THE TRADE MARKS ACT, 1919

(9 & 10 Geo. 5. Ch. 79)

WITH AN

INTRODUCTORY CHAPTER, AND NOTES;

ALSO

THE TRADE MARKS ACT, 1905,

AS AMENDED BY

THE TRADE MARKS ACTS, 1914 & 1919,

WITH NOTES

AND

THE TRADE MARKS RULES, 1920

BEING A SUPPLEMENT TO THE FOURTH EDITION OF

KERLY ON TRADE MARKS

BY

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THE TRADE MARKS ACT. 1919.

Introduction.

The Trade Marks Act, 1919, was passed on December 23rd, 1919, but the date for its coming into operation was April 1st, 1920.

The chief alteration which it makes is that it introduces a new kind of registration of trade marks. Previous Trade Marks Acts successively enlarged the classes of marks which could be registered as trade marks. The new Act leaves those classes unaltered, but the register is henceforth divided into two parts, one corresponding to and being a continuation of the old register, and the other part being a new part confined to marks which qualify for registration under the provisions of the new Act. These parts are respectively called Part A. and Part B. Moreover, the marks registered in Part B. have rights attached to them which are different from and narrower than those attached to marks registered in Part A.

Registration in Part B. of the Register.

Under the principal Act a 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 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; and (5) any other distinctive mark (Section 9). "Mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof (Section 3). But by Section 9 it was provided that a name, signature, or word or words, other than such as fall within the descriptions in (1), (2), (3) and (4) should not, except by order of the Board of Trade or the Court, be deemed a distinctive mark. Trade marks of a certain class used before August 13th, 1875, are under certain conditions allowed special privilege in respect of registration, and there are some special prohibitions of registration in respect of cotton marks, which however were varied by the Trade Marks Act, 1914.

The new Act does not in any way alter the classes or character of marks that can be registered under the five paragraphs of Section 9 of the principal Act. It is true that paragraph (5) is amended by Section 7 by substituting for "except by order of the Board of Trade or the court be deemed a distinctive mark" the words "be registrable under the provisions of this paragraph, except upon evidence of its distinctiveness," but that is a change of procedure and not of substance; it is further considered in the notes to Section 7.

Part B. of the register is to comprise all trade marks registered under Part I. of the Act of 1919, and all trade marks entered on or removed thereto under that Act (Section 1 (3)). Section 2 sets out the conditions under which an application may be made for registration of a "mark" in Part B. of the register. The mark must have for not less than two years been

bonâ fide used in the United Kingdom upon or in connection with goods (whether for sale in the United Kingdom or export abroad) for the purpose of indicating that they are the goods of the proprietor of the mark by virtue of manufacture, selection, certification, dealing with or offering for sale. In such a case the person claiming to be proprietor of the mark may apply to have the mark entered as his registered trade mark in Part B. in respect of such goods.

The use required is use as a trade mark, for Section 3 of the principal Act defines trade mark as meaning a mark used or proposed to be used for the purpose stated in the new Section.

The registrar is to consider every such application, and he may refuse it on grounds that are specified, but in any other case he "shall" (not "may") accept the application. The grounds are four in number. If it appear to him, after such search, if any, as he may deem necessary, (1) that the application is inconsistent with the provisions of Section 11 of the principal Act, (2) or with the provisions of Section 19 of that Act, or (3) if he is not satisfied that the mark has been so used as aforesaid, or (4) if he is not satisfied that it is capable of distinguishing the goods of the applicant, he may refuse the application.

Section 11 prohibits the registration of deceptive marks or marks disentitled to protection in a court of justice or any scandalous design. Section 19 relates to marks which conflict with those already on the register.

The registrar may, however, in any of the above cases accept the application subject to conditions, amendments or modifications as to the goods or classes of goods in respect of which the mark is to be registered,

or to such limitations, if any, as to mode or place of user or otherwise as he may think fit to impose.

The provisions with respect to Part B. may serve to assist registration in this country of marks which are trade marks under the International Convention, but have not hitherto been registrable here. For that Convention has of itself not the force of law, but only so far as it has been made law by legislation in this country (*California Fig Syrup Co.'s* Trade Mark, 40 C. D. 620, 6 R. P. C. 126, and *Carter Medicine Co.'s* Trade Mark, [1892] 3 Ch. 472, 9 R. P. C. 401). Thus, notwithstanding the Convention, no trade mark was under the Act of 1905 registrable in this country unless it included one at least of the essential particulars under Section 9 of that Act. Part B. is not expressly or necessarily confined to such marks.

The provisions may also serve to assist traders in the United Kingdom to obtain registration of their trade marks abroad, for in some countries registration is only possible for a foreigner if his trade mark is registered in the country of origin.

It is to be observed that nothing is said in the provisions of the Act of 1919 above referred to as to the extent in quantity or area of the user of the mark. Application may be made for registration if the mark has been used for the purpose of a trade mark for the period specified although such use of it has been slight, and, it is submitted, although it is not shown that by such user it has become distinctive of the goods of the applicant in connection with which it has been used. The registrar has not to be satisfied that it is so distinctive, but that it is capable of distinguishing the goods of the applicant. The proprietor can thus under

the Act of 1919 apply for registration before the stage has been reached which would warrant an application under the principal Act, and, if the application be successful, obtain the modified rights which registration in Part B. of the register gives. For such registration, unlike registration in Part A., does not give the exclusive right to the use of the trade mark upon or in connection with the goods in respect of which it is registered (Section 39 of the Act of 1905); it is only *primâ facie* evidence that the registered proprietor has such exclusive right. In any action for infringement of the trade mark, if the defendant establishes to the satisfaction of the court that the user of which the plaintiff complains is not calculated to deceive or to lead to the belief that the goods the subject of such user were goods manufactured, selected, certified, dealt with or offered for sale by the proprietor of the trade mark, no relief is to be given in respect of such registration (Section 4); and the action so far as founded on such registration will accordingly fail.

It is not only as regards the effect of registration in actions for infringement, that registration in Part B. differs from registration in Part A. The provisions of the principal Act, as amended by the Act of 1919, and subject to the provisions of that Act are to apply to the B. trade marks with certain exceptions (Section 3). The most important of these exceptions are Section 9 (registrable trade marks) which is of course excluded, Section 12 (application for registration), Section 14 (9) (modification of trade mark on appeal), Section 15 (disclaimers), Section 24 (associated trade marks), Section 25 (combined trade marks), Section 27 (assignment and user of associated trade marks), Section 31 (status of

unrenewed trade marks), Section 36 (trade marks registered under previous Acts), Section 39 (rights of proprietor of trade mark) except the proviso, which relates to the rights of two or more persons registered as proprietors of the same trade mark in respect of the same goods, Section 41 (registration to be conclusive after seven years) except the proviso, which preserves the rights of the first user of a trade mark, Section 42 (unregistered trade mark) prohibiting actions for infringement of such trade marks, and Section 62 (standardization, etc., marks).

The procedure on an application is considered in the notes to Section 2.

A mark may be registered in Part B. notwithstanding any registration in Part A. by the same proprietor of the same mark or any part or parts thereof (sub-section (6)).

If an application is made for registration in Part A. of the register, the registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B (Section 5).

Provisions for the prevention of abuses of trade marks.

It is a principle of trade-mark law that, where an article has been patented, the name by which it has been ordinarily described during the currency of the patent, cannot, when the patent has expired, be monopolised by the patentee by his claiming it as his trade mark; everyone has the right to use that name as the name of the article. This was the principle laid down in the *Linoleum* case,* and it has often been applied since that decision; and word marks have been

* *Linoleum Co. v. Nairn*, 7 C. D. 834, Kerly, pp. 45-50.

removed from the register on the ground of infringing the principle. Indeed it has been extended or applied since to the name of a new article, not patented, where the name has been bestowed by the originator of the article as the name of the article itself (see for instance *Williams Limited's Application*, 34 R. P. C. 197 (Chocaroons)).

Some words of this nature have, however, got upon the register, and an express provision (Section 6) has been incorporated in the Act of 1919 to deal with the matter, and it applies to registration in Part A. or in Part B. of the register. It has some retrospective effect, and has effect notwithstanding Section 41 of the principal Act, which makes registration generally conclusive after the lapse of seven years. It provides that where in the case of an article or substance manufactured under any patent in force at or granted after the passing of the Act of 1919, a word trade mark registered under the principal Act or Part I. of the Act of 1919, that is in Part B., is the name or only practicable name of the article or substance so manufactured, all rights to the exclusive use of such trade mark, whether under the common law or by registration (and notwithstanding the provisions of Section 41 of the principal Act), shall cease upon the expiration or determination of the patent, and thereafter such word shall not be deemed a distinctive mark, and may be removed by the Court from the register on the application of any person aggrieved.

The words "only practicable name" cover the case of a chemical substance, which may have a highly complicated technical name not suited for the ordinary use of commerce, for which purpose it is known by another name.

