton Marks or to the Cutlers' Company, shall be upon foolscap paper of a size of approximately 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than one inch and a half. Size, &c., of documents.

7. Any application, statement, notice, or other document authorised or required to be left, made, or given at the Office, or to or with the Registrar, or with or to any other person may be sent through the post by a prepaid or official-paid letter; any document so sent shall be deemed to have been delivered at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post. A letter addressed to a registered proprietor of a trade mark at his address as it appears on the register, or address for service, or to any applicant for or person opposing the registration of a trade mark at the address appearing in the application or notice of opposition or given for service as hereinafter provided shall be deemed to be sufficiently addressed. Service of documents.

8. Where any person is by the said Act or these Rules bound to furnish the Registrar with an address the following provisions shall apply:— Address.

The address given shall in all cases be as full as possible, for the purpose of enabling any person easily to find the place of business of the person whose address is given.

When a person does not reside in a town with streets, the Registrar may require the address to include all indications which he thinks necessary for such purpose so far as it can be attained.

When an applicant resides in a town where there are streets, the address given shall include the name of the street, and the number in the street or name of premises, if any.

9. Every applicant for the registration of any trade mark, and Address for service.

every opponent to such registration, and every agent, who does not reside or carry on business in the United Kingdom, shall, if so required, give an address for service in the United Kingdom, and such address may be treated as the actual address of such applicant, opponent, or agent for all purposes connected with such application for registration or the opposition thereto.

The Registrar may require the proprietor of a registered trade mark who does not reside or carry on business within the United Kingdom to give an address for service within the United Kingdom, and such address may be treated as the actual address of the proprietor for all purposes connected with such trade mark.

Agents.

Agency.

10. An application for registration and an opposition to registration and all other communications between an applicant, an opponent and the Registrar, or the Board of Trade, and between the proprietor of a registered trade mark and the Registrar, or the Board of Trade, or any other person, may be made by or through an agent.

Any such applicant, opponent, or proprietor may appoint an agent to represent him in the matter of the trade mark by signing and sending to the Registrar an authority in writing to that effect in the Form TM No. 1, or in such other form as the Registrar may deem sufficient. In case any proprietor of a registered trade mark shall appoint such an agent, service upon such agent of any document relating to such trade mark shall be deemed to be service upon the person so appointing him, and all communications directed to be made to such person in respect of such trade mark may be addressed to such agent.

The Registrar shall not be bound to recognise as such agent any person who has been convicted criminally or struck off the Roll of Solicitors, or whose name, by reason of his having been adjudged guilty of disgraceful professional conduct, has been erased from the Register of Patent Agents, kept under the provisions of the Patents, Designs, and Trade Marks Act, 1888, relating to the registration of Patent Agents, and not since restored.

Registrable Trade Marks.

Registrable
trade marks.

11. The Registrar may refuse to accept any application upon which the following appear:—

- (a) The words "Patent," "Patented," or "By Royal Letters Patent," "Registered," "Registered Design," "Copyright,"

"Entered at Stationers' Hall," "To counterfeit this is forgery," or words to like effect.

(b) Representations of Their Majesties or of any member of the Royal Family.

12. Representations of the Royal Arms or Royal crests, or arms or crests so nearly resembling them so as to lead to mistake, or of British Royal crowns, or of the British national flags, or the word Royal or any other words, letters, or devices calculated to lead persons to think that the applicant has Royal patronage or authorization, may not appear on trade marks the registration of which is applied for. Provided always that nothing contained in this rule shall preclude the Registrar from allowing the registration as an "old mark," that is as a mark which was used by the applicant or his predecessors in business before the 13th August, 1875, of any mark which was capable of being so registered before the Trade Marks Act, 1905, came into operation. Royal Arms.

13. Where representations of the arms of a foreign State or place appear on a mark the Registrar may call for such justification as he may deem necessary for their use. Arms of foreign State.

14. Where a representation of the arms or emblems of any city, borough, town, place, society, body corporate, or institution appears on a mark, the applicant shall, if so required, furnish the Registrar with a consent from such official as the Registrar may consider entitled to give consent to the use of such arms or emblems. Arms of city, &c.

15. Where the names or representations of living persons appear on a trade mark, the Registrar shall if he so require be furnished with consents from such persons before proceeding to register the mark. In the case of persons recently dead the Registrar may call for consents from their legal representatives before proceeding with registration of a trade mark on which their names or representations appear. Representations of living person or persons recently dead.

16. Where the name or a description of any goods appears on a trade mark the Registrar may refuse to register such mark in respect of any goods other than the goods so named or described. Name or description of goods.

Where the name or description of any goods appears on a trade mark which name or description in use varies the Registrar may permit the registration of the mark with the name or description upon it for goods other than those named or described, the applicant stating in his application that the name or description varies.

Application for Registration.

Application by firm.

17. If application for registration of a trade mark be made by a firm or partnership it may be signed in the name or for and

on behalf of the firm or partnership by any one or more members thereof.

If the application be made by a body corporate it may be signed by a Director or by the Secretary or other principal officer of such body corporate.

Any application may be signed by an agent.

Address of application.

18. Where application is made for registration of a cotton mark the applicant shall address and send his application to the Keeper of Cotton Marks at the Manchester Branch, 48, Royal Exchange, Manchester. Other applications (except applications which under section 63 of the said Act should be made to the Cutlers' Company) shall be addressed and sent to the Registrar at the Office.

Acknowledgment of application.

19. On or after receipt of the application the Registrar shall furnish the applicant with an acknowledgment thereof.

Application for old mark.

20. Where application is made to register a trade mark which was used by the applicant or his predecessors in business before the 13th of August, 1875, the application shall contain a statement of the time during which and by whom it has been used in respect of the goods mentioned in the application. The Registrar may require a statutory declaration verifying such user with exhibits showing the mark as used.

Contents of form of application.

21. Every application for registration of a trade mark shall contain a representation of the mark affixed to it in the square which the Form TM No. 2 contains for that purpose.

Where the representation exceeds such square in size the representation shall be mounted upon linen, tracing cloth or other material that the Registrar may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded over.

Additional representations.

22. There shall be sent with every application for registration of a trade mark four additional representations of such mark on the Form TM No. 3, exactly corresponding to that affixed to the application Form TM No. 2, and noted with all such particulars as may from time to time be required by the Registrar or by the Keeper of Cotton Marks. Such particulars shall, if required, be signed by the applicant or his agent.

Representations to be durable.

23. All representations of marks must be of a durable nature, but the applicant may in case of need supply in place of representations on the Form TM No. 3, half sheets of strong foolscap of the size aforesaid with the representations affixed thereon and noted as aforesaid.

Separate applications.

24 Applications for the registration of the same mark in different

classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, the registration shall henceforth for the purpose of fees and otherwise be deemed to have been made on separate and distinct applications in respect of the goods included in each class.

25. The Registrar, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

Representations to be satisfactory.

26. Where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient.

Specimens of trade marks in exceptional cases.

The Registrar may also, in exceptional cases, deposit in the Office a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such a manner as he may think fit.

27. When application is made for the registration of a series of trade marks under section 26 of the said Act, a representation of each trade mark of the series shall be affixed, as aforesaid, to the application upon Form TM No. 2, and to each of the accompanying Forms TM No. 3.

Series of trade marks.

28. When a trade mark contains a word or words in other than Roman characters, there shall be endorsed on the application in Form TM No. 2, and on each of the accompanying representations in Form TM No. 3, a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words, and every such indorsement shall be signed by the applicant or his agent.

Transliteration and translation.

Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof, and if he so requires such translation shall be endorsed and signed as aforesaid.

Procedure on Receipt of Application.

29. Subject to the provisions for special applications under paragraph 5 of section 9 of the said Act, upon receipt of an application for registration the Registrar shall cause a search to be made amongst the registered marks and pending applications for the purpose of ascertaining whether there are on record any marks for the same goods or description of goods identical with the mark applied for or so nearly resembling it as to be calculated to deceive.

Search.

Acceptance.

30. If after such search and a consideration of the application the Registrar thinks there is no objection to the mark being registered, he may accept it absolutely or subject to conditions, amendments, and modifications which he shall communicate to the applicant in writing.

Objections.

31. If after such search and consideration of the application any objections appear, a statement of those objections shall be sent to the applicant in writing, and unless within one month the applicant applies for a hearing, he shall be deemed to have withdrawn his application.

Hearings.

32. If the Registrar accepts an application subject to any conditions, amendments, or modifications, and the applicant objects to such conditions, amendments, or modifications, he shall within one month from the date of the communication notifying such acceptance apply for a hearing, and if he does not do so he shall be deemed to have withdrawn his application. If the applicant does not object to such conditions, amendments, or modifications, he shall forthwith notify the Registrar in writing.

Decision of Registrar.

33. The decision of the Registrar at such hearing as aforesaid shall be communicated to the applicant in writing, and if he objects to such decision, he may within one month apply upon Form TM No. 4, requiring the Registrar to state in writing the grounds of his decision and the materials used by him in arriving at the same.

Upon receipt of such form the Registrar shall send to the applicant such statement as aforesaid in writing, and the date when such statement is sent shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

Disclaimers.

34. The Registrar may call on an applicant to insert in his application such disclaimer as the Registrar may think fit in order that the public generally may understand what the applicant's rights, if his mark is registered, will be.

Special Applications under Paragraph 5 of Section 9.

Special applications under section 9, paragraph 5.
Search.

35. An application to register a name, signature, or word or words under paragraph 5 of section 9 of the said Act shall be made on the Form TM No. 5, and not otherwise.

36. Upon receipt of such an application the Registrar shall cause a search to be made amongst the registered marks and pending applications for the purpose of ascertaining whether there are on record any marks for the same goods or description of goods identical with the mark applied for or so nearly resembling it as to be calculated to deceive.

37. If after such search the Registrar thinks there are no such marks, he shall notify the applicant accordingly, but if after such search any such marks appear, he shall notify to the applicant the numbers of those marks and the journals (if any) in which they have been advertised.

Result of search.

38. Within one month from the receipt of such notification the applicant shall send to the Registrar in writing a case in duplicate stating at length the grounds upon which he relies in support of his application, and whether he desires to be heard by the Board of Trade or by the Court. If he fails to do so his application shall be deemed to be withdrawn. If he desires to be heard by the Board of Trade, he shall send with his case Form TM No. 10. If the Board think fit to refer the appeal to the Court, the Registrar may certify the spoilt fee on such form for allowance.

Appeal by applicant.

Upon receipt of such case the Registrar shall send the same to the Board of Trade for their information, together with a copy of all communications that have passed between the Registrar and the applicant.

39. Upon receipt of such case the Board of Trade shall if the applicant desires to be heard by them fix a day for such hearing at which the applicant and the Registrar may attend and be heard, and the Board shall make an order determining whether and subject to what conditions, amendments, or modifications, if any, the application is to be accepted, or may require the applicant to apply to the Court and limit a time for that purpose.

Hearing.

40. If the applicant desires to obtain an order of the Court he shall within one month from sending to the Registrar his case as aforesaid bring the matter before the Court by motion, and if he does not do so he shall be deemed to have withdrawn his application.

Order of the Court.

41. If the application is accepted either by the Board of Trade or the Court it shall be advertised and proceedings thereafter shall be had in respect of it as if it had been accepted by the Registrar in the ordinary course.

Advertisement, &c., of application.

Special Trade Marks under Section 62.

42. Where an association or person desires to register a mark under section 62 of the said Act they shall apply to the Registrar in writing upon the Form TM No. 6.

Application under section 62.

43. Such application shall be in duplicate and shall be accompanied by six copies of the mark applied for.

Mode of application.