The provision above referred to relates to articles or substances manufactured under patents; it is followed by one relating to chemical elements or compounds, whether patented or not. No word which is the only practicable name or description of any single chemical element or single chemical compound, as distinguished from a mixture, is to be registered as a trade mark. Moreover, any such word now or hereafter on the register may, notwithstanding Section 41 of the principal Act, be removed from the register on the application of any person aggrieved (Section 6, sub-section (2)). But the provisions of the sub-section are not to apply where the mark is used to denote only the proprietor's brand or make of such substance, as distinguished from the substance as made by others, and in association with a suitable and practicable name open to the public use. The proviso appears to contemplate the case of a word-mark which the proprietor uses for the true purpose of a trade mark, but which the public might use as or take to be the name of the substance, and therefore it is further required, in order to obtain the benefit of the proviso, that it should be used "in association with" a name open to the public to use and that name must be both suitable and practicable. It would not be sufficient to show that there is a proper chemical name for the substance, if that name is complicated or otherwise unsuited for general use.

There is a further proviso giving a respite of four years from the passing of the Act (December 23rd, 1919), for a mark registered before that date.

Under an amendment made by Section 9 of the Act, applications for the rectification of the register can now be made in the first instance to the registrar, if no

action concerning the trade mark is pending. This provision is made to apply to all such applications under Section 6 of the Act of 1919 (Section 6 (4)).

Other Amendments.

The other amendments of the Act of 1905 made by the new Act are not of first importance.

The alteration of paragraph (5) of Section 9 has already been noticed. An order of the Board of Trade or the Court is no longer required for registration of a name or signature or word not falling within paragraphs (1), (2), (3) and (4); the application for any such name or signature or word will be dealt with by the registrar. Evidence of distinctiveness is necessary (Section 7).

In oppositions the option of an appeal from the registrar, with the consent of the parties, to the Board of Trade is abolished, all such appeals being in future to the Court.

It is now expressly provided that in any appeal from the registrar to the Court under the principal Act or that of 1919, the Court shall have and exercise the same discretionary powers as are conferred upon the registrar (Section 8).

An application for rectification of the register may, at the option of the applicant, and provided that no action concerning the trade mark is pending, be made in the first instance to the registrar (Section 9).

In an application for rectification, the Court or the registrar has power to direct a trade mark entered in Part A. of the register to be removed to Part B. (Section 9 (3)).

The registrar has now fuller power as to costs, and his order as to costs may be made a rule of Court (Section 10).

Registration of an assignment of a registered trade mark by the assignee was under the principal Act optional. It is now enacted that where a person becomes entitled by assignment, transmission, or other operation of law to a registered trade mark, he shall make application to the registrar to register his title, and the registrar shall, on receipt of such application, and on proof of title to his satisfaction, register him as the proprietor of the trade mark, and shall cause an entry to be made in the prescribed manner on the register of the assignment, transmission, or other instrument affecting the title.. A decision of the registrar is subject to appeal to the Court.

To enforce this provision, it is enacted that a document or instrument in respect of which no entry has been made in the register in accordance with the above-mentioned provisions, is not to be admitted in evidence in any court in proof of the title to a trade mark unless the Court otherwise directs. The prohibition does not apply in applications made to rectify the registration under Section 35 of the principal Act or in appeals under the section itself (Section 11).

Various minor amendments of the principal Act are made by Section 12 of the Act of 1919, such amendments being set out in the second schedule. They are further referred to in the notes to Section 12.

The Trade Marks Act, 1919, is printed below with notes to each section. The references to "Kerly" (or to K.) are to the fourth edition of "Kerly on Trade Marks," to which this book is intended as a supplement.

The Act of 1905 as amended by the Trade Marks Acts, 1914 and 1919, follow, the repealed parts being italicised and the new parts being printed within brackets.

The volume also contains the Trade Mark Rules, 1920, which came into force from and immediately after the 31st day of March, 1920.

TRADE MARKS ACT, 1919.

[9 & 10 GEO. 5. CH. 79.]

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CHAPTER 79.

An Act to amend the Trade Marks Act, 1905.

[23rd December, 1919.]

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:—

PART I.

REGISTRATION OF CERTAIN TRADE MARKS NOT REGISTRABLE UNDER PRINCIPAL ACT.

Division of Register of Trade Marks into two parts.

1.—(1) The register of trade marks (including the Manchester Register) kept under the Trade Marks Act, 1905 (hereinafter referred to as the principal Act), shall be divided into two parts to be called respectively Part A. and Part B.

(2) Part A. of the register shall comprise all trade marks entered in the register of trade marks at the commencement of this Act and all trade marks which after the commencement of this Act may be registered under the provisions of the principal Act.

(3) Part B. shall comprise all trade marks registered under this Part of this Act, and all trade marks entered on or removed thereto under this Act.

The Register kept under the Trade Marks Act, 1905. See sections 4 to 7 of that Act (K., chap. iii., p. 62).

The Manchester Register relates to goods in Classes 23, 24, and 25, that is, cotton goods. See section 64 of the Act of 1905 (K., chap. vii., p. 129).

Registered under the provisions of the principal Act. The necessary qualifications are contained in section 9 of that Act (registrable trade marks), see above, p. 1.

There are, however, some modifications as regards cotton marks contained in section 64 (10) of the principal Act, which, as amended by the Trade Marks Act, 1914, and this Act, is printed below, p. 72.

All trade marks entered on or removed thereto under this Act. See section 9 (3).

Registration of Trade Marks in Part B.

2.—(1) Where any mark has for not less than two years been *bonâ fide* used in the United Kingdom upon or in connection with any goods (whether for sale in the United King-

dom or exportation abroad), for the purpose of indicating that they are the goods of the proprietor of the mark by virtue of manufacture, selection, certification, dealing with or offering for sale, the person claiming to be the proprietor of the mark may apply in writing to the registrar in the prescribed manner to have the mark entered as his registered trade mark in Part B. of the register in respect of such goods.

(2) The registrar shall consider every such application for registration of a trade mark in Part B. of the register, and if it appears to him, after such search, if any, as he may deem necessary, that the application is inconsistent with the provisions of section eleven or section nineteen of the principal Act, or if he is not satisfied that the mark has been so used as aforesaid, or that it is capable of distinguishing the goods of the applicant, he may refuse the application, or may accept it subject to conditions, amendments or modifications as to the goods or classes of goods in respect of which the mark is to be registered, or to such limitations, if any, as to mode or place of user or otherwise as he may think right to impose, and in any other case he shall accept the application.

(3) Every such application shall be accompanied by a statutory declaration verifying the user, including the date of first user, and such date shall be entered on the register.

(4) Any such refusal or conditional acceptance shall be subject to appeal to the court, and, if the ground for refusal is insufficiency of evidence as to user, such refusal shall be without prejudice to any application for registration of the trade mark under the provisions of the principal Act.

(5) Every such application shall, if accepted, be advertised in accordance with the provisions of the principal Act.

(6) A mark may be registered in Part B. notwithstanding any registration in Part A. by the same proprietor of the same mark or any part or parts thereof.

This section creates a new kind of registration confined to such marks as possess the qualification by user prescribed by it. The effect of registration is different from that of registration in Part A. of the register, more limited rights being conferred (see section 4). The section has been considered above, p. 2.

Sub-section (1).

"Mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof (section 3 of the Trade Marks Act, 1905) (K., p. 25).

"For not less than two years." It would appear from the prescribed form of statutory declaration to be made on application that the user must have been continuous during the two years prior to application (see Form T. M. No. 3).

"Exportation abroad." Use of a mark on goods shipped in English ports for the colonies has been held to be use in England: *Société Anonyme des Verreries de l'Etoile*, [1894] 1 Ch. 61; 10 R. P. C. 436.

"For the purpose of indicating," etc. These words are taken from the definition of a trade mark in section 3 of the Act of 1905.

"In the prescribed manner." See Rule 35 of the Trade Mark Rules, 1920, and Forms T.M. No. 3 and Cotton No. 2, and see K., Procedure on Application to Register, p. 84.

"In respect of such goods." The registration cannot be wider as regards the goods for which the mark is registered than the user.

Sub-section (2).

"After such search, if any, as he may deem necessary." The matter of the search to be made is left to the judgment of the registrar. (See also Rule 29.) It is always advisable before adopting a mark as a trade mark to cause a search to be made in the register. As to searches, see K., p. 66.

"Inconsistent with the provisions of section 11 or section 19 of the principal Act." Section 11 of the Act of 1905 provides as follows: "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." (K., p. 297.) "Disentitled" does not mean "not entitled"; the fact that a mark does not comply with the requisites of section 9 of the principal Act does not bring it within section 11 (*Imperial Tobacco Co. of Great Britain and Ireland, Lim.* v. *De Pasquali & Co.*, [1918] 2 Ch. 207; 35 R. P. C. 185). Section 19 of the Act of 1905 is as follows: "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." (See K., Identical or Resembling Marks, p. 247.)

"If he is not satisfied," etc. A form of statutory declaration to be made by the applicant is prescribed by Rule 35 and Form T.M. No. 3,

but the registrar may require further evidence if he is not satisfied with that declaration. (See Rule 35 and sub-section (4).)

"Capable of distinguishing." (See above, p. 4.)

"Conditions, amendments or modifications." Compare section 12, sub-section (2), of the Act of 1905. (See K., p. 82.)

"Or to such Limitations," etc. These words accord with the language of section 12, sub-sections (2) and (4) of the Act of 1905, as amended by the second schedule to this Act. It had been held under that Act that a limitation as to the place of user was not authorised: *Crispin's Application*, 34 R. P. C. 249.

"Shall accept the application." Subject to the four grounds of refusal specified in sub-section (2), and to the power of requiring conditions, etc., the registrar has no discretion conferred on him, but is bound to register. On applications to register in Part A. he has a discretion; it is a judicial discretion and is subject to appeal: *Garrett's Application*, [1916] 1 Ch. 436; 33 R. P. C. 117 (K., The Registrar's Discretion, p. 76).

Sub-section (3).

"Statutory declaration." The prescribed form of application, T.M. No. 3, or Cotton No. 2, includes a form of statutory declaration.

Sub-section (4).

"Appeal to the Court." An appeal is made by motion, and the notice of motion must be given within one month from the date of the registrar's decision or within such further time as he shall allow (Rule 122). And see K., Appeal from the Registrar, p. 100.

"Without prejudice to any application for registration of the trade mark under the provisions of the principal Act." It may be that the mark falls within one of the paragraphs of section 9 of the principal Act and is registrable in Part A. of the register apart from any user of it (K., chap. viii., p. 135).

Sub-section (5).

As to advertisement under the principal Act, see section 13, which, as amended by the Act of 1919, is printed below, and Rules 41 to 44; and as to Cotton Marks, section 64 (4).

Advertisement is, of course, for the purpose of giving any person the opportunity of opposing the application. The provisions of section 14 of the principal Act, except sub-section (9) as to modification of a mark on appeal, apply to applications for registration in Part B.; see section 3 of the Act of 1919, printed below.

Sub-section (6).

It is hardly likely that a person registered in Part A. as proprietor of a trade mark will desire to register it in Part B. for the same goods, although he may wish to do so for other goods. However, the sub-section does not appear to be limited to registration in respect of other goods.

Application of Certain Provisions of Principal Act to Part B. Trade Marks.

3.—The provisions of the principal Act, as amended by this Act, with the exception of those set out in the First Schedule to this Act, shall, subject to the provisions of this Part of this Act, apply in respect of trade marks to which this Part of this Act applies as if they were herein re-enacted and in terms made applicable to this Part of this Act.

"As amended by this Act." The principal Act is printed below, p. 32, as amended.

The First Schedule to the Act of 1919 is as follows:—

PROVISIONS OF PRINCIPAL ACT NOT APPLIED.

No. of Section.	Subject-matter.
1	Short title.
2	Commencement of Act.
6	Incorporation of existing register.
9	Registrable trade marks.
12	Application for registration.
14 (9)	Modification of trade mark on appeals.
15	Disclaimers.
24	Associated trade marks.
25	Combined trade marks.
27	Assignment and user of associated trade marks.
31	Status of unrenewed trade marks.
36	Trade marks registered under previous Acts.
39 (except proviso) ...	Rights of proprietor of trade mark.
41 down to the words "against the provisions "of section eleven of "this Act."	Registration to be conclusive after seven years.
42	Unregistered trade mark.
62	Standardization, &c., trade marks.
73	Repeal and saving for rules, &c.

The proviso to section 39, which is not excluded, relates to the rights *inter se* of two or more registered proprietors of the same (or substantially the same) trade mark registered in respect of the same goods. The rest of section 39 is excluded, the effect of registration in Part B. of the register being regulated by section 4 of the Act of 1919.

The first part of section 41, which is excluded, is that which provides that in legal proceedings relating to a registered trade mark the original registration shall after the expiration of seven years from the date of such original registration be taken to be valid in all respects with

certain exceptions. A trade mark registered in Part B. of the register will therefore be open at any time to attack on the ground of the invalidity of the original registration.

The proviso to section 41 preserved the right of the first user of a trade mark to continue to use, and his right to register, his mark, notwithstanding the subsequent registration of a similar mark by another person. As amended, it is as follows:—"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 [or registration, whichever is the earlier,] 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."

By the exclusion of section 42, the proprietor of a trade mark registered in Part B. may, it would seem, sue for infringement of it as an unregistered trade mark either alternatively to or apart from his rights under section 4 of the Act of 1919.

Effect of Registration in Part B.

4. The registration of a person as the proprietor of a trade mark in Part B. of the register shall be *prima facie* evidence that that person has the exclusive right to the use of that trade mark, but, in any action for infringement of a trade mark entered in Part B. of the register, no injunction, interdict or other relief shall be granted to the owner of the trade mark in respect of such registration, if the defendant establishes to the satisfaction of the Court that the user of which the plaintiff complains is not calculated to deceive or to lead to the belief that the goods the subject of such user were goods manufactured, selected, certified, dealt with or offered for sale by the proprietor of the trade mark.

The general effect of this section has been considered above, p. 5.

The effect of registration (in Part A.), K., chap. xii., p. 359.

"Or other relief." For the relief granted in an action of infringement, see K., p. 488.

"Calculated to deceive or lead to the belief," etc. This is the test of infringement, see K., p. 431, but under the principal Act the registered proprietor of a trade mark has the exclusive right to the

use of it upon or in connection with the goods in respect of which it is registered. Where, therefore, the defendant has used the plaintiff's trade mark on or in connection with such goods, the plaintiff need not show that that use is calculated to deceive.

In the case of a mark registered in Part B., registration is only *prima facie* evidence that the proprietor has the exclusive right to the use of the mark, and thus it is open to the defendant in an action for infringement to establish that his user is not calculated to deceive or lead to the belief that his goods are those of the plaintiff.

"Manufactured, selected," etc. These words follow the language of section 2.

Power to Treat Applications for Registration in Part A. as Applications for Registration in Part B.

5. If any person applies for the registration of a trade mark under the principal Act in Part A. of the register, the registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B. of the register under this Part of the Act and deal with the application accordingly.

PART II.

PROVISIONS FOR THE PREVENTION OF ABUSES OF TRADE MARKS.

Removal from Register of Word Trade Marks used as Names of Articles.

6.—(1) Where in the case of an article or substance manufactured under any patent in force at or granted after the passing of this Act, a word trade mark registered under the principal Act or Part I. of this Act is the name or only practicable name of the article or substance so manufactured, all rights to the exclusive use of such trade mark, whether under the common law or by registration (and notwithstanding the provisions of section forty-one of the principal Act), shall cease upon the expiration or determination of the patent, and thereafter such word shall not be deemed a distinctive mark, and may be removed by the Court from the register on the application of any person aggrieved.

(2) No word which is the only practicable name or description of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark, and any such word now or hereafter on the register may, notwithstanding section forty-one of the principal Act, be removed by the Court from the register on the application of any person aggrieved:

Provided that—

(*a*) the provisions of this sub-section shall not apply where the mark is used to denote only the proprietor's brand or make of such substance, as distinguished from the substance as made by others, and in association with a suitable and practicable name open to the public use; and

(*b*) in the case of marks registered before the passing of this Act, no application under this section for the removal of the mark from the register shall be entertained until after the expiration of four years from the passing of this Act.

(3) The power to remove a trade mark from the register conferred by this section shall be in addition to and not in derogation of any other powers of the Court in respect of the removal of trade marks from the register.

(4) The provisions contained in Part III. of this Act authorising applications for the rectification of the register to be made in the first instance to the registrar instead of to the Court shall apply to applications under this section.

These provisions are entirely new. They apply to registrations in Part B. of the register as well as to those in Part A. They are considered above, p. 6.

Sub-section (1).

This sub-section gives statutory effect to the rule laid down in *Linoleum Co., Lim.* v. *Nairn*, 7 C. D. 834, and other cases (K., p. 45).

"A word trade mark." No doubt this expression would be held to cover a trade mark the essential particular of which is a word although coupled with merely common matter.

"Name or only practicable name." An article or substance (*e.g.*, a chemical substance) may have a technical name which is not "practicable" for the purposes of sale or ordinary use by the public;

the sub-section therefore is extended to cover the case of the registered word being the only practicable name.

"Under the common law." So that an action for "passing off" could not be maintained if based entirely upon the use by the defendant of such a name.

"Section forty-one of the principal Act." Subject to certain exceptions, the original registration of a trade mark, which has been registered for upwards of seven years, cannot be impugned (K., p. 368). Sub-section (1), however, excludes the operation of that section in the case of names falling within the sub-section.

"Expiration or determination of the patent." A patent may be determined by revocation or by failure to pay renewal fees.

"May be removed by the Court from the register." See section 35 of the principal Act and K., chap. xi., p. 309.

"Person aggrieved." See K., p. 313.

Sub-section (2).

The provision is independent of the existence or non-existence of a patent.

"Only practicable name or description." See above, sub-section (1). The language is, however, here changed to name or description.

"Provided that," etc. There are two conditions in the first part of the proviso, namely, first, that the mark is used to denote only the proprietor's brand or make of the substance, as distinguished from the substance used by others, and secondly, that it is used in association with a suitable and practicable name open to the public use.

The second part of the proviso gives a respite of four years in the case of a mark on the register before the passing of the Act.

Sub-section (3).

See sections 35 and 37 of the principal Act, and K., Rectification of the Register, chap. xi., p. 311.

Sub-section (4).