44. Upon the receipt of such application the Registrar shall as soon as may be notify the same to the Board of Trade together with his report upon the application, and shall at the same time send a

Report by Registrar.

copy of the application together with three copies of the mark applied for to the Board. The Registrar shall also send the applicants a copy of his report, and within one month from the receipt of such report the applicants shall send the Board in duplicate a case setting out the grounds upon which they rely in support of their application, and if they fail so to do their application shall be deemed to be abandoned.

Hearing.

45. Upon receipt of such case the Board may call for such evidence, if any, as they think fit and shall, if necessary, hear the applicants and the Registrar, and make an order determining whether and subject to what conditions, amendments or modifications, if any, the application may be permitted to proceed.

Advertisement, &c.

46. If such application is permitted to proceed the mark shall be advertised and the application shall be treated in all respects as if it were an ordinary application, and it shall be open to opposition in the same way and all such proceedings shall be had thereon as if it were an application under section 12 of the said Act.

Advertisement of Application.

Advertisement of application.

47. Every application when accepted shall be advertised by the Registrar in the Journal during such times and in such manner as the Registrar may direct.

If no representation of the trade mark be inserted in connexion with the advertisement of an application, the Registrar shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

Wood block or electrotype.

48. For the purposes of such advertisement the applicant may be required to furnish a wood block or electrotype (or more than one, if necessary) of the trade mark, of such dimensions as may from time to time be directed by the Registrar, or such other information or means of advertising the trade mark as may be required by the Registrar; and the Registrar, if dissatisfied with the block or electrotype furnished by the applicant or his agent, may require a fresh block or electrotype before proceeding with the advertisement.

Advertisement of series.

49. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in section 26 of the said Act, the applicant may be required to furnish a wood block or electrotype (or more than one, if necessary) of any or of each of the trade marks constituting the series; or the Registrar may, if he thinks fit, insert with the advertisement of the application a statement of the manner in respect of which the several trade marks differ from one another.

50. Advertisements under section 14 (9) of the said Act shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration. Advertisement under section 14 (9).

Opposition to Registration.

51. Any person may within one month from the date of any advertisement in the Journal of an application for registration of a trade mark give notice in writing at the Office of opposition to the registration. Opposition.

52. Such notice shall be in Form TM No. 7, and shall contain a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles marks already on the register, the numbers of such marks and the numbers of the Journals in which they have been advertised shall be set out. Such notice shall be accompanied by a duplicate which the Registrar will forthwith send to the applicant. Notice of opposition.

53. Within one month from the receipt of such duplicate the applicant shall send to the Registrar a counterstatement (Form TM No. 8) in writing setting out the grounds on which he relies as supporting his application. The applicant shall also set out what facts, if any, alleged in the Notice of Opposition he admits. Such counterstatements shall be accompanied by a duplicate in writing. Counter-statement.

54. Upon receipt of such counterstatement and duplicate the Registrar will forthwith send the duplicate to the opponent and within one month from the receipt of the duplicate the opponent shall leave at the Office such evidence by way of statutory declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant copies thereof. Evidence in support of opposition.

55. If an opponent leaves no evidence, he shall be deemed to have abandoned his opposition, but if he does then within one month from the receipt of the copies of declarations, the applicant shall leave at the Office such evidence by way of statutory declaration as he desires to adduce in support of his application and shall deliver to the opponent copies thereof. Evidence in support of application.

56. Within fourteen days from the receipt by the opponent of the copies of the applicant's declarations the opponent may leave at the Office evidence by statutory declaration in reply, and shall deliver to the applicant copies thereof. Such evidence shall be confined to matters strictly in reply. Evidence in reply by opponent.

57. In any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to file any evidence upon such terms as to costs or otherwise as the Registrar may think fit. Further evidence.

Exhibits.

58. Where there are exhibits to declarations filed in an opposition, copies or impressions of such exhibits shall be sent to the other party on his request, or, if such copies or impressions cannot conveniently be furnished, the originals shall be sent to the Office, so that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

Hearing.

59. Upon completion of the evidence the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such appointment shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of such notice both parties shall file Form TM No. 9. A party who receives such notice and who does not, within seven days from the receipt thereof, give notice on Form TM No. 9, that he intends to appear, may be treated as not desiring to be heard, and the Registrar may act accordingly.

Extension of time.

60. Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, if he thinks fit, without giving the said party a hearing, grant any reasonable extension of time to the other party in which to take any subsequent step.

Security for costs.

61. Where a party giving notice of opposition neither resides or carries on business in the United Kingdom, the Registrar may call upon him to give a security in such form as the Registrar may deem sufficient for the costs of the proceedings before the Registrar, for such amount as to the Registrar may seem fit, and at any stage in such opposition may require further security to be given at any time before giving his decision in the case.

*Non-Completion.*Non-comple-
tion within
12 months.

62. Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar shall give notice to the applicant in writing in the Form O No. 1 of such non-completion, and if the applicant has an agent, shall send a duplicate of such notice to such agent. If after fourteen days from the date when such notice was sent the registration is not completed, the application shall be deemed to be abandoned, but the Registrar may with such notice, where the applicant lives at a distance, give a further time after such fourteen days for the completion of such application.

Refusal after acceptance.

63. In pursuance of section 16 of the said Act the Board of Trade hereby direct that in cases where a mark has been accepted by error, the Registrar need not register the mark but may withdraw his acceptance and refuse to register, but any such refusal shall be deemed to be a refusal under sub-section 2 of section 12 of the said Act, and an applicant shall have thereafter the same right of being heard, and of appealing, as he would have had if the mark had been refused immediately upon its receipt. In any other case the Board, having regard to any special facts, will give special directions under section 16 of the said Act.

Refusal after acceptance.

Entry on the Register.

64. As soon as may be after the expiration of one month from the date of the advertisement in the Journal of any application, the Registrar shall, subject to any opposition and the determination thereof, and subject to the provisions of Rule 63, and upon payment of the prescribed fee, on Form TM No. 11, enter the trade mark on the register. The entry of a trade mark on the register shall give the date of the registration, the goods in respect of which it is registered, and all particulars named in section 4 of the Act, together with particulars of the trade, business, profession, or occupation, if any, of the proprietor, and such other particulars as the Registrar may deem necessary.

Entry on register.

65. Where a mark is registered as associated with any other mark or marks the Registrar shall note upon the register in connection with such mark the numbers of the marks with which it is associated and shall also note upon the register in connection with each of the associated marks the number of the newly registered mark as being an associated mark with each of them.

Associated marks.

66. In case of the death of any applicant for a trade mark after the date of his application, and before the trade mark applied for has been entered on the register, the Registrar, after the expiration of the prescribed period of advertisement, may, on being satisfied of the applicant's death, enter on the register, in place of the name of such deceased applicant, the name, address, and description of the person owning the goodwill of the business, on such ownership being proved to the satisfaction of the Registrar.

Death of applicant before registration.

67. Upon the registration of a trade mark the Registrar shall issue to the applicant a certificate in the Form O No. 2.

Certificate of registration.

Renewal.

68. At any time not less than two months and not more than three months before the expiration of the last registration of a trade

Renewal of registration.

mark any person may leave at the Office a fee for the renewal of the registration of the mark upon Form TM No. 12. Such person shall indorse upon such form his name and address, and before taking any further step the Registrar may require such person to furnish within five days an authority to pay such fee signed by the registered proprietor, and if such person does not furnish such authority, may return such fee and treat it as not received.

Notification of receipt of renewal fee.

69. When he does not require such authority, the Registrar shall upon receipt of such fee communicate with the registered proprietor at his registered address, stating that the fee has been received and that the registration will in due course be renewed.

Notice before removal of trade mark from register.

70. At a date not less than one month and not more than two months before the expiration of the last registration of a mark, if no fee upon the Form TM No. 12 has been received, the Registrar shall send to the registered proprietor at his registered address a notice in the Form O No. 3.

Second notice before removal of trade mark from register.

71. At a time not less than fourteen days and not more than twenty-eight days before the expiration of the last registration of a mark, the Registrar shall, if no renewal fee has been received, send a notice to the registered proprietor at his registered address in the Form O No. 4.

Advertisement of non-payment.

72. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the Journal, and if within one month of such advertisement the renewal fee upon Form TM No. 13, together with an additional fee upon Form TM No. 14, is received, he may renew the registration without removing the mark from the register.

Removal of trade mark from register.

73. Where after one month from such advertisement such fees have not been paid, the Registrar may remove the mark from the register as of the date of the expiration of the last registration, but may upon payment of the renewal fee upon Form TM No. 13, together with the additional fee upon the Form TM No. 15, restore the mark to the register if satisfied that it is just so to do, and upon such conditions as he may think fit to impose.

Removal of mark from register.

74. Where a trade mark has been removed from the register the Registrar shall cause to be entered in the register a record of such removal and of the cause thereof.

Notice and advertisement of renewal.

75. Upon the renewal of a registration a notice to that effect shall be sent to the registered proprietor at his registered address and the renewal shall be advertised in the Journal.

Assignment.

Joint request for entry of assignment.

76. The Registrar may on request made jointly by a registered proprietor of a mark and the person to whom he has assigned such

mark, together with the goodwill of the business concerned in the goods for which it has been registered, register the assignee as proprietor of the mark. Such application shall be in the Form TM No. 16. If the Registrar so require, the assignee shall furnish a declaration in Form TM No. 17.

77. Where no such joint request is made, any person who has become entitled to a registered trade mark by assignment, transmission, or other operation of law, may leave a request at the Office for the entry of his name in the register as proprietor of such trade mark. The request shall be on the Form TM No. 18, and such request shall contain the name, address, and description of the person claiming to be entitled to the Trade Mark, hereinafter called the claimant.

Request for entry of assignment by subsequent proprietor.

78. Together with such request the claimant shall leave a case stating full particulars of the assignment, transmission, or other operation of law by virtue of which he claims to be entitled to be entered in the register as proprietor of the trade mark, so as to show the manner in which and the person or persons to whom the trade mark has been assigned or transmitted, and so as to show further that it has been so assigned or transmitted in connection with the goodwill of the business concerned in the goods for which the trade mark has been registered.

Case accompanying request.

79. Such request shall in the case of an individual be made and signed by the claimant, and in the case of a firm or partnership by one or more members of such firm or partnership, and in the case of a body corporate shall be signed by a director or by the secretary or other principal officer of such body corporate.

Signature of request.

80. Where the Registrar shall determine that the case sets out particulars such as entitle the claimant to be registered as proprietor of such trade mark, he shall call upon the claimant to furnish a statutory declaration (Form TM No. 19) verifying the several statements in the case and declaring that the particulars given comprise every material fact and document affecting the proprietorship of the trade mark claimed by such request.

Statutory declaration in support of request.

81. In any case, the Registrar may call on any person who desires to be registered as proprietor of a trade mark for such proof or additional proof of title and of the existence and ownership of such goodwill as aforesaid as the Registrar may require for his satisfaction.

Proof of title.

Alteration of Address.

82. Every registered proprietor of a trade mark who alters his address shall forthwith apply to the Registrar on the Form TM

Alteration of address in register.

No 20 to insert the new address on the register, and the Registrar shall alter the register accordingly.

Discretionary Power.

Hearing. 83. Before exercising any discretionary power given to the Registrar by the said Act adversely to any person, the Registrar shall, if so required, hear the person who will be affected by the exercise of such power.

Application for hearing. 84. An application for a hearing shall be made within one month from the date when the matter on which the Registrar is called on to exercise discretionary power has arisen.

Notice of hearing. 85. Upon receiving such application the Registrar shall give the person applying ten days' notice of a time when he may be heard by himself or his agent.