See section 9 below.

PART III.

GENERAL AMENDMENTS OF PRINCIPAL ACT.

Amendment of the Law as to Registrable Trade Marks.

7.—In paragaph (5) of section nine of the principal Act (which defines the particulars which registrable trade marks must contain or consist of) for the words "except by order of the Board of Trade or the court be deemed a distinctive

mark," there shall be substituted the words "be registrable under the provisions of this paragraph, except upon evidence of its distinctiveness."

Paragraph (5) as amended is as follows:—

"(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 be registrable under the provisions of this paragraph, except upon evidence of its distinctiveness." The effect of the amendment is to abolish the procedure by special application (K., p. 88), so that the ordinary procedure will apply (K., p. 84); but the application must be supported by evidence of the distinctiveness of the mark. An application under paragraph (5) of section nine of the principal Act may be advertised by the registrar on receipt of such application and before acceptance (section 13 of the principal Act as amended, and Rule 41).

Since the last edition of Kerly on Trade Marks was published in 1913, orders under paragraph (5) of section 9 in favour of applicants have been made by the Court in the following cases given in order of date:—

CADBURY, for cocoa, chocolate, etc.: *Cadbury Bros. Lim.'s Application*, [1915] 1 Ch. 331; 32 R. P. C. 9.

MURRATI, for cigarettes: *B. Muratti Sons & Company Lim.'s Application*, 32 R. P. C. 77 [1915].

BERNA, for motor cars: *Berna Commercial Motors Lim.'s Application*, [1915] 1 Ch. 414; 32 R. P. C. 113.

SHEFFIELD-SIMPLEX, for motor road vehicles: *Sheffield-Simplex Motor Works Lim.'s Application*, 32 R. P. C. 145 [1915].

DAIMLER, for motor vehicles: *Daimler Company Lim.'s Application*, 33 R. P. C. 337 [1916].

MOORE & MOORE, LONDON, for pianofortes: *Moore's Application*, 34 R. P. C. 154 [1917].

LODGE, for sparking plugs: *Lodge Sparking Plug Company Lim.'s Application*, 35 R. P. C. 222 [1918].

WINGET, machinery for mixing and mould concrete, etc.: *Winget Lim.'s Application*, 36 R. P. C. 75 [1919].

AVERY, for weighing machines: *W. & T. Avery Lim.'s Application*, 36 R. P. C. 89 [1919].

BURFORD, for commercial motor vehicles: *H. G. Burford & Company Lim.'s Application*, [1919] 2 Ch. 28; 36 R. P. C. 139.

ENO, for a medicinal preparation and a non-intoxicating beverage: *J. C. Eno Lim.'s Application*, 37 R. P. C. 1 [1920].

THORNYCROFT, for commercial motor vehicles: *John Thornycroft & Company Lim.'s Application*, 37 R. P. C. 25 [1920].

In the following cases orders have been refused:—

SLAZENGER, for games: *Slazengers Lim.'s Application*, 31 R. P. C. 501 [1914].

CRAWFORD, for biscuits, etc.: *William Crawford & Sons Lim.'s Application*, [1917] 1 Ch. 550; 34 R. P. C. 94.

In *W. N. Sharpe, Lim.* v. *Solomon Bros. Lim.*, 32 R. P. C. 15 [1915], the word CLASSIC was held incapable of being treated as "adapted to distinguish."

In *Burford's Application* (*supra*), the factors which ought to be regarded upon an application to register a surname as a trade mark were very fully considered by the Court of Appeal.

Appeals.

8.—(1) All appeals from the decisions of the registrar under section fourteen of the principal Act shall be made to the Court, and an appeal shall not lie from any such decision to the Board of Trade, and accordingly that section shall have effect, subject to the modifications set forth in the Second Schedule to this Act:

Provided that nothing in this sub-section shall affect any appeal which may be pending at the commencement of this Act.

(2) In any appeal from the decision of the registrar to the Court under the principal Act or this Act the Court shall have and exercise the same discretionary powers as under the principal Act or this Act are conferred upon the registrar.

Sub-section (1).

Section 14 of the principal Act relates to opposition to registration (K., p. 93).

An appeal lay to the Court, "or, with the consent of the parties, to the Board of Trade." The words quoted are repealed, and the Court is now the only tribunal of appeal in oppositions, except where an appeal was pending at the commencement of the Act.

Sub-section (2).

On an application to register a trade mark, under the principal Act, the registrar has a discretion to refuse to register (*Garrett's Application*, [1916] 1 Ch. 436; 33 R. P. C. 117), but it is a judicial discretion, and on appeal the discretion is in the Court. The Court will not overrule it, however, unless it is satisfied that it has been wrongly exercised (S. C. and *Yalding Manufacturing Company's Application*, 33 R. P. C.

285; *British Thomson-Houston's Application*, 34 R. P. C. 169; *National Cash Register Company's Application*, 273 and 354, and K., p. 76). The section now expressly declares that on appeal from a decision of the registrar, the Court shall have and exercise the same discretionary powers as are conferred on the registrar. It is submitted that where the decision of the registrar is based on an exercise of his discretion, the Court may and will still have regard to the fact of the registrar having exercised his discretion, but it must now exercise its own discretion on all the facts.

Rectification of Register.

9.—(1) Any application for the rectification of the register or the removal of any trade mark from the register in respect of any goods which, under section thirty-five or section thirty-seven of the principal Act or under Part II. of this Act, is to be made to the Court, may, at the option of the applicant, be made in the first instance to the registrar:

Provided that no such application shall be made otherwise than to the Court where an action concerning the trade mark in question is pending.

(2) The registrar may, at any stage of the proceedings, refer any such application to the Court or he may, after hearing the parties, determine the question between them, subject to appeal to the Court.

(3) In any proceedings for the rectification of the register under this Act or under section thirty-five of the principal Act as amended by this section, the Court or the registrar shall, in addition to the powers conferred by that section as so amended, have powers to direct a trade mark entered in Part A. of the register to be removed to Part B. of the register.

Before the passing of this Act, all hostile applications for rectification of the register were made to the Court. Section 35 of the principal Act relates generally to rectification; section 37 relates to rectification on the special ground of non-user. The registrar had, however, power to make certain corrections, alterations, and additions at the request of the registered proprietor under sections 32 and 34, as well as to register a new proprietor becoming entitled to a registered trade mark by assignment, transmission, or other operation of law. (K., Rectification of the Register, chap. xi., p. 309.)

Under section 9 of the new Act, an application for rectification may be made in the first instance to the registrar, except where an action

concerning the trade mark is pending, *e.g.*, an action for infringement or an action as to the sale or ownership of the trade mark. Where the application is likely to go before the Court in any event, there would appear to be no object to be gained by applying to the registrar in the first instance, except where the application is connected with some matter, for instance, an opposition, already before the registrar.

Sub-section (2).

Under this sub-section the registrar may refer the matter to the Court, and if he determines the question between the parties, either party may appeal to the Court.

The procedure on an application to the registrar is laid down in Rules 90, 91, and 92 of the Trade Mark Rules, 1920.

Sub-section (3).

Power is given by this sub-section to the Court or the registrar to direct a trade mark registered in Part A. to be removed to Part B. of the register. The proprietor would presumably, however, be allowed to have the mark removed altogether from the register, if he preferred that course.

Compare the power conferred on the registrar by section 5 to treat an application for registration in Part A. as an application for registration in Part B. of the register.

Costs.

10. In all proceedings before the registrar under the principal Act or this Act the registrar shall have power to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may be made a rule of Court.

The registrar had power to award costs in opposition cases (section 14, sub-section (10)). This section gives power generally to the registrar to award costs in proceedings before him, and the sub-section mentioned is repealed.

The provision that such an order may be made a rule of Court is new (compare section 39 of the Patents and Designs Act, 1907).

Registration of Assignments.

11.—For section thirty-three of the principal Act, the following section shall be substituted:—

33.—(1) Where a person becomes entitled by assignment, transmission, or other operation of law to a regis-

tered trade mark, he shall make application to the registrar to register his title, and the registrar shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of the trade mark, and shall cause an entry to be made in the prescribed manner on the register of the assignment, transmission, or other instrument affecting the title. Any decision of the registrar under this section shall be subject to appeal to the Court.

"(2) Except in cases of appeals under this section and applications made under section thirty-five of this Act, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-section (1) aforesaid shall not be admitted in evidence in any Court in proof of the title to a trade mark unless the Court otherwise directs."

This section differs from the section for which it is substituted chiefly by providing that a person becoming entitled to a registered trade mark *shall* apply to register his title. Sub-section (2) is introduced as a means of enforcing this provision. Furthermore, the fee on an application to register a subsequent proprietor in cases of assignment or transmission of a registered trade mark, if made after the expiration of six months from the date of acquisition of proprietorship and the coming into force of the Trade Mark Rules, 1920, is £10 (see First Schedule to those Rules, Nos. 6 and 6a).

Under the old section, an appeal might be, with the consent of the parties, to the Board of Trade.

The Rules relating to assignments are Rules 70 to 76 inclusive, and see Forms T.M. Nos. 15, 16, and 17.

Generally as to assignment and devolution of trade marks, see K., chap. xiii., p. 384.

Notice of trusts is not to be entered on the register, section 5 of the principal Act (K., p. 64).

Equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property, section 38, sub-section (2) of the principal Act.

Sub-section (2).

Section 35 of the principal Act is the general provision relating to rectification of the register.

Minor Amendments of Principal Act.

12. The amendments specified in the second column of the Second Schedule to this Act, which relate to minor details, shall be made in the provisions of the principal Act specified in the first column of that schedule.

The Second Schedule will be found set out below, p. 29.

The principal amendments are as follows:—

(1) A new section wider than the old one is substituted for section 43, relating to the admission of evidence as to usages of the trade, etc.;
(2) an addition is made to section 22, relating to assignments of the right to use a registered trade mark in any British possession or protectorate or foreign country;
(3) an amendment of the proviso to section 41, which preserved the right of a prior user, making it necessary that the use must be anterior to user or registration, whichever is the earlier, of the registered trade mark;
(4) a reframing of section 62 as to standardisation marks,* which appears to enlarge the scope of its provisions to a considerable extent;
(5) a repeal of such parts of section 64 as prohibited, or limited the effect of, registration of words for cotton marks;
(6) provisions in several sections allowing limitations to be imposed on registration and other concessions as to mode or place of user of a registered trade mark;
(7) and some other consequential or verbal amendments.

The principal Act as amended is printed below, p. 32, etc.

Short Title, Construction and Commencement.

13.—(1) This Act may be cited as the Trade Marks Act, 1919, and the Trade Marks Act, 1905 and 1914, and so much of the Patents and Designs Acts, 1907 to 1919, as relates to trade marks, and this Act may be cited together as the Trade Marks Acts, 1905 to 1919.

(2) This Act shall be construed as one with the principal Act and shall come into operation on the first day of April nineteen hundred and twenty.

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*For form of and procedure on application, see Rules 36 to 40, and Form T.M. No. 6.

SCHEDULES.

FIRST SCHEDULE.

[*Printed above, p.* 18.]

SECOND SCHEDULE.

Minor Amendments to Principal Act.

Section Amended.	Nature of Amendment.
Section 12 ...	At the end of sub-section (2) there shall be inserted the following words "or to such limitations, if any, as to "mode or place of user or otherwise as he may think "right to impose." In sub-section (4), after the words "modifications, if "any," shall be inserted the words "or to what "limitations, if any, as to mode or place of user or "otherwise."
Section 13 ...	After the word "conditions" in both places where it occurs, there shall be inserted the words "and "limitations." At the end of the section there shall be inserted the words "Provided that an application under the "provisions of sub-section (5) of section nine of this "Act may be advertised by the Registrar on receipt "of such application and before acceptance."
Section 14 ...	In sub-section (4), after the word "conditions" there shall be inserted the following words "or what "limitations as to mode or place of user or otherwise." In sub-section (5) the words "or with the consent of the "parties to the Board of Trade" shall be repealed. In sub-section (6) the words "the Board of Trade or" and "as the case may be" shall be repealed; and after the words "conditions if any" there shall be inserted the words "or what limitations, if any, as to "mode or place of user or otherwise." Sub-section (10) shall be repealed.
Section 16 ...	After the words "the registrar shall" there shall be inserted the words "unless the mark has been "accepted in error or."
Section 21 ...	After the word "court" there shall be inserted the words "or registrar" in each case. Delete the words "as it may think right to impose" and insert "as the court or the registrar, as the case "may be, may think it right to impose."

Section Amended.	Nature of Amendment.
Section 22 ...	At the end of the section there shall be added the following words "and the assignment of such right to "use the same shall constitute the assignee a "proprietor of a separate trade mark for the purpose "of section twenty-one of this Act, subject to such "conditions and limitations as may be imposed under "that section."
Section 23 ...	After the words "modifications, if any," there shall be inserted the words "and to such limitations, if any, as "to mode or place of user."
Section 24 ...	After the words "registration of a trade mark" there shall be inserted the words "identical with or."
Section 34 ...	After the word "terms" there shall be inserted the words "and subject to such limitations as to mode or "place of user."
Section 41 ...	In the proviso, after the words "anterior to the user" there shall be inserted the words "or registration, "whichever is the earlier."
Section 43 ...	For section forty-three the following section shall be substituted: "In any action or proceeding relating to "a trade mark or trade name the tribunal shall admit "evidence of the usages of the trade concerned and "of any relevant trade mark or trade name or get up "legitimately used by other persons."
Section 62 ...	For the words "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 of a "goodwill in connection with such examination and "certifying," there shall be substituted the words "Where any association or person undertakes to "certify the origin, material, mode of manufacture, "quality, accuracy or other characteristic of any "goods by mark used upon or in connection with "such goods, the Board of Trade, if and so long as "they are satisfied that such association or person is "competent to certify as aforesaid, may, if they shall "judge it to be to the public advantage, permit such

Section Amended.	Nature of Amendment.
Section 62 —continued.	"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 of a goodwill in "connection with such certifying."
Section 64 ...	Sub-section (10 (a)) shall be repealed. In sub-section (10 (c)) the word "word" shall be omitted.

TRADE MARKS ACT. 1905.

[5 EDW. 7, CH. 15.]

As Amended by the Trade Marks Acts, 1914 and 1919.

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SCHEDULE 79

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.

2. This Act shall, save as otherwise expressly provided,

come into operation on the first day of April one thousand nine hundred and six.

"Save as otherwise expressly provided." See section 64, sub-section (10). Repeals and savings, section 73. See also Interpretation Act, 1889, s. 38, K., p. 718.*

PART I.

Definitions.

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

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

Definition of a Trade Mark, K., chap. ii., p. 23.
Mark, K., p. 25.
Device, K., p. 206.
Brand, K., p. 211.
Heading, K., p. 213.
Label, K., p. 214.
Ticket, K., p. 220.
Name, K., p. 145.
Signature, K., p. 149.
Word Marks, K., p. 151.
Letter, K., p. 220.
Numeral, K., p. 221.

A "trade mark" shall mean a mark used or proposed to be used upon or in connexion 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:

Trade mark, K., p. 24.
Proposed to be used, K., p. 26.
In connection with goods, K., pp. 26 and 366.
Indication of origin, K., p. 36.
Certification, K., p. 58. See section 62.
Offered for sale in the market, K., p. 35.

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* In the notes to the sections the references to pages are, unless otherwise stated, to the 4th edition of Kerly on Trade Marks.

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

"Registrable trade mark," K., p. 27. Section 9.
What marks may be registered as trade marks, K., chap. viii., p. 135.

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

The Register, K., chap. iii., p. 62.
Sheffield Register, K., p. 120.
Manchester Register, K., p. 129.
Entries to be made in the Register, section 4, K., pp. 62, 64.
Trusts not to be entered in the Register, section 5, K., p. 64.
Incorporation of existing Register, section 6, K., p. 62.
Inspection of Register, section 7, K., p. 66.
Registration of assignments, section 33, K., p. 398.
Rectification of the Register, K., chap. xi., p. 309.

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:

"Prescribed," K., p. 102, n. Rules of Court, *ibid.*
Rules under the Act, Trade Mark Rules, 1920.

"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.

The Court, K., pp. 102 and 338.
Scotland, section 69 and section 72, K., p. 339.
Ireland, section 69, K., p. 339.
Lancashire Palatine Court, section 71, K., p. 134.
Isle of Man, section 70, K., p. 690.

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.

The Register, K., chap. iii., p. 62. It is now divided into parts A. and B. See T. M. Act, 1919, s. 1.

Assignments and devolution, K., chap. xiii., p. 384. Section 33.

Disclaimers, K., chap. ix., p. 236. Section 15, rule 34.

Conditions, sections 12, 13, 14, K., pp. 82 and 106, and sections 21 and 23, K., pp. 295 and 393.

Limitations, section 10, colour, K., p. 233; section 21, concurrent user, K., p. 295, and see above "Conditions."

As to the Sheffield Register, section 63, see Sheffield Marks, K., chap. vi., p. 120.

As to the Manchester Register, section 64, see Cotton Marks, K., chap. vii., p. 129.

Registration is as of the date of application, section 16, K., p. 88.

"Prescribed," date of registration, goods, trade, &c., of proprietor and such other particulars as the registrar shall think necessary, Rule 58.

Removal from the register and cause to be entered, Rule 68.

Patent office, sections 62 and 63 of the Patents and Designs Act, 1907.

The Registrar, K., p. 63. Acts under the Board of Trade, K., p. 63. Section 62 of the Patents and Designs Act, 1907.

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.

The registered proprietor can make a good title to a purchaser without notice, section 38, K., p. 397.

A purchaser with notice of an equitable title in a third person takes subject to his rights, K., p. 398.

As to notices in the nature of caveats, see *Viola* v. *Sharpe*, 22 R. P. C. 23 [1905], a patent case.

This section does not prevent the entry on the register of conditions and limitations, which are recognised by the Act, see notes to section 4.

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.

"Original Date." A trade mark is registered as of the date of application, section 16, K., pp. 88 and 362.

Section 36 gives a trade mark already on the register the benefit of this Act without re-registration, K., p. 140.