Within five days from the date when such notice would be delivered in the ordinary course of post the person applying shall notify the Registrar whether or not he intends to be heard on the matter.

Notification of decision. 86. The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the person affected.

Applications under Section 23.

Application under section 23. 87. All applications to the Registrar under section 23 of the said Act shall be upon the Form TM No. 21. Such application shall be accompanied by a case setting out fully the facts relating to the marks which the Registrar is requested to permit an apportionment of.

Registrar to enquire and decide. 88. Upon receipt of such request and of such case the Registrar shall enquire into the facts and call for such evidence as he may deem necessary upon the subject of such application. Before giving his decision the Registrar shall, if necessary, give the parties an opportunity of attending before him at a hearing either by themselves or by their agents.

The decision of the Registrar shall be in writing.

Note in register. 89. Upon any apportionment of marks under this section the Registrar shall insert in the register a note in connection with each of the registered trade marks of the fact of such apportionment, and shall in such note refer to the date of the decision under which such apportionment has taken place.

Applications under Section 32.

Application under section 32. 90. Applications under section 32 to the Registrar may be made by the registered proprietor, or by the trustee in bankruptcy of the

registered proprietor, or where the registered proprietor is a company in liquidation by the liquidator, and in other cases by such person as the Registrar may decide to be entitled to act in the name of the registered proprietor.

91. Where such application is made the Registrar may require such evidence by statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made. Evidence.

92. Where application is made, on Form TM No. 26, to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall advertise the application in the Journal for one month in order to enable any person desiring so to do to state any reasons in writing against the applicant being allowed to make such disclaimer or enter such memorandum. Advertisement of application.

Applications under Section 34.

93. Where a person desires to apply under section 34 to alter a trade mark he shall make his application in writing on Form TM No. 27, and shall furnish the Registrar with six copies of the mark as it will appear when altered. Alteration of trade mark.

94. Before proceeding with such application the Registrar may call on the applicant to furnish a block suitable to advertise in the Journal the fact that such application has been made, or, if he think fit, the Registrar, without calling for a block, may insert an advertisement describing the alteration proposed in words so that it can be understood by persons interested in the matter. Advertisement of alteration.

Where leave is granted the Registrar may, if he is not already in possession of a block showing the trade mark as altered, cause the applicant to furnish a block showing the trade mark as altered for advertisement in the Journal, and upon receipt of such block shall forthwith advertise the mark as altered in the Journal.

Search.

95. The Registrar, if requested so to do in writing upon a Form TM No. 28, may cause a search to be made in any class to ascertain whether any marks are on record at the date of such search which may resemble any mark sent in duplicate to him by the person requesting such search and may cause that person to be informed of the result of such search. Searches.

Hours of Inspection.

96. The Office shall be open to the public every weekday, except Saturday, between the hours of ten and four, and on Saturday between the hours of ten and one, except on the days following:— Hours of inspection.

Christmas Day; Good Friday; the day observed as His Majesty's

birthday; the days observed as days of public fast or thanksgiving, or as holidays at the Bank of England; and days which may from time to time be notified by a placard posted in a conspicuous place at the Office.

Power to Dispense with Evidence.

Dispensing
with
evidence.

97. Where under these Rules any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the Office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, and upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration or evidence.

Amendments.

Amendment
of documents.

98. Any document or drawing or other representation of a trade mark may be amended, and any irregularity in procedure which in the opinion of the Registrar may be obviated without detriment to the interests of any person may be corrected, if the Registrar think fit, and on such terms as he may direct.

Enlargement of Time.

Enlargement
of time.

99. The time prescribed by these Rules for doing any act, or taking any proceeding thereunder, may be enlarged by the Registrar, if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct, and such enlargement may be granted though the time has expired for doing such act or taking such proceeding.

Excluded
days.

100. Whenever the last day fixed by the said Act, or by these Rules, for leaving any document or paying any fee at the Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

Fees paid late
by persons
living at
distances
from Office.

101. Where a time for paying a fee is limited by these Rules and the person who is bound to pay such fee resides at such distance from the Office that he cannot reasonably be expected to pay the fee

on the date limited by the Rule, the Registrar, if satisfied that the omission to pay the fee has not been from any want of diligence on the part of the person whose business it is to pay it, may accept the fee even though the date for paying the fee has passed, and treat it as if received on the correct date, provided always that the fee is actually paid with such promptitude as can be expected in the circumstances.

Certificates.

102. The Registrar, when required otherwise than under section 17 of the said Act to give a certificate as to any entry, matter, or thing which he is authorised by the said Act or any of these Rules to make or do, may, on receipt of a request in writing, and on payment of the prescribed fee, give such certificate, but every certificate of registration so given shall have specified on the face thereof, whether the same is to be used in legal proceedings, or for the purpose of obtaining registration abroad, or for purposes other than use in legal proceedings or obtaining registration abroad.

Certificates
by
Registrar.

103. Where a mark is registered without limitation of colour it shall be lawful for the Registrar to grant a certificate of its registration for the purpose of obtaining registration abroad either in the colour in which it appears upon the register or in any other colour or colours.

Marks
registered
without
limitation of
colour.

104. Where a certificate of registration is desired for use in obtaining registration abroad, the Registrar shall affix to the said certificate a copy of the mark, and shall state in such certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimers appearing on the register.

Certificates
for use in
obtaining
registration
abroad.

Declarations.

105. The statutory declarations required by the said Act and these Rules, or used in any proceedings thereunder, shall be made and subscribed as follows:—

Manner in
which, and
person before
whom,
declaration is
to be taken.

(a) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;

(b) In any other part of His Majesty's dominions, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and

(c) If made out of His Majesty's dominions, before a British Minister, or person exercising the functions of a British

Minister, or a Consul, Vice-Consul, or other person exercising the functions of a British Consul, or a notary public, or before a judge or magistrate.

Notice of seal of officer taking declaration to prove itself.

106. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorised to take such declaration in testimony of such declaration having been made and subscribed before him, may be admitted by the Registrar without proof of the genuineness of any such seal or signature, or of the official character of such person or his authority to take such declaration.

Cutlers' Company.

Applications.

107. All applications to the Cutlers' Company for registration of a trade mark, under section 63 of the said Act, shall be in duplicate, accompanied by the prescribed fees and representations. Requests to enter old corporate marks on the Sheffield Register, under section 63 (2), should be made on Form Sheffield No. 1.

Notice to Registrar.

108. The Cutlers' Company shall, within seven days of the receipt by them of an application to register a trade mark, send the Registrar one copy of such application, by way of notice thereof, together with two representations of the mark for each class for which the applicant seeks registration.

Objections by Registrar to acceptance.

109. The time within which the Registrar shall give notice to the Cutlers' Company of any objection he may have to the acceptance of an application for registration made to the said Company shall be one month from the date of the receipt by the Registrar of the notice from the said Company of the making of the application.

Advertisement of application.

110. If no such objection is made by the Registrar, the Cutlers' Company shall require the applicant to send the Registrar a wood block or electrotype as the Registrar may direct, and the Registrar shall, if satisfied with such wood block or electrotype, advertise the application in the same manner as an application made to him at the Office.

Notification to Cutlers' Company of application.

111. The manner in which the Registrar shall notify to the Cutlers' Company an application and proceedings thereon made as mentioned in sub-section 8 of section 63 of the said Act shall be by sending to the Cutlers' Company a copy of the Journal containing the application of which notice is required to be given, with a note distinguishing such application.

Similarity of proceedings in London and Sheffield.

112. The provisions of these Rules as to forms, representations, the proceedings on opposition to registration, registration, and all subsequent proceedings, shall, as far as the circumstances allow,

apply to all applications to register made to the Cutlers' Company, and to all proceedings consequent thereon.

Cotton Marks.

113. An application to the Manchester Branch for registration of a trade mark under section 64 of the said Act shall be in duplicate. The special Forms for cotton marks contained in the Second Schedule to these Rules shall be used. One of the Forms of application shall be stamped and the other unstamped. Application.

114. The Keeper of Cotton Marks shall forthwith, on receipt of such application, send the Registrar one representation of the mark applied for. One representation to be sent to Registrar.

115. As soon as may be after receiving any application the Keeper of Cotton Marks shall make a search amongst the marks on the Manchester register, in the B List, and those which have been refused and those which are pending, and shall notify to the Registrar the application and the marks, if any, which he has found so nearly resembling the mark applied for as to be calculated to deceive, and together with such notification shall send a report upon the application. Search.

116. Upon considering such report, if the Registrar thinks it will be necessary to object to the acceptance of the application, he shall give notice to the applicant of a time when he can be heard, and, within one month after hearing the applicant, may give notice to the Keeper of Cotton Marks of objection to the acceptance of the application, or that he has no objection, as the case may be. If no notice of objection, or if notice of no objection is received from the Registrar, the application shall be advertised in the Journal by the Manchester Branch. Hearings.

If the applicant, being notified as aforesaid of a time for hearing, does not attend, his application shall be deemed to be refused.

117. If the mark is advertised by the Manchester Branch and is not opposed, the Keeper of Cotton Marks may call upon the applicant for the prescribed fee for the registration of such trade mark, and upon receipt thereof shall report to the Registrar, who shall forthwith, if he think fit, register the same. Registration.

118. Where under the said Act or these Rules an application has to be made to the Keeper of Cotton Marks, such application shall be made and such proceedings shall be had thereon as if in these Rules the expression "Manchester Branch, 48, Royal Exchange, Manchester," were substituted for the word "Office," and the expression "Keeper of Cotton Marks" were substituted for the word "Registrar." Procedure.

Service of documents.

119. Where any document is by these Rules directed to be served upon the Registrar it shall, in respect of cotton marks, be served in duplicate upon the Keeper of Cotton Marks, who shall forthwith transmit one copy to the Registrar.

Search under Rule 95.

120. Where under Rule 95 a search has to be made by the Keeper of Cotton Marks, such search shall cover all marks of which there is a right of inspection under section 64 (11) of the said Act.

Appeals to the Court.

Appeal to Court.

121. When any person intends to appeal to the Court, such appeal shall be made by motion in the usual way, and no such appeal shall be entertained unless notice of motion be given within one month from the date of the decision appealed against or within such further time as the Registrar shall allow.

Appeals to Board of Trade.

Appeal to Board of Trade.

122. When any person intends to appeal to the Board of Trade he shall, before doing so, apply to the Registrar for a hearing and obtain a decision from him upon the point raised. Within one month from the date of such decision he shall, if he is advised to appeal to the Board of Trade in any case in which an appeal is given by the said Act, leave at the Office a notice of such his intention, on Form TM No. 29.

Such notice shall be accompanied—

- (1) In case the appeal concerns an application not yet advertised, by a copy of the form of application and six representations of the mark applied for and a copy of the grounds of the Registrar's decision.
- (2) In case of an opposition by a copy of the decision of the Registrar, and if the appeal is by the applicant also by a copy of the form of application and six representations of the mark opposed.
- (3) In other cases by a copy of the decision of the Registrar and a statement of the date of the hearing before him.

Grounds of appeal to be stated.

123. Such notice shall also be accompanied by a statement in writing of the grounds of appeal, and of the appellant's case in support thereof.

Transmission of notice.

124. A copy of the notice and all the accompanying documents shall also be forthwith sent by the appellant to the Secretary of the Board of Trade, No. 7, Whitehall Gardens, London; and where there has been an opposition before the Registrar to the opponent or applicant as the case may be.

125. The Board of Trade may thereupon give such directions (if any) as they may think fit with respect to parties and evidence, or otherwise, for the purpose of the hearing of the appeal by the Board of Trade, or for the purpose of their referring the appeal to the Court to hear and determine the same. Directions by Board.