Section 41 saves the original registration from attack on the ground of its invalidity after seven years from its date or from the passing of the Act, whichever shall last happen, and subject to certain exceptions, K., p. 368.

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.

Inspection, searches and indexes, K., pp. 66 and 67.

Hours of inspection, Rule 94. Searches, Rule 93. Form of request for official search, T.M. No. 28.

Fees for inspection or searching, 1*s.* for every quarter of an hour; for office copy of documents, for every 100 words (but never less than 1*s.*) 6*d.*; for certifying office copies, MS. or printed, 10*s.* See list of fees.

Registrable Trade Marks.

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

Classification of goods, K., chap. v., p. 112. List of classes, 3rd Schedule to the Rules.

A trade mark is assignable only in connection with the goodwill of the business concerned in the goods for which it has been registered, section 22, K., p. 385.

Registration for part of a class, K., pp. 113 and 225.

Associated trade marks, sections 24 to 27, K., p. 116.

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

A registrable trade mark is one capable of registration under the provisions of the Act, section 3.

As to what marks may be registered as trade marks, see K., chap. viii., p. 135.

For comparison with repealed sections, see K., p. 139.

Essential particulars, K., p. 142.

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

Name marks, K., p. 145. Trade name, K., p. 539.
Name of imaginary person not included, K., p. 145.
Special or particular manner, K., p. 148.

(2) The signature of the applicant for registration or some predecessors in his business;

Signature, K., p. 149.

(3) An invented word or invented words;

Word marks, K., p. 151. Paragraph (3) not qualified by (4), K., p. 163.

Invented word, K., p. 162. List of decisions, K., pp. 169 and 170, to which should be added ALUNDUM, *Norton Company's Application*, 36 R. P. C. 153; STANWAL, *Standard Woven Fabric Company's Application*, 35 R. P. C. 53 (both allowed); and PARLOGRAPH, *Lindstroem Aktiengesellschaft's Application*, [1914] 2 Ch. 103; 31 R. P. C. 261 (refused).

(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;

K., p. 171. List of decisions, K., pp. 174 and 175; to which add CLASSIC, *W. N. Sharpe* v. *Solomon Bros., Lim.*, 31 R. P. C. 441;

32 R. P. C. 15 (removed), and NATIONAL, *National Cash Register Company's Application*, 34 R. P. C. 354 (allowed); see also *Imperial Tobacco Co., &c., Lim.* v. *De Pasquali & Co.*, 35 R. P. C. 185, and *Massachusetts Saw Works' Application*, 35 R. P. C. 137 [1918].

Descriptive words, K., pp. 39 and 157 *et seq.*, K., pp. 205 *et seq.*

Secondary meaning of word *primâ facie* descriptive, K., pp. 39, 205, and 565.

Geographical names, K., p. 175. Decisions, K., p. 178; also STANWAL, above, p. 39, and BERNA, *Berna Commercial Motors Lim.'s Application*, [1915] 1 Ch. 414; 32 R. P. C. 113.

Surname, K., pp. 178, 195.

(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* [be registrable under the provisions of this paragraph except upon evidence of its distinctiveness.]

The amendment is made by section 7 of the Act of 1919.

"Mark," section 3, K., pp. 25 and 179.

Distinctive, K., pp. 179 *et seq.* Loss of distinctiveness, K., p. 405.

Special applications under paragraph (5), K., pp. 88 and 179.

See list of decisions, K., p. 198, and above, pp. 23 and 24.

As to a word which is the mere spelling out of letters, see *Garrett's Application*, cited on p. 24 (OGEE); also *Eisman & Co.'s Application* (June 8th, 1920, not yet reported) (EANCO).

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.

Old marks, K., p. 222.

August 13th, 1875, the date of the commencement of the first Registration Act.

Special or distinctive, K., p. 222.
Used as a trade mark, K., p. 227, and K., chap. ii., p. 23.
Statutory declaration as to user, Rule 20.
Additions or alterations not substantially affecting the identity of the trade mark, cf. section 26, section 27, and section 34.
Alteration of old registered mark, K., p. 354.

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.

Distinctive, K., pp. 36 and 179.
As to descriptive marks, see generally, K., pp. 39, 157, 171, 205, and 565.
Colour, section 10.

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.

Colour, K., p. 233.
Limitations, K., pp. 82, 295; and above, p. 28.

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.

Deceptive marks, K., chap. x., p. 297.
The prohibition is not limited to marks inherently deceptive, &c., K., p. 298.
Marks otherwise disentitled to protection, K., p. 308, and above, p. 16.

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.

Registration of trade marks, K., chap. iv., p. 70.
Who may apply to register, K., pp. 72 and 722.
Application by firm, partnership or body corporate, K., p. 72.
Prescribed manner. Ordinary application, Rules 16 to 34, Form T.M. No. 2. Application under section 62, Rules 36 to 40, Form T.M. No. 6. Application for a cotton mark, Rules 110 to 121, Form Cotton No. 1. Applications to Cutlers' Co., Rules 104 to 109. Application to enter corporate mark on Sheffield Register, Form Sheffield No. 1.
List of fees, 1st schedule to Rules; fees also marked on Forms.
Applications by agents, K., pp. 68 and 75.

(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, [or to such limitations, if any, as to mode or place of user or otherwise as he may think right to impose.]

The registrar's discretion, K., p. 76.
Applicant entitled to be heard before refusal, section 53, K., pp. 69, 83.
Conditions, amendments or modifications, K., p. 82.

(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.

Request for statement of grounds of decision, Form T.M. No. 5.

(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 [or to what limitations, if any, as to mode or place of user or otherwise], the application is to be accepted.

Appeal from the registrar, K., p. 100.
Appeal to the Court, K., p. 102.
Appeal from registrar to Board of Trade, Rules 123 to 128. Form T.M. No. 29.
Conditions, amendments or modifications, K., pp. 82, 106.

(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.

Appeal from the registrar, K., p. 100.
Costs, K., p. 107.

(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.

Amendments, K., pp. 92 and 106.

13. When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions [and limitations] 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 [and limitations] subject to which the application has been accepted. [Provided that an

application under the provisions of sub-section (5) of section nine of this Act may be advertised on receipt of such application and before acceptance.]

Advertisement, K., p. 87.
Rules 41 to 44.
Date of registration, section 16, K., pp. 88 and 362.
Certificate of registration, section 17, K., p. 88.

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.

Opposition to registration, K., p. 93.
Prescribed time, one month, Rule 45. Enlargement of time, Rule 97.
Summary of procedure on an opposed application, K., p. 97.

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

Notice of opposition, K., p. 96. Form T.M. No. 7.
If registration is opposed on the ground of resemblance to registered marks, the numbers of such marks and of the journals in which they have been advertised are to be set out, Rule 46.
Precedent of notice of opposition, K., p. 788.

(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.

Counter-statement, K., p. 93. Form T.M. No. 8. Precedent, K., p. 788.
"Prescribed time," one month from the date of receipt of the duplicate notice of opposition, Rule 47.
The applicant should set out what facts, if any, alleged in the notice of opposition he admits, *ibid.*
Abandonment of application, K., p. 87

(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, [or what limitations as to mode or place of user or otherwise] registration is to be permitted.

Evidence, K., p. 95. Rules 48 to 51.
Hearing by Registrar, K., p. 95. Rule 53.
Conditions, K., p. 82.

(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 [or what limitations, if any, as to mode or place of user or otherwise], registration is to be permitted.

Appeal from the registrar, K., p. 100.
Appeal to the Court, K., p. 102. "Prescribed manner," by motion within one month from the date of decision, Rule 122.

(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.

Costs, K., p. 107.

(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.

Modification of trade mark, K., p. 106, cf. section 12 (2) and (4). "Not substantially affecting the identity of such trade mark," cf. section 9, old marks, section 26, section 27, and section 34.
Advertisement, K., p. 87.

(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.*

Costs before the registrar, K., p. 107, and see T. M. Act, 1919, section 10.
Costs in uncontested cases, Rule 56.

(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.

Security for costs, K., p. 111. Rule 55.

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 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.

Disclaimers, K., chap. ix., p. 236.
Effect of disclaimer, K., p. 244.
Essential particulars, K., p. 142.
Parts of a trade mark may be separately registered, see Associated Trade Marks, K., pp. 116 and 239, and section 25.
Matter common to the trade, K., p. 239.
The three mark rule, K., p. 240.
A disclaimer may be required in rectification proceedings under section 35 as a condition of the trade mark remaining on the register, K., p. 332.
The proviso rendered obsolete the decision in *Rosenthal* v. *Reynolds*, [1892] 2 Ch. 301; 9 R. P. C. 189, which was to the contrary effect, see K., p. 244.
A disclaimer is not to be required, unless some special reason for it is made out, K., p. 238.
Disclaimer required by registrar, Rule 34.

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 mark has been accepted in error or] 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 purpose of this Act to be the date of registration.

Date of registration, K., p. 88. Cf. as to marks registered under prior Acts, sections 6 and 36, and see K., p. 140.
Entry on the register, see Rules 58 to 61 and Form T.M. No. 10.

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.