126. Where the Board of Trade intend to hear the appeal, seven days' notice, or such shorter notice as the Board of Trade may in any particular case direct, of the time and place appointed for the hearing, shall be given to the Registrar and to the appellant, and where there has been an opposition before the Registrar to the opponent or applicant as the case may be. Hearing of appeal.

127. No appeal shall be entertained of which notice has not been given within one month from the date of the decision appealed against, or such further time as the Registrar may allow, except by special leave of the Board of Trade. No appeal unless notice duly given.

Withdrawal of Appeals.

128. Where under section 12 (5) or section 14 (8) of the said Act an appellant is entitled to withdraw his appeal, such withdrawal shall be effected by notice given to the Registrar and to the other parties, if any, to such appeal within seven days after the leave referred to in such sections has been obtained. Withdrawal of appeal.

Applications to and Orders of the Court.

129. Where an order has been made by the Court in any case under the said Act, the person in whose favour such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Office an office copy of such order, together with Form TM No. 30 if required. The register may, if necessary, thereupon be rectified or altered by the Registrar. Order of Court.

Every application to the Court under the said Act shall be served on the Registrar.

130. Whenever an order is made by the Court under the said Act, the Registrar may, if he thinks that such order should be made public, publish it in the Journal. Publication of order of Court.

Dated this 24th day of March, 1906.

(Sd.) D. LLOYD-GEORGE,
President of the Board of Trade.

APPENDIX III.

SCHEDULES.

First Schedule.

FEES.

The following fees shall be paid in connection with applications registrations, and other matters under the Act. Such fees must in all cases be paid before or at the time of the doing of the matter in respect of which they are to be paid:—

	—	Corresponding Form.
	£ s. d.	
1. On application not otherwise charged to register a trade mark for one or more articles included in one class.	0 10 0	T.M. No. 2 or 5, Cotton No. 1
1a. On application not otherwise charged to register a series of trade marks for one or more articles included in one class.	0 10 0	T.M. No. 2 or 5, Cotton No. 1.
1b. On request to the Cutlers' Company to enter a mark on the Sheffield Register under sec. 63, sub-sec. (2)	5 0 0	Sheffield No. 1.
1c. On application to the Board of Trade under sec. 62 for leave to register a mark for goods in one class	0 10 0	T.M. No. 6
1d. On application to the Board of Trade under sec. 62 for leave to register a mark for goods in more than one class—		
In respect of every class	0 10 0	T.M. No. 6
Total fee in no case to exceed £10 for any number of classes.		
2. On an application to Registrar to state grounds of decision and materials used under sec. 12, sub-sec. (3).	0 10 0	T.M. No. 4
3. On request to be heard by the Board of Trade on application to register a name, signature, word or words under sec. 9, par. (5).	1 0 0	T.M. No. 10
4. On notice of opposition for each application opposed, by opponent.	1 0 0	T.M. No. 7
4a. On filing a counter-statement in answer to a notice of opposition, by the applicant for each application opposed.	0 10 0	T.M. No. 8
4b. On the hearing of each opposition, by applicant and by opponent respectively.	1 0 0	T.M. No. 9
5. For registration of a trade mark for one or more articles included in one class.	1 0 0	T.M. No. 11
5a. For registration of a series of marks for one or more articles included in one class—		
For the first mark	1 0 0	T.M. No. 11
And for every other mark of the series	0 5 0	
5b. For registration under sec. 62 of a mark for goods in more than one class in respect of every class.	1 0 0	T.M. No. 11
Total fee not to exceed £20 for any number of classes.		
6. Upon each entry in the register of a mark of a note that the mark is associated with a newly registered mark.	0 1 0	—

	—	Corresponding Form.
	£ s. d.	
7. On application to register a subsequent proprietor in cases of assignment or transmission of a single mark.	1 0 0	T.M. No. 16 or 18.
7a. On application to register a subsequent proprietor of more than one mark standing in the same name, the devolution of title being identical in each case— For the first mark	1 0 0	T.M. No. 16 or 18.
And for every other mark... ..	0 2 0	
8. On application to change the name of a proprietor of a single mark where there has been no alteration in the proprietorship.	0 5 0	T.M. No. 23
8a. On application to change the name of a proprietor of more than one mark standing in the same name, the change being the same in each case— For the first mark... ..	0 5 0	T.M. No. 23
And for every other mark	0 1 0	
9. For renewal of registration of a mark at expiration of last registration.	1 0 0	T.M. No. 12 or 13.
9a. For renewal of registration of a series of marks at the expiration of last registration— For the first mark of the series	1 0 0	T.M. No. 12 or 13.
And for every other mark of the series	0 2 0	
9b. For renewal of a mark registered under sec. 62 for goods in more than one class— In respect of every class	1 0 0	T.M. No. 12 or 13.
Total fee in no case to exceed £20 for any number of classes.	*	
10. Additional fee under Rule 72... ..	0 10 0	T.M. No. 14
11. Additional fee under Rule 73... ..	1 0 0	T.M. No. 15
12. For altering a single entry of the address of a registered proprietor.	0 5 0	T.M. No. 20
12a. For altering more than one entry of the address of a registered proprietor where the address in each case is the same and is altered in the same way— For the first entry	0 5 0	T.M. No. 20
And for every other entry	0 1 0	
13. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged.	0 10 0	T.M. No. 30
14. For cancelling the entry or part of the entry of a trade mark upon the register on the application of the owner of such trade mark.	0 5 0	T.M. No. 24 or 25.
15. On request, not otherwise charged, under sec. 12 (6) or under sec. 32.	0 5 0	T.M. No. 22 or 26.
16. For a search under Rule 95	0 10 0	T.M. No. 28
17. For certificate of Registrar of registration to be used in legal proceedings.	1 0 0	T.M. No. 34
18. For certificate of Registrar of the registration of a trade mark to be used for the purpose of obtaining registration abroad.	0 5 0	T.M. No. 33
18a. For certificate of Registrar of the registration of a series of marks for the purpose of obtaining registration abroad.	0 10 0	T.M. No. 33
19. For certificate of Registrar other than certificate under sec. 17 or certificate of registration to be used in legal proceedings, or for the purpose of obtaining registration abroad.	1 0 0	T.M. No. 31 or 32.

APPENDIX III.

	—	Corresponding Form.
	£ s. d.	
20. For certificate of Keeper of Cotton Marks	0 5 0	Cotton No. 3 or 4.
21. On appeal from Registrar to Board of Trade in respect of each decision appealed against by Appellant.	1 0 0	T.M. No. 29
22. On an application to the Registrar under sec. 23 ...	5 0 0	T.M. No. 21
23. On an application to the Registrar for leave to add to or alter a single mark.	1 0 0	T.M. No. 27
23 <i>a</i> . On an application to the Registrar for leave to add to or alter more than one mark of the same proprietor, the addition or alteration to be made, in each case being the same—		
For the first mark	1 0 0	T.M. No. 27
And for every other mark	0 10 0	
24. For inspecting register in connection with any particular trade mark, for every quarter of an hour.	0 1 0	—
25. For making a search amongst the classified representations of trade marks, for every quarter of an hour.	0 1 0	—
26. For office copy of documents for every 100 words (but never less than 1 <i>s</i> .).	0 0 4	—
27. For certifying office copies MS. or printed matter	0 10 0	—
28. In cases where the wood block or electrotype of the trade mark exceeds 2 inches in breadth or depth, or in breadth and depth—		
For every inch or part of an inch over 2 inches in breadth.	0 2 0	—
For every inch or part of an inch over 2 inches in depth.	0 2 0	—

The fees to be paid on any proceeding at the Manchester Branch and at Sheffield (except as specially provided above) shall be the same as for the similar proceeding at the London office.

For the purpose of these fees (except as specially provided above) every mark of a series under sec. 66 of the Patents Designs and Trade Marks Act, 1883, or sec. 26 of this Act, shall be deemed to be a mark separately registered.

Dated this 24th day of March, 1906.

(Sd.) D. LLOYD-GEORGE,
President of the Board of Trade.

Approved.

(Sd.) J. HERBERT LEWIS,
CECIL NORTON,

Lords Commissioners
of His Majesty's Treasury.

Second Schedule.

FORMS.

	Page ¹ .	Corre- sponding Fee ² .
		No.
Authorisation	194	—
Application for registration of Trade Mark	195	1, 1a
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¹ The pages here inserted are those of this book, and not those actually inserted in the published Rules.

² See ante, p. 190.

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TRADE MARKS ACT, 1905.

Form TM No. 1.

Form of Authorisation.

SIR,

I BEG to inform you that I have appointed (a) _____ of _____ to act as
my agent for (b) _____.

I am, Sir,

Your obedient Servant

(c) _____

Address

Date: the _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Here insert name and address of agent.

(b) Here state the particular purpose for which the agent is appointed.

(c) To be signed by the person appointing the agent.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 2.

Application for Registration of Trade Mark (other than Cotton Mark).

One representation to be fixed within this square, and four others to be sent on separate Forms TM No. 3.

Representations of a larger size may be folded, but must then be mounted upon linen and affixed hereto.

Application is hereby made for Registration of the accompanying Trade Mark in Class _____, in respect of (a) _____ in the name of (b) _____ of [address and description] trading as _____ who claims to be the proprietor thereof (c).
do not claim the registration of this Trade Mark under the special provisions of paragraph 5 of sec. 9 of the Trade Marks Act, 1905, in regard to names, signatures, or words.

(Signed) _____.

Dated the _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

- (a) Only goods contained in one and the same class should be set out here. A separate Application Form is required for each separate class.
- (b) Here insert legibly the full name, address and description of the individual, firm, or company. Add trading style (if any).
- (c) Alter to "claim to be the proprietors thereof" in the case of a firm or company.

APPENDIX III.

TRADE MARKS ACT, 1905.

Form TM No. 3.

Additional Representation of Trade Mark, to accompany Application for Registration (other than Cotton Mark).

One representation of the trade mark to be affixed within this square.

It must correspond *exactly*, in all respects with the representation affixed to the Application Form.

Any representation of a larger size than foolscap may be folded, but must then be mounted upon linen and affixed hereto.

FOUR of these ADDITIONAL REPRESENTATIONS of the Trade Mark must accompany *each* Form of Application.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 4.

Request for Statement of Grounds of Decision under Sec. 12 (3).

You are hereby requested under sub-sec. 3 of sec. 12 of the Trade Marks Act, 1905, and Rule 33 made thereunder to state in writing the grounds of your decision, dated the day of 19 , after the hearing on the day of 19 , and the materials used by you in arriving at such decision.

(Signed) ———.

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 5.

*Special Application for Registration of Trade Mark under Paragraph
5 of Sec. 9.*

One representation to be fixed within this square, and
four others to be sent on separate Forms TM No. 3.

Application is hereby made for registration of the accompanying Trade Mark
in Class , in respect of (a) in the name of (b) of [*address
and description*] trading as who claims to be the proprietor thereof (c)
and desires an order of the Board of Trade or the Court directing registration of
the same.

(Signed) _____.

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Only goods contained in one and the same class should be set out here.
A separate Application Form is required for each separate class.

(b) Here insert legibly the full name, address and description of the individual,
firm, or company. Add trading style (if any).

(c) Alter to "claim to be the proprietors thereof" in the case of a firm or
company.

APPENDIX III.

(TRADE MARKS.
Fee 1s. or 1d.)

TRADE MARKS ACT, 1905.

Form TM. No. 6.

Special Application for Registration of Trade Mark under Sec. 62.

(To be accompanied by an unstamped duplicate.)

One representation to be fixed within this square, and six others to be sent on separate half-sheets of foolscap.

Representations of a larger size may be folded, but must then be mounted upon linen and affixed hereto.

Application is hereby made for registration of the accompanying Trade Mark in Class _____, in respect of (a) _____ in the name of _____ of _____ [address and description] who desire the Board of Trade under sec. 62 of the said Act to permit the registration thereof.

(Signed) _____.

Dated _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Only Goods contained in one and the same class should be set out here. A separate Application Form is required for each separate class.

(TRADE MARKS.
£1.)

TRADE MARKS ACT, 1905.

Form TM. No. 7.

Notice of Opposition to Application for Registration.

(To be accompanied by an unstamped duplicate.)

In the matter of an application, No. _____ by _____ of _____
I,* hereby give notice of my intention to oppose the Registration of the
Trade Mark advertised under the above number for Class _____ in the Trade Marks
Journal of the _____ day of _____ 19 _____, No. _____, page _____.
The grounds of opposition are as follows:—

(Signed) _____.

Dated the _____ day of _____, 19 _____.

Address for Service:—

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

* Here state full name and address.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 8.

Form of Counter-statement.

(To be accompanied by an unstamped duplicate.)

In the matter of an Opposition, No. , to Application No. .

I the applicant for the above Trade Mark, hereby give notice that the following are the grounds on which I rely as supporting my application :—

I admit the following allegations in the notice of Opposition :—

(Signature) _____

Dated this day of , 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 9.

Form of Application for Hearing by the Registrar in Cases of Opposition.

SIR,

IN reply to your Notice dated the giving of (a) a date on which you will hear the arguments in the case of Opposition No. to Application No. I beg to say that I intend to appear before you on the date you have fixed, namely the day of 19 .

I am, Sir,
Your obedient Servant,

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Here insert address.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 10.

Application is hereby made to the Board of Trade to hear the matter of the Application No. under Rule 38.

(Signature) _____

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

APPENDIX III.

FORM O No. 1.

Notice of Non-completion of Registration.

No.

The Registrar has to call your attention to Sec. 18 of the Trade Marks Act, 1905, and to Rule 62 of the Trade Marks Rules made thereunder. The Section and the Rule are printed on the back hereof.

Your application numbered as above was made on the day of 19 .
Registration has not been completed by reason of your default. Unless it is completed within days from this date the application will be treated as abandoned.

Dated this day of 19 .

To

*The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 5 or 5a.)

FORM TM No. 11.

Fee for Registration of a Trade Mark.

SIR,

IN reply to your request I hereby transmit the prescribed fee for the registration of the Trade Mark No. in Class .

I am, Sir,

Your obedient Servant,

(a) ———.

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London W.C.*

a Signature.

TRADE MARKS ACT, 1905

FORM O No. 2.

Certificate of Registration under Sec. 17.

To

I hereby certify, pursuant to Rule 67 of the Rules under the above Act, that the Trade Mark in your application No. was duly advertised in the Trade Marks Journal and has been registered in your name in Class , in respect of the goods specified by you.

Witness my hand this day of , 19 .

(Seal of Patent Office.)

Registrar.

*The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(TRADE MARKS.
Fee 9 or 9a.)

TRADE MARKS ACT, 1905.

Form TM No. 12.

Renewal of Registration before Notice given.

I hereby leave the prescribed fee of _____ for the renewal of the registration of the Trade Mark No _____, in Class _____.

Dated the _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

N.B.—This Form must be indorsed with the name and address of the person leaving the same.

— — —
TRADE MARKS ACT, 1905.

Form O No. 3.

*Notice before Removal of Trade Mark from the Register,
under Sec. 30.*

The Registrar hereby gives you notice that in conformity with the provisions of Sec. 30 of the above Act (printed at back hereof), your Trade Mark No _____, registered in Class _____, will be removed from the Trade Marks Register, unless the prescribed fee of _____ (payable by Form TM No. 13) be received at this Office before the _____ day of _____ 19 _____, on which date the existing registration will expire.

A stamped Form TM No. 13, for payment of the fee, may be obtained as directed at the back of this Notice, *but cannot be obtained from this Office.*

Dated this _____ day of _____ 19 _____.

To

*The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

Cheques, Money Orders, or Cash cannot be accepted in payment of fees.

— — —
TRADE MARKS ACT, 1905.

Form O No. 4.

SECOND NOTICE.

*Notice before Removal of Trade Mark from the Register,
under Sec. 30.*

The Registrar hereby gives you notice that, in conformity with the provisions of Sec. 30 of the above Act (printed at back hereof), your Trade Mark No _____, registered in Class _____, will be removed from the Trade Marks Register, unless the prescribed fee of _____ (payable by Form TM No. 13) be received at this Office before the _____ day of _____ 19 _____, on which date the existing registration will expire.

If the above fee be not paid *before* the date above named, the Trade Mark will, after the end of one month from the date on which the omission to pay the fee has

been advertised in the Trade Marks Journal, be removed from the Trade Marks Register, unless an *additional* fee of 10s. (payable by Form TM No. 14) be remitted.

Stamped Forms for payment of renewal fees, may be obtained as directed at the back of this Notice, *but cannot be obtained from this Office.*

Dated this day of 19 .

To

*The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London W.C.*

Cheques, Money Orders, or Cash cannot be accepted in payment of fees.

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 9 or 9a.)

Form TM No. 13.

Renewal of Registration of Mark after Notice.

SIR,

IN pursuance of the notice received from you, I hereby transmit the prescribed fee of for Renewal of Registration of the Trade Mark No. , in Class .

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

N.B.—This Form must be indorsed with the name and address of the person transmitting the same.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 14.

Additional Fee of 10s. to accompany Renewal Fee (Form TM No. 13), within One Month after Advertisement of Non-payment of Renewal Fee.

SIR,

IN pursuance of the notices issued by you, I hereby transmit the additional fee of 10s. (along with Form TM No. 13) for the renewal of the Registration of the Trade Mark No. in Class .

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

N.B.—This Form must be indorsed with the name and address of the person transmitting the same.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 15.

Restoration of Trade Mark where removed for Non-payment of Fee.

(To accompany Form TM No. 13.)

SIR,

IN pursuance of the notices issued by you, I hereby transmit the additional fee of £1 (along with Form TM No. 13) for restoration to the Trade Marks Register of the Trade Mark No. in Class .

Dated the day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

N.B.—This form must be indorsed with the name and address of the person transmitting the same.

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 7 or 7a.)

Form TM No. 16.

Joint Request by Registered Proprietor and Assignee to Register the Assignee as Subsequent Proprietor of a Trade Mark.

We, (a) of (b) , and (c) , of (d) , hereby request, under Rule 76, that the name of (e) , carrying on business as (f) , at (g) , may be entered in the Register of Trade Marks as proprietor of the Trade Mark No. in Class .

(h) _____
(i) _____

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

- (a) Name of Registered Proprietor.
- (b) Address of Registered Proprietor.
- (c) Name of Assignee.
- (d) Address of Assignee.
- (e) Name of Assignee.
- (f) Trade or business of Assignee.
- (g) Address of Assignee.
- (h) Signature of Registered Proprietor.
- (i) Signature of Assignee.

TRADE MARKS ACT, 1905.

Form TM No. 17.

*Form of Declaration (only to be furnished when requested by Registrar)
by Assignee in support of Form TM No. 16.*

I (a) of (b) do hereby solemnly and sincerely declare that the Trade Mark No. in Class has been assigned to me by (c) of (d)

together with the goodwill of the business concerned in the goods for which it has been registered, and that I have accepted such Assignment.

(e) And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at this day of 19 . (f) ———.
Before me (g) ———.
(h) ———.

[If the declaration be made before any authority other than a Justice of the Peace, it will require to be stamped with a 2s. 6d. impressed Inland Revenue Stamp.]

- (a) Name of Assignee.
 - (b) Address of Assignee.
 - (c) Name of Assignor.
 - (d) Address of Assignor.
 - (e) This paragraph is not required when the declaration is made out of the United Kingdom.
 - (f) Signature of Assignee.
 - (g) Signature of Authority.
 - (h) Title of Authority.
-

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 7 or 7a.)

Form TM No. 18.

Request to enter Name of Subsequent Proprietor of Trade Mark upon the Register.

I, (a) hereby request that you will enter (b) name (c) in the Register of Trade Marks as proprietor of the Trade Mark No. in Class (d) entitled to the said Trade Mark and to the goodwill of the business concerned in the goods with respect to which the said Trade Mark is registered. Accompanying this Request is a statement of (e) case.

Dated this day of , 19 . (f) ———

To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.

- (a) Or We. Here insert name, address, and description.
 - (b) My or our.
 - (c) Or names.
 - (d) I am or We are.
 - (e) My or our.
 - (f) Signature.
-

TRADE MARKS ACT, 1905.

Form TM No. 19.

Form of Declaration (only to be furnished when requested by Registrar) in support of Statement of Case accompanying Form TM No. 18.

I, , of , do hereby solemnly and sincerely declare that the particulars set out in the statement of case, exhibit marked and left by me in connection with my request to be registered as subsequent proprietor of the Trade

Mark, No. _____, in Class _____ are true and comprise every material fact and document affecting the proprietorship of the said Trade Mark as above claimed.

(a) And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at _____ this _____ day of _____ 19____.

(b) _____
Before me, (c) _____
_____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings Chancery Lane, London W.C.*

[If the declaration be made before any authority other than a Justice of the Peace it will require to be stamped with a 2s. 6d. impressed Inland Revenue Stamp.]

(a) This paragraph is not required when the declaration is made out of the United Kingdom.

(b) To be signed here by the person making the declaration.

(c) Signature and title of the authority before whom the declaration is made.

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 12 or 12a.)

Form TM No. 20.

Notice of Application for Alteration of Address on Register of Trade Marks.

In the matter of the Trade Mark, No. _____ registered in Class _____
I _____ of _____ the registered proprietor of the Trade Mark numbered as above
desire that my address on the Register of Trade Marks be altered to _____.

Dated this _____ day of _____ 19____.

(a) _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature of Proprietor.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£5.)

Form TM No. 21.

Application to Permit an Apportionment of Trade Marks.

In the matter of the Registered Trade Marks No. _____
We, being the parties interested within the meaning of Section 23 of the Trade
Marks Act, 1905, in certain Marks of _____ who has ceased to carry on business,
request you to permit an apportionment of those Marks amongst the persons in
fact continuing the business. With this application we send a case in pursuance
of Rule 87.

Signed _____
Signed _____.

Dated this _____ day of _____ 19____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

APPENDIX III.

(TRADE MARKS. TRADE MARKS ACT, 1905.
5s.)

Form TM No. 22.

Form of Request for Correction of Clerical Error or for Permission to Amend Application under Sec. 12 (6) or Sec. 32 (1).

SIR,

I HEREBY request that

Dated this day of 19 .

(a) ———.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.

—

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 8 or 8a.)

Form TM No. 23.

Request to Enter Change of Name of Registered Proprietor of Trade Mark upon the Register.

I, (a) hereby request that you will enter (b) name (c) in the Register of Trade Marks as proprietor of the Trade Mark No. in Class (d) entitled to the said Trade Mark and to the goodwill of the business concerned in the goods with respect to which the said Trade Mark is registered.

There has been no change in the actual proprietorship of the said Trade Mark but (e)

Dated this day of 19 .

(f) ———.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London W.C.*

(a) Or We.

Here insert name, address, and description.

(b) My or Our.

(c) Or Names.

(d) I am or We are.

(e) Here state the circumstances under which the change of name took place.

(f) Signature.

—

(TRADE MARKS. TRADE MARKS ACT, 1905.
5s.)

Form TM No. 24.