Prescribed form, Rule 61. Form O., No. 2. No fee. As to other certificates, see sections 50 and 51, and Rules 99 and 101, and table of forms. There is a general right to have a certified copy of any entry in the register on payment of the prescribed fee, section 7.

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.

Abandonment of application, K., p. 87. It is no bar to a fresh application, *Jackson* v. *Napper*, 35 C. D. 162; 4 R. P. C. 145 (1886), Stirling, J.

The ordinary length of notice is fourteen days, but the registrar may give a further time where the applicant lives at a distance, Rule 57, Form O., No. 1.

Identical Trade 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.

Duplicate marks, K., p. 246.
Mark resembling a registered mark, K., p. 260.

"Except, &c." See also sections 20 and 21. Old marks, K., p. 222. Three mark rule, K., p. 249.

An application to the Court must be served on the registrar and an office copy of an order under the section must be left at the Patent Office, Rule 131.

For procedure, see K., p. 250.
Belonging to a different proprietor, cf. section 24.
Same goods or description of goods, K., p. 253.
The following decisions on contrasted words should be now added to the list given in the last edition of Kerly, pp. 292—294:—

MENDIT, not an infringement of MENDINE: *Coombe* v. *Mendit, Lim.*, 30 R. P. C. 709; ONSORIA, calculated to deceive by resemblance to ANZORA (on interlocutory motion): *Lewis* v. *Vine*, 31 R. P. C. 12; "SWANKIE," not too near SWAN, 31 R. P. C. 79; LAVROMA, not an infringement of LAVONA or LOVONA: *Tokalon, Lim.* v. *Davidson*, 31 R. P. C. 74; CA RADIUM, an infringement of RADIUM: *Brighten* v. *Cavendish*, 32 R. P. C. 229; BRITISH DOMINION BOND, too near BRITISH BOND: *Spicer Bros., Lim.* v. *Spalding and Hodge, Lim.*, 32 R. P. C. 52, passing off; MALLAGOLE, for pens, too near a mark comprising J. B. MALLAT, the name "Mallat" being well-known for such goods: *Hinks, Wells & Company's Application*, 33 R. P. C. 281; ANCHOLA, not too near ANCHOVETTE: *Waide & Company's Application*, 33 R. P. C. 320; OXOT, an infringement of OXO: *Oxo, Lim.* v. *King*, 34 R. P. C. 165; THE REGIMENT, not an infringement of REGIMENTAL under the circumstances of the different users and get-up: *Imperial Tobacco (of Great Britain and Ireland), Lim.* v. *De Pasquali*, 35 R P. C. 185; RITO, not an infringement of LITO, or of a mark consisting of the word Y-To and a device: *Fitchetts* v. *Loubet*, 36 R. P. C. 296; MOTRATE not too near FILTRATE: *Fox & Company's Application*, 37 R. P. C. 37; GNIDROC, being a reversal of the applicant's name, was successfully opposed by another firm of the same name, but NIDROC was allowed: *G. Cording, Lim.* v. *J. C. Cording, Lim.*, 33 R. P. C. 325 [1916].

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.

Duplicate registration, K., pp. 250 and 294.
Concurrent claims, K., p. 250.
Same goods or description of goods, K., p. 253.
"Determined by the Court," procedure, K., p. 250.
"Settled by agreement," K., p. 250.

21. In case of honest concurrent user or of other special circumstances which, in the opinion of the Court, [or regis-

trar] make it proper so to do, the Court [or registrar] 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* [as the Court or the registrar, as the case may be, may think it right to interpose].

Duplicate registration, K., pp. 250 and 294.
Concurrent user, K., p. 294.
Same goods or description of goods, K., p. 250.
Conditions and limitations, K., pp. 82, 294.
As to rights of proprietors of duplicate marks, section 39, K., p. 363, see *Macder's Application*, [1916] 1 Ch. 304; 33 R. P. C. 77, and *Lehmann's Application*, 35 R. P. C. 92, [1918] (jurisdiction exercised); and see *Koskill's Trade Mark*, 32 R. P. C. 577 [1915].

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 [and the assignment of such right to use the same shall constitute the assignee a proprietor of a separate trade mark for the purpose of section twenty-one of this Act, subject to such conditions and limitations as may be imposed under that section.]

Assignment and devolution, K., chap. xiii., p. 384.
Registration of assignments, &c., section 33. See notes to that section. Rules 70 to 76.
A trade mark must be registered in respect of particular goods or classes of goods, section 8; and the exclusive right to the use of it conferred by registration is confined to the goods in respect of which it is registered, section 39, K., p. 365.
The registered proprietor has power to assign a trade mark and give receipts for any consideration, section 38, K., p. 394.

Determination of trade mark rights, K., chap. xiv., p. 404.
Goodwill, K., pp. 401 and 409.
As to the proviso, see K., p. 392.

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, [and to such limitations, if any, as to mode or place of user] 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.

Rights on dissolution of partnership, K., chap. xiii., p. 393.
Rules 82 to 84. A note of the apportionment and the date of the decision is to be entered on the register.
Appeal to the Board of Trade, Rules 123 to 128.
The Board of Trade may refer an appeal to the Court, section 59, K., p. 684.
Associated trade marks, sections 24 to 27

Associated Trade Marks.

24. If application be made for the registration of a trade mark [identical with or] 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, K., p. 116. They comprise (1) a set of marks associated under this section; (2) series of trade marks, section 26; and (3) a set of trade marks constituted by the registration of a trade mark and of one or more parts of it, section 25.
The section has nothing to do with the registration of identical marks belonging to the same proprietor, per Kekewich, J., in *Birmingham Small Arms Application*, [1907] 2 Ch. 396; 24 R. P. C. 563. Cf.

sections 19 and 20, as to marks belonging to different proprietors. This section was inserted to meet the difficulty caused by the decision in *Players & Sons' Application*, [1901] 1 Ch. 382; 18 R. P. C. 65.

The fact of the association is to be noted on the register against each mark, Rule 59.

Associated trade marks are only assignable or transmissible as a whole, section 27.

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 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.

See notes to section 24.

A trade mark, *e.g.*, a label, often contains distinctive parts, which under this section may be registered subject to the condition of association. A part separately registered cannot be required to be disclaimed under section 15.

The proviso was inserted in view of section 37, enabling a trade mark to be removed from the register on the ground of non-user, see K., p. 326.

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.

Series of trade marks, K., p. 118.
Application for a series of trade marks, Rule 27.
Fee, 1a. List of Fees.
Advertisement of a series, Rule 43.
See also notes to section 24, as to associated trade marks generally.

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 of such user.

Assignment of trade marks, K., chap. xiii., p. 384.
Associated trade marks, K., p. 116. See notes to section 24.
Rules as to assignment, Rules 70 to 76.
As to the proviso, see section 37, non-user of trade mark.
"Not substantially affecting the identity," cf. section 9, old marks, sections 14 (9), 26, and 34.

Renewal 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, K., p. 415. Rules 62 to 69.
And see notes to sections 29 and 30.

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 registra-

tion, as the case may be, which date is herein termed "the expiration of the last registration."

"Prescribed period," not less than two months nor more than three months before expiration, Rule 62.

Renewal is to be advertised in the Journal, Rule 69.

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.

Removal of mark from the register, K., p. 414.

Renewal of registration, K., p. 415.

The rules provide for two notices by the registrar and an advertisement in the Journal before removal, Rules 62 to 66. See also the summary of prescribed procedure, K., p. 374. The forms are O. No. 3 and O. No. 4 in the 2nd Schedule to the Rules.

What conditions may be required, K., p. 374.

The cause of removal is to be entered on the register, Rule 68.

31. Where a trade mark has been removed from the register for non-payment 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.

Under this section a trade mark, though removed from the register, may be a ground of refusal of registration for an identical or similar mark, see sections 19 and 20, and K., p. 418.

"No *bonâ fide* trade user, &c." Cf. section 37

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,—

(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.

Correction and cancellation of entries at the proprietor's request, K., p. 351.

As to changes of proprietorship, see section 33. As to alteration of a trade mark, see section 34.

"Goods or classes of goods," section 8.

Disclaimers, K., chap. ix., p. 236.

Rules 77, and 85 to 87. Form for alteration of address, T.M. No. 18. Form for entry of change of name, T.M. No. 21. Form for cancellation of entry, T.M. No. 22. Form of request to strike out particular goods, T.M. No. 23. Form of request to enter a disclaimer or memorandum, T.M. No. 24.

An appeal may be referred by the Board of Trade to the Court, section 59, K., p. 684.

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 sub-*

ject to appeal to the Court or, with the consent of the parties, to the Board of Trade.

[(1) Where a person becomes entitled by assignment, transmission, or other operation of law to a registered trade mark, he shall make application to the registrar to register his title, and the registrar shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of the trade mark, and shall cause an entry to be made in the prescribed manner on the register of the assignment, transmission, or other instrument affecting the title. Any decision of the registrar under this section shall be subject to appeal to the Court.

(2) Except in cases of appeals under this section and applications made under section thirty-five of this Act, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-section (1) aforesaid shall not be admitted in evidence in any Court in proof of the title to a trade mark unless the Court otherwise directs.]