Form of Application by Proprietor of Registered Trade Mark to Cancel Entry on Register.

Trade Mark No. , Class , advertised in Trade Marks Journal, No. , page .

Name of Registered Proprietor

Place of Business

Description

I, the undersigned, of [or, I the undersigned, a member of the Firm of of on behalf of my said Firm] apply that the entry upon

the Register of Trade Marks of the Trade Mark No. in Class may be cancelled.

(a) ———.

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.

(TRADE MARKS. TRADE MARKS ACT, 1905.
5s.)

Form TM No. 25.

Request to strike out Goods from those for which a Trade Mark is Registered.

I, of hereby request that you will strike out from the goods for which the Trade Mark No. is registered in Class .

(a) ———

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.

(TRADE MARKS. TRADE MARKS ACT, 1905.
5s.)

Form TM No. 26.

Request to Enter Disclaimer or Memorandum relating to a Trade Mark.

I, of , hereby request that you will enter in the Register in connection with Trade Mark No. in Class the following , namely—

(a) ———.

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 23 or 23a.)

Form TM No. 27.

Application under Sec. 34 to Add to or Alter a Trade Mark.

In the matter of the Trade Mark No. in Class .
Application is hereby made on behalf of the registered proprietor of the Trade Mark numbered as above to alter it in the following particulars that is to say—

(Here fill in full particulars.)

Six copies of the mark as it will appear when so altered are filed herewith.

(Signed) _____

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

APPENDIX III.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 28.

Request for Search under Rule 95.

You are hereby requested to search under Rule 95 in Class _____ to ascertain whether any Trade Marks are on record which resemble the Trade Mark sent herewith in duplicate each mounted on a half-sheet of foolscap.

Dated this _____ day of _____ 19 _____

(a) _____
(b) _____

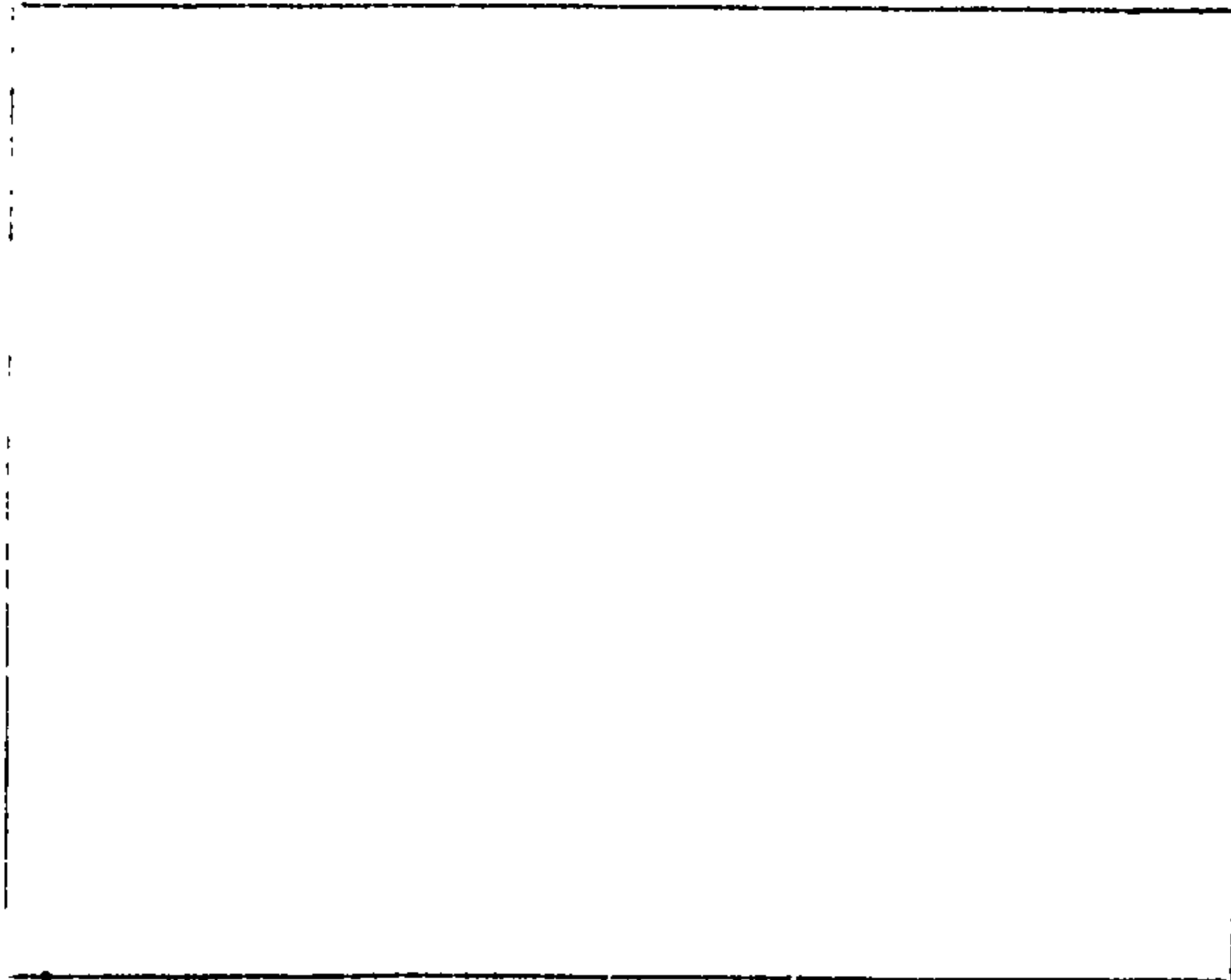
*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.
(b) Address.

(CORPORATE MARK. TRADE MARKS ACT, 1905.
£5.)

Form Sheffield No. 1.

Request to Enter a Mark under Sec. 63, Sub-sec. (2).



You are hereby requested to register the accompanying Old Corporate Mark in Class _____ in respect of _____ in the name of _____ who claims to be the proprietor thereof.

Dated this _____ day of _____ 19 _____

(Signed) _____

*To the Cutlers' Company,
Cutlers' Hall, Sheffield.*

COTTON MARKS. TRADE MARKS ACT, 1905.
STAMP 10s.)

Cotton No. 1.

Application for Registration of Trade Mark.

(See the annexed Extracts from the Trade Marks Act.)

(To be accompanied by an unstamped duplicate of this Form, and also by four Additional Representations on Form Cotton No. 2.)

One representation to be fixed within the square.

Representations of a larger size may be folded, but must then be mounted upon cloth and affixed hereto.

Application is hereby made for Registration of the accompanying Trade Mark in Class (a) in respect of (b) in the Name of Address and description (c) Trading as who claim to be the Proprietor thereof.

No claim of exclusive right is made to any of the letterpress appearing on the said Trade Mark except in so far as it consists of the applicant's own name and address, or the foreign equivalent thereof.

The said Trade Mark has not hitherto been used by the applicant upon or in connection with the above-mentioned goods, but is proposed to be so used [or (d)

The said Trade Mark has been used by the applicant [^{and}or by the predecessors in business of the applicant] upon or in connection with the above-mentioned goods since the 19].

(Signed) _____.

Dated the day of 19 .

*To the Keeper of Cotton Marks, Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.*

(a) Insert the class.

(b) Insert "all goods included in this class" or, if it is not desired that the registration should cover the whole class, the description of the goods.

Only goods contained in one and the same class may be set out here. A separate Application Form is required for each separate class.

(c) If the applicant is outside the U.K. an address for service in the U.K. must be given before the application can be proceeded with.

(d) Strike out the alternative paragraph which does not apply to the case.

APPENDIX III.

(COTTON MARKS.) TRADE MARKS ACT, 1905.

Cotton No. 2.

Additional Representation of Trade Mark to accompany Application for Registration.

One representation of the trade mark to be affixed within this square.

It must correspond *exactly*, in all respects, with the representation affixed to the Application on "Form Cotton No. 1."

Any representation of a larger size than foolscap may be folded, but must then be mounted upon cloth, and affixed hereto.

Class
Description of Goods
Length of User (if any)
Name of Applicant
Address
Description

No claim of exclusive right is made to any of the letterpress appearing on the Mark except in so far as it consists of the applicant's own name and address or the foreign equivalent thereof.

Four of these Additional Representations of the Trade Mark must accompany *each* Form of Application.

(COTTON MARKS. TRADE MARKS ACT, 1905.
STAMP 5s.)

Cotton No. 3.

Request for Certificate under Sub-sec. (12) of Sec. 64.

SIR,

You are hereby requested to issue a certified copy of the application numbered _____ and dated the _____ day of _____, 19____, for registration in Class _____ of the Cotton Mark of which a fac-simile is sent herewith, setting forth in such certificate the length of time of user (if any) of such Mark as stated on the application. and any other particulars you may deem necessary.

Dated this _____ day of _____, 19____.

(Signed) _____
Address _____

To the Keeper of Cotton Marks, Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.

(COTTON MARKS. TRADE MARKS ACT, 1905.
STAMP 5s.)

Cotton No. 4.

*Request for Certificate of Keeper of Cotton Marks as to a Trade
Mark entered in the Manchester Register.*

In the matter of the Trade Mark No. in Class .

SIR,
I HEREBY request you to furnish me with your Certificate of Registration of the
Mark numbered as above for use (a)

Dated this day of 19 .

(Signed) _____
Address _____

*To the Keeper of Cotton Marks, Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.*

(a) Here state the purpose for which the Certificate is required, *i.e.*, whether for
use in legal proceedings, or for obtaining registration abroad, or for what other
purpose.

(COTTON MARKS.) TRADE MARKS ACT, 1905.

MB No. 1.

Certificate under Sub-sec. (12) of Sec. 64.

Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.

It is hereby certified by the Keeper of Cotton Marks, that a true copy of the
application numbered and dated the day of 19 , for registration
in Class of the Cotton Mark therein referred to is contained in the paper
hereto annexed and that a fac-simile of the said Mark is attached thereto, and that
the length of time of user of such Mark as stated on the application is (a) and
that the said Mark is on deposit at this office.

WITNESS my hand this day of 19 .

(Seal of Patent Office.)

Keeper of Cotton Marks.

(a) Space for any other particulars the Keeper may deem necessary.

APPENDIX III.

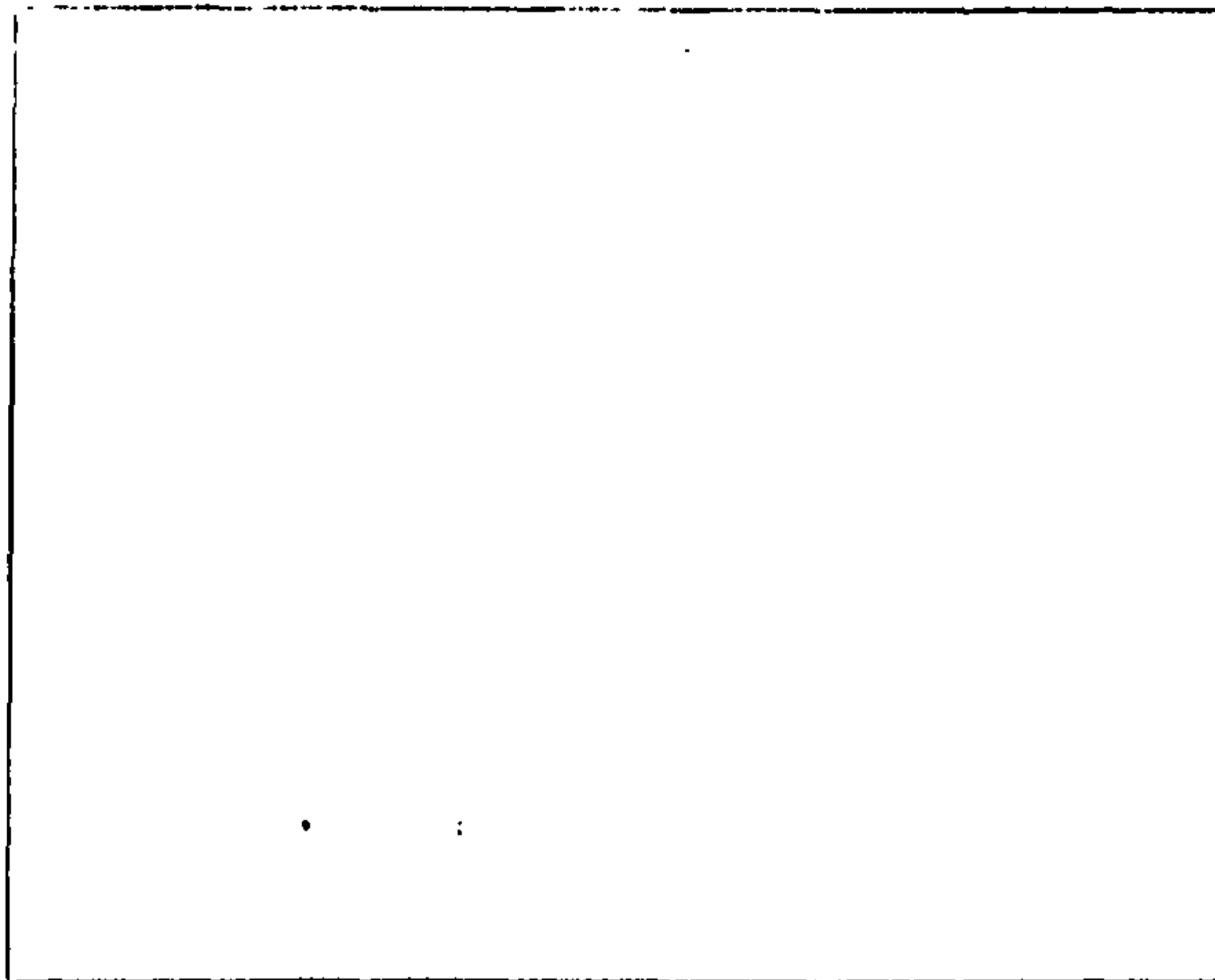
(COTTON MARKS.) TRADE MARKS ACT, 1905.

MB No. 2.

*General Certificate*Manchester Branch of the Trade Marks Registry,
48, Royal Exchange, Manchester.

It is hereby certified by the Keeper of Cotton Marks, that

REPRESENTATION OF TRADE MARK



WITNESS my hand this day of 19 .

(Seal of Patent Office.)

Keeper of Cotton Marks.

(TRADE MARKS. TRADE MARKS ACT, 1905.

£1.)

Form TM No. 29.

Form of Appeal from the Registrar to the Board of Trade.

I, (a) of (a) hereby give notice of my intention to appeal to the Board of Trade from (b) of the Registrar of the day of 19 whereby he (c)

Accompanying this notice is a statement of my case for the decision of the Board of Trade.

(Signed) .

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.,**and to**[Name of Opponent, if any].*

(a) Here insert full name and address of appellant.

(b) Here insert "the decision" or "that part of the decision" as the case may be.

(c) Here insert the decision complained of.

(TRADE MARKS. TRADE MARKS ACT, 1905.
10s.)

Form TM No. 30.

*Notice of Order of Court for Alteration or Rectification of
Register of Trade Marks.*

In the matter of the Trade Mark, No. , registered in Class in the
name of

SIR,

NOTICE is hereby given that by an Order of the Court made on the day
of 19 , it was directed that
An Office Copy of the Order of the Court is enclosed herewith.

Dated this day of 19 .

(a) ———

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) To be signed by the person interested or his agent.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 31.

*Request for General Certificate of Registrar (other than Certificate
for use in Legal Proceedings or for use in obtaining Registra-
tion Abroad).*

In the matter of the Trade Mark No. in Class .

SIR,

I, of hereby request you to furnish me with your Certificate
that (a)

(b) ———.

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Here set out the particulars which the Registrar is requested to certify.
(b) Signature.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 32.

Request for Certificate of Refusal to Register a Trade Mark

In the matter of an Application for registration of a Trade Mark, No in
Class .

SIR,

I, of , the Applicant in the above matter, hereby request you to
furnish me with your Certificate of Refusal to register the said Trade Mark.

(a) ———

Dated this day of 19 .

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature of applicant.

APPENDIX III.

(TRADE MARKS. TRADE MARKS ACT, 1905.
Fee 18 or 18a.)

Form TM No 33.

*Request for Certificate of Registration of Trade Mark for use in
obtaining Registration Abroad.*

In the matter of the Trade Mark, No. _____ registered in Class _____ in the
name of _____.

SIR,

I, _____, of _____, the registered proprietor of the above Trade Mark hereby
request you to furnish me with your Certificate of Registration for use in obtaining
registration of the same in (a) _____.

(b) _____.

Dated this _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Here state name of country in which registration is to be sought.

(b) Signature.

(TRADE MARKS. TRADE MARKS ACT, 1905.
£1.)

Form TM No. 34.

*Request for Certificate of Registration of Trade Mark to be used in
Legal Proceedings.*

In the matter of the Trade Mark, No. _____, registered in Class _____ in the
name of _____.

SIR,

I, _____, of _____, the registered proprietor of the above Trade Mark, hereby
request you to furnish me with your Certificate of Registration to be used in legal
proceedings.

(a) _____.

Dated this _____ day of _____ 19 _____.

*To the Registrar, Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane, London, W.C.*

(a) Signature.

Dated this 24th day of March, 1906.

D. LLOYD-GEORGE,
President of the Board of Trade.

THIRD SCHEDULE.

CLASSIFICATION OF GOODS.

Illustrations.

Note.—Goods are mentioned in this column by way of illustration, and not as an
exhaustive list of the contents of a class.

CLASS 1.

Chemical substances used in manufactures, photography, or philosophical
research, and anti-corrosives. (Such as acids, including vegetable acids; alkalies;
artists' colours; pigments; mineral dyes.)

CLASSIFICATION OF GOODS—*continued.*

CLASS 2.

Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes. (Such as artificial manure; cattle medicines; deodorisers; vermin destroyers.)

CLASS 3.

Chemical substances prepared for use in medicine and pharmacy. (Such as cod liver oil; medicated articles; patent medicines; plasters; rhubarb.)

CLASS 4.

Raw or partly prepared vegetable, animal, and mineral substances used in manufactures, not included in other classes. (Such as resins; oils used in manufactures and not included in other classes; dyes, other than mineral; tanning substances; fibrous substances (*e.g.*, cotton, hemp, flax, jute); wool; silk; bristles; hair; feathers; cork; seeds; coal; coke; bone; sponge.)

CLASS 5.

Unwrought and partly wrought metals used in manufacture. (Such as iron and steel, pig or cast; iron, rough; iron, bar and rail, including rails for railways; iron, bolt and rod; iron, sheet, and boiler and armour plates; iron, hoop; lead, pig; lead, rolled; lead, sheet; wire; copper; zinc; gold, in ingots.)

CLASS 6.

Machinery of all kinds, and parts of machinery, except agricultural and horticultural machines included in Class 7. (Such as steam engines; boilers; pneumatic machines; hydraulic machines; locomotives; sewing machines; weighing machines; machine tools; mining machinery; fire engines.)

CLASS 7.

Agricultural and horticultural machinery, and parts of such machinery. (Such as ploughs; drilling machines; reaping machines; thrashing machines; churns; cyder presses; chaff cutters.)

CLASS 8.

Philosophical instruments, scientific instruments, and apparatus for useful purposes. Instruments and apparatus for teaching. (Such as mathematical instruments; gauges; logs; spectacles; educational appliances.)

CLASS 9.

Musical instruments.

CLASS 10.

Horological instruments.

CLASS 11.

Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals. (Such as bandages; friction gloves; lancets; fleams; enemas.)

CLASS 12.

Cutlery and edge tools. (Such as knives; forks; scissors; shears; files; saws.)

APPENDIX III.

CLASSIFICATION OF GOODS—*continued.*

CLASS 13.

Metal goods not included in other classes. (Such as anvils; keys; basins (metal); needles; hoes; shovels; corkscrews.)

CLASS 14.

Goods of precious metals (including aluminium, nickel, Britannia metal, &c.) and jewellery, and imitations of such goods and jewellery. (Such as plate; clock cases and pencil cases of such metal; Sheffield and other plated goods; gilt and ormolu work.)

CLASS 15.

Glass. (Such as window and plate glass; painted glass; glass mosaic; glass beads.)

CLASS 16.

Porcelain and earthenware. (Such as china; stoneware; terra cotta; statuary porcelain; tiles; bricks.)

CLASS 17.

Manufactures from mineral and other substances for building or decoration (Such as cement; plaster; imitation marble; asphalt.)

CLASS 18.

Engineering, architectural, and building contrivances. (Such as diving apparatus; warming apparatus; ventilating apparatus; filtering apparatus; lighting contrivances; drainage contrivances; electric and pneumatic bells.)

CLASS 19.

Arms, ammunition, and stores not included in Class 20. (Such as cannon; small-arms; fowling pieces; swords; shot and other projectiles; camp equipage; equipments.)

CLASS 20.

Explosive substances. (Such as gunpowder; gun-cotton; dynamite; fog-signals; percussion caps; fireworks; cartridges.)

CLASS 21.

Naval architectural contrivances and naval equipments not included in Classes 19 and 20. (Such as boats; anchors; chain cables; rigging.)

CLASS 22.

Carriages. (Such as railway carriages; waggons; railway trucks; bicycles; bath chairs.)

CLASS 23.

- (a) Cotton yarn.
- (b) Sewing cotton.

CLASS 24.

Cotton piece goods of all kinds. (Such as cotton shirtings; long cloth.)

CLASS 25.

Cotton goods not included in Classes 23, 24, or 38. (Such as cotton lace; cotton braids; cotton tapes.)

CLASSIFICATION OF GOODS—*continued.*

CLASS 26.

Linen and hemp yarn and thread.

CLASS 27.

Linen and hemp piece goods.

CLASS 28.

Linen and hemp goods not included in Classes 26, 27, and 50.

CLASS 29.

Jute yarns and tissues, and other articles made of jute not included in Class 50.

CLASS 30.

Silk, spun, thrown, or sewing.

CLASS 31.

Silk piece goods.

CLASS 32.

Other silk goods not included in Classes 30 and 31.

CLASS 33.

Yarns of wool, worsted, or hair.

CLASS 34.

Cloths and stuffs of wool, worsted or hair.

CLASS 35.

Woollen and worsted and hair goods not included in Classes 33 and 34.

CLASS 36.

Carpets, floor-cloth, and oil-cloth. (Such as drugget ; mats and matting ; rugs).

CLASS 37.

Leather, skins unwrought and wrought, and articles made of leather not included in other classes. (Such as saddlery ; harness ; whips ; portmanteaus ; furs.)

CLASS 38.

Articles of clothing. (Such as hats of all kinds ; caps and bonnets ; hosiery ; gloves ; boots and shoes ; other ready-made clothing.)

CLASS 39.

Paper (except paperhangings), stationery, and bookbinding. (Such as envelopes ; sealing wax ; pens (except gold pens) ; ink ; playing cards ; blotting cases ; copying presses.)

CLASS 40.

Goods manufactured from india-rubber and gutta-percha not included in other classes.

APPENDIX III.

CLASSIFICATION OF GOODS—*continued.*

CLASS 41.