See section 11 of the T. M. Act, 1919.
Assignment and devolution of trade marks, K., chap. xiii., p. 384.
Registration of assignment, K., p. 398.
"Subject to the provisions of this Act," sections 22 and 27.
As to the power of the registered proprietor to assign, and as to notice of equities, see notes to section 38.
As to changes of name and address, see section 32.
"Prescribed manner," Rules 70 to 76. Form of joint request by registered proprietor and assignee to register assignee, T.M. No. 15. Declaration in Support, T.M. No. 17. Request by subsequent proprietor only to register him, Form T.M. No. 16. A case is to accompany the request, rule 74. Declaration in support, T.M. No. 17.

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 the same, and the Registrar may refuse such leave or may grant the same on such terms, [and subject to such limitations as to mode or place of user] 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.

Alteration of registered trade mark, K., p. 353.
"Prescribed manner," Rules 88 and 89. Form T.M. No. 25.
Advertisement. Cf. section 13.
The Board of Trade may refer an appeal to the Court, section 59.

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.

Rectification of the register, K., chap. xi., p. 309.
As a defence, K., p. 455.
"Subject to the provisions of this Act," see especially sections 40 and 41.
"The Court," K., p. 338.
"Person aggrieved," K., p. 313.
Costs, K., p. 348. Security for costs by a foreigner, K., p. 343.
Procedure, K., p. 338.
The registrar must be served, Rule 130, and see section 47. An office

copy of any order made must be left at the Office, Form T.M. 30, Rule 131.

Form of notice of motion, K., p. 791.

Application may in some cases be made in the first instance to the registrar, T. M. Act, 1919, s. 9, Rules 90 to 92.

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.

K., p. 141.

"Registrable trade mark," see section 3, K., p. 27.

The facts at the date of the decision are to be considered with reference to the law at that date, *Gestetner's Tm.*, [1907] 2 Ch. 478; [1908] 1 Ch. 513; 24 R. P. C. 545; 25 R. P. C. 156. See, however, the judgment of Parker, J., in *Philippart* v. *Whiteley, Lim.*, [1908] 2 Ch. 274; 28 R. P. C. 565.

The trade mark, if upheld, retains its original date, section 6, K., p. 667.

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.

Removal on the ground of non-user, K., p. 326.
"Person aggrieved," K., p. 313.
Abandonment, K., p. 412.
User of trade marks associated with that in question may under some circumstances be accepted as equivalent to user of the trade mark, sections 25 and 27.

Effect of Registration.

38. Subject to the provisions of this Act—

(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.

Assignment and devolution of trade marks, K., chap. xiii., p. 384.
Registration of assignments, &c., section 33, K., p. 398.
"Subject to the provisions of this Act," section 22, trade marks are only assignable with goodwill, K., p. 384, and section 27, associated trade marks are not separately assignable, K., p. 119.
Equities, K., p. 398.
Notice of trusts is not to be entered on the register, K., p. 64.

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.

Effect of registration, K., chap. xii., p. 359.
Registration, evidence of validity, *primâ facie*, section 40, K., p. 367, and after seven years conclusive, section 41, K., p. 368.
Limitations and conditions, see sections 10, 12, 14, 21, and the notes thereto.
Test of infringement where the registered trade mark is actually copied, K., p. 441. For deceptive resemblance, see K., pp. 260 *et seq.*, and K., pp. 444 *et seq.*
Concurrent registration, K., pp. 250 and 294.
Definition of rights by the Court, see sections 20 and 21.
The exclusive right conferred by this section is subject to the savings contained in section 44, as to the *bonâ fide* use by the person of his own name or place of business and *bonâ fide* descriptions of goods.

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.

Effect of registration, K., chap. xii., p. 360.
See notes to sections 39 and 41.
Section 35, Rectification, K., chap. xi., p. 309.

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:

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 [or registration, whichever is the earlier] 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.

Registration conclusive evidence of validity, K., p. 368.
The first part of the section first came into operation on August 11th, 1912.
Fraud, K., p. 371. Section 11, K., p. 371.
As to the proviso, see concurrent user, K., pp. 294, 456, and concurrent registration, K., pp. 250, 294.

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.

Registration as a condition precedent to an action for infringement, K., pp. 373, 386.
The prohibition does not affect actions for passing-off, section 45, K., p. 377. It applies to foreigners, K., p. 375.
August 13th, 1875, is the date of the commencement of the first Registration Act. Old marks, K., p. 222.
Form of request for certificate of refusal, T.M. No. 32.

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.

[In any action or proceeding relating to a trade mark or trade name the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get-up legitimately used by other persons.]

Infringement, K., chap. xv., p. 419.
Evidence as to get-up, &c., K., p. 449.

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.

K., p. 464.
Right to honest use of one's own name, K., pp. 464, 593.
Descriptive words, K., pp. 39, 205, 280, 563.
See *Woodward, &c., Lim.* v. *Boulton Macro, Lim.*, 32 R. P. C. 173 [1915]; and *National Cash Register Co.'s Application*, 34 R. P. C. 354 [1917].

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.

Passing-off, K., chap. xvi., p. 527.
Non-registration not a bar to an action for passing-off, K., pp. 377, 531.
Cf. section 42.

Legal Proceedings.

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.

Certificate of validity, K., pp. 346, 515. May be given in rectification proceedings, K., p. 346.

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.

Notice of every application to the Court under the Act is to be served on the registrar, Rule 131.

Rectification, K., chap. xi., p. 309.

Alteration of trade marks, K., p. 353.

Evidence, K., p. 344.

In cases under sections 23, 32, 33, or 34, the matter would come before the registrar in the first instance. The words "the grounds of any decision" appear, however, not to be confined to the decision (if any) under appeal, but would include, *e.g.*, a decision when the mark was registered.

The Court may review any decision of the registrar relating to the entry in question, section 54, K., p. 683.

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 in applications to register, K., p. 106.

Costs in rectification proceedings, K., p. 348.

The registrar is entitled as a general rule to have his costs, K., p. 109.

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 con-

trary, 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.

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.

Evidence in applications to register, K., pp. 95, 104.

As to the powers of an official referee to require the attendance of witnesses and to take evidence on oath, see Order XXXVI., r. 49, and the Arbitration Act, 1889.

As to the registrar's power to dispense with evidence, see Rule 95.

"On oath" and "affidavit," see Interpretation Act, 1889, s. 3, K., p. 716.

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.

K., pp. 67, 68. Cf. section 51.

The Register, section 4, K., p. 62. Inspection and extracts, section 7, K., p. 66.

Seal of the Patent Office, Patents and Designs Act, 1907, s. 64, replacing section 84 of the Act of 1883.

Fees, see section 7.

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.

K., pp. 67, 68. Cf. section 50.

See also Rule 99 and certificate of registration under section 17 (on registration), Form O., No. 2.

Request for general certificate, Form T.M. No. 31. Request for certificate of refusal to register, Form T.M. No. 32. Request for certificate of registration for use in obtaining registration abroad, Form T.M. No. 33. Request for certificate of registration to be used in legal proceedings, Form T.M. No. 34. Request for certificate under section 64 (12) (deposit of cotton mark), Form Cotton No. 4. Certificate under same Form, M.B. No. 1. Request for certificate of Keeper of Cotton Marks of registration, Form Cotton No. 4.

Fees marked on Forms, or see List of Fees.

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.

(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 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.

"Prescribed time," one month from the date when the matter has arisen, Rules 78 to 81.

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.

As to appeal to the Court direct, see sections 12, 14, 33, 63 (9) (Sheffield Marks), and 64 (5) (Cotton Marks).

The Board of Trade may refer an appeal to the Court, section 59.

Rectification of the Register, section 35, K., p. 309; and in appeals direct from the registrar under section 33, K., p. 398; and in referred appeals under section 32 (K., p. 351) or section 34 (K., p. 353).

By Rule 63 of 1906 an appeal was given where registration was refused on the direction of the Board of Trade after acceptance. In consequence, it is presumed, of the amendment of section 16, the rule is not repeated in the Rules of 1920.

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 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.

Agents, K., p. 75.
Authorisation of agents, Rule 2.
As to agents generally, Rule 10. Form of authorisation, T.M. No. 1.

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.

K., pp. 63, 83.

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.

The Comptroller, K., p. 63.
The official reports of Patents, Designs and Trade Marks Cases are published under section 46 of the Patents and Designs Act, 1907.

Powers and Duties of the 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.

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.

Rights of appeal to the Board of Trade are given by sections 12, 20, 23, 32, 33, and 34. In some of these cases, there is an alternative appeal to the Court.

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.

The Rules of 1920, which came into force after March 31st, 1920, are printed below with Table of Fees and Forms. Classification of goods, 3rd Schedule to the Rules.

"Prescribed" where it occurs in the Act, and except in relation to proceedings before the Court, means prescribed by this Act or the rules thereunder, section 3.

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.

Table of Fees, see 1st Schedule to Rules.

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 of a goodwill in connection with such examination and certifying.* [Where any association or person undertakes to certify the origin, material, mode of manufacture, quality, accuracy, or other characteristic of any goods by mark used upon or in connection with such goods, the Board of Trade, if and so long as they are satisfied that such association or person is competent to certify as aforesaid, 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 of a goodwill in connection with such 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.

Standardisation Marks, K., pp