Furniture and upholstery. (Such as paperhangings; papier mâché; mirrors; mattresses.)

CLASS 42.

Substances used as food, or as ingredients in food. (Such as cereals; pulses; olive oil; hops; malt; dried fruits; tea; sago; salt; sugar; preserved meats; confectionery; oil cakes; pickles; vinegar; beer clarifiers.)

CLASS 43.

Fermented liquors and spirits. (Such as beer; cyder; wine; whisky; liqueurs.)

CLASS 44.

Mineral and aerated waters, natural and artificial, including ginger-beer.)

CLASS 45.

Tobacco, whether manufactured or unmanufactured.

CLASS 46.

Seeds for agricultural and horticultural purposes.

CLASS 47.

Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches, and starch, blue, and other preparations for laundry purposes. (Such as washing powders; benzine collas.)

CLASS 48.

Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).

CLASS 49.

Games of all kinds and sporting articles not included in other classes. (Such as billiard tables; roller skates; fishing nets and lines; toys.)

CLASS 50.

Miscellaneous—(1.) Goods manufactured from ivory, bone or wood, not included in other classes. (2.) Goods manufactured from straw or grass, not included in other classes. (3.) Goods manufactured from animal and vegetable substances, not included in other classes. (4.) Tobacco pipes. (5.) Umbrellas, walking sticks, brushes, and combs. (6.) Furniture cream, plate powder. (7.) Tarpaulins, tents, rick-cloths, rope, twine. (8.) Buttons of all kinds other than of precious metal or imitations thereof. (9.) Packing and hose of all kinds. (10.) Goods not included in the foregoing classes. (Such as coopers' wares.)

Dated this 24th day of March, 1906.

(Sd.)

D. LLOYD-GEORGE,

President of the Board of Trade.

APPENDIX IV.

SUGGESTED DEFINITION CLAUSE (CLAUSE 9).

(Being a paper handed in by Mr. Ralph Griffin, Registrar of Trade Marks, to the Select Committee on the Trade Marks Bill, 1905.)

A REGISTRABLE trade mark must be of a distinctive character, so as to be adapted, in use in the trade for which it is intended, to distinguish the goods of the proprietor of the trade mark from the goods of other firms in the same trade.

The following particulars shall be deemed distinctive:—

- (1) The facsimile signature of the person applying for registration.
- (2) The signature of a predecessor in business of the person applying for registration if the applicant has, by agreement, the exclusive right to the use of that signature as a trade mark.
- (3) The seal of a corporation.

The following particulars are not distinctive, and no exclusive right can be gained to them by registration:—

- (1) A word or words which are commonly employed in the trade or which are reasonably required for use in the trade.
- (2) Topographical words which may be legitimately used by more than one trader, and which actually refer to the place of manufacture or sale of the goods, or would be reasonably supposed so to do, provided that ancient names of places may be registered when the use of them by the applicant would not be deceptive.
- (3) Surnames.
- (4) Letters and their names.
- (5) Numerals and their names.
- (6) A pictorial representation of the goods or diagrams illustrating their action.
- (7) Any particulars which, by rule made under this Act, the Board of Trade may declare to be open to any particular trade.

APPENDIX V.

DEFINITIONS OF A REGISTRABLE TRADE MARK UNDER THE LAWS OF CERTAIN FOREIGN COUNTRIES.

(Being a paper handed in by Mr. Ralph Griffin, Registrar of Trade Marks, to the Select Committee on the Trade Marks Bill, 1905.)

FRANCE.

THE LAW is dated 23rd June, 1857.

Art. 1.—Sont considérés comme marques de fabrique et de commerce les noms sous une forme distinctive, les dénominations, emblèmes, empreintes, timbres, cachets, vignettes, reliefs, lettres chiffres, enveloppes, et tous autres signes servant à distinguer les produits d'une fabrique ou les objets d'un commerce.

GERMANY.

The Law is dated 12th May, 1894. It does not define a Trade Mark, but it provides for registration and forbids the registration of certain things, thus :—

Section 4.

Die Eintragung in die Rolle ist zu versagen für Freizeichen, sowie für Waarenzeichen,

(1) Welche ausschliesslich in Zahlen, Buchstaben oder solchen Wörtern bestehen, die Angaben über Art, Zeit und Ort der Herstellung, über die Beschaffenheit, über die Bestimmung, über Preis-, Mengen- oder Gewichtsverhältnisse der Waare enthalten ;

(2) Welche in- oder ausländische Staatswappen oder Wappen eines inländischen Ortes, eines inländischen Gemeinde- oder weiteren Kommun-alverbandes enthalten ;

(3) Welche Aergerniss erregende Darstellungen oder solche Angaben enthalten die ersichtlich den thatsächlichen Verhält-

nissen nicht entsprechen und die Gefahr einer Täuschung begründen,

which is thus translated in Commercial No. 5 (1894) (C-7393):—

Sec. 4.—Entry in the register is to be denied to merchandise marks—

(1) Which are composed exclusively of figures, letters, or of such words as go to describe the kind, date, and place of manufacture of the goods, their nature, use, or conditions of price, quantity, or weight;

(2) Which contain home or foreign State armorial bearings, or the armorial bearings of any German town, commune, or other commercial union;

(3) Which contain representations capable of giving offence, or which convey implications which manifestly do not correspond with actual conditions, and create a danger of deception.

SWITZERLAND.

The Law is dated 26th September, 1890.

Art. 1.—“Sont considérés comme marques de fabrique et de commerce—

(1) Les raisons de commerce ;

(2) Les signes appliqués sur les produits ou marchandises industriels et agricoles ou sur leur emballage, à l'effet de les distinguer ou d'en constater la provenance.”

Art. 3.—“Les armoiries publiques et tous autres signes devant être considérés comme propriété d'un Etat ou propriété publique, qui figurent sur les marques des particuliers, ne peuvent être l'objet de la protection légale.

Il est interdit de faire figurer, sur une marque de fabrique, aucune indication de nature à porter atteinte aux bonnes mœurs.”

DENMARK.

The Law is dated 11th April, 1890.

It contains no definition of a trade mark.

Art. 4 says, “Varemaerket maa ikke registreres—

(1) Naar det udelukkende bestaar i Tal, Bogstaver eller Ord, som ikke have en saa fremtraedende eiendommelig Form, at det kan anses som Figurmaerke ;

(2) Naar det uden Hjemmel indeholder andet Navn eller andet Firma end Anmelderens eller navnet paa en anden Mands faste Eiendom ;

(3) Naar det indeholder offentlige Vaaben eller Maerker ;

(4) Naar det indeholder Fremstillinger, der kunne vokke Forargelse."

Art. 7 says, "Indeholder et registreret Varemaerke Tal, Bogstaver eller Ord, som ikke have en saa fremtraedende eiendommelig Form, at det kan anses Figurmaerke, eller bestaar det helt eller delvis af saadanne Tegn eller Maerker, der almindelig benyttes i visse Klasser af Forretninger, udelukkes Andre ikke Derved fra at benytte de samme Betegnelser som Varemaerke eller Del af et saadant."

Which may be translated thus:—

Art. 4.—A trade mark cannot be registered—

(1) When it consists exclusively of numbers, letters, or words, which do not possess such a distinctive form as to qualify them to be considered as figure-marks ;

(2) When it contains without due warrant another name or another firm than that of the applicant, or the name of another person's (landed) estate ;

(3) When it contains public armorial bearings or signs ;

(4) When it contains statements which might give rise to offence.

Art. 7.—If a registered trade mark contains numbers, letters, or words, which do not possess so distinctive a form as to qualify them to rank as figure marks, or if it is composed entirely or in part of such signs or marks as are of common employment in certain branches of trade, other persons cannot be thereby prevented from making use of the same indications as their trade mark, or as a portion thereof.

UNITED STATES OF AMERICA.

The law is one approved 20th February, 1905.

There is no exact definition of a trade mark, but sec. 5 states:—

(1) That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade mark on account of the nature of such mark unless such mark—

(a) consists of or comprises immoral or scandalous matter ;

(b) consists of or comprises the flag or coat-of-arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation : Provided that trade marks which are identical with a registered or known trade mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade mark owned and in use by another, and appropriated to merchandise of the same

descriptive properties, as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers, shall not be registered: Provided that no mark which consists merely in the name of an individual firm, corporation, or association, not written, printed, impressed, or woven in some particular or distinctive manner or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods or merely a geographical name or term, shall be registered under the terms of this Act. Provided further, that no portrait of a living individual may be registered as a trade mark, except by the consent of such individual, evidenced by an instrument in writing: and provided further, that nothing herein shall prevent the registration of any mark used by the applicant or his predecessors or by those from whom title to the mark is derived in commerce with foreign nations or among the several States, or with Indian tribes, which was in actual and exclusive use as a trade mark of the applicant or his predecessors from whom he derived title for ten years next preceding the passage of this Act.

APPENDIX VI.

INTERPRETATION ACT, 1889, EXTRACTS FROM.

SEC. 1.—(1) In this Act and in every Act passed after the year 1850, whether before or after the commencement of this Act, unless the contrary intention appears,

(a) Words importing the masculine gender shall include females ;
and

(b) Words in the singular shall include the plural, and words in the plural shall include the singular.

SEC. 2.—(1) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, whether contained in an Act passed before or after the commencement of this Act, the expression "person" shall, unless the contrary intention appears, include a body corporate.

SEC. 3.—In every Act passed after the year 1850, whether before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely,

The expression "month" shall mean calendar month ;

The expressions "oath" and "affidavit" shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression "swear" shall, in the like case, include affirm and declare.

SEC. 12.—(3) The expression "High Court," when used with reference to England or Ireland, shall mean Her Majesty's High Court of Justice in England or Ireland, as the case may be.

SEC. 14.—In every Act passed after the commencement of this Act, unless the contrary intention appears, the expression "rules of Court" when used in relation to any court shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court, and as regards Scotland shall include Acts of adjournal and Acts of sederunt.

The power of the said authority to make rules of court as above defined shall include a power to make rules of court for the purpose

of any Act passed after the commencement of this Act, and directing or authorising anything to be done by rules of court.

Sec. 19.—In this Act and in every Act passed after the commencement of this Act, the expression “person” shall, unless the contrary intention appears, include any body of persons corporate or unincorporate.

Sec. 20.—In this Act and in every other Act, whether passed before or after the commencement of this Act, expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Sec. 21.—In this Act and in every other Act, whether passed before or after the commencement of this Act, the expression “statutory declaration” shall, unless the contrary intention appears, mean a declaration made by virtue of the Statutory Declarations Act, 1835.

Sec. 31.—Where any Act, whether passed before or after the commencement of this Act, confers power to make, grant, or issue any instrument, that is to say, any order in Council, order, warrant, scheme, letters patent, rules, regulations, or bye-laws, expressions used in the instrument, if it is made after the commencement of this Act, shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Sec. 32.—(1) Where an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

(3) Where an Act passed after the commencement of this Act confers a power to make any rules, regulations, or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations, or bye-laws.

Sec. 36.—(1) In this Act and in every Act passed either before or after the commencement of this Act, the expression “commencement,” when used with reference to an Act, shall mean the time at which the Act comes into operation.

(2) Where an Act passed after the commencement of this Act or

any order in Council, order, warrant, scheme, letters patent, rules, regulations, or bye-laws made, granted, or issued under a power conferred by any such Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

Sec. 37.—Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any order in Council, order warrant, scheme, letters patent, rules, regulations, or bye-laws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

Sec. 38.—(1) Where this Act or any Act passed after the commencement of this Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

(2) Where this Act or any Act passed after the commencement of this Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy, may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

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THE END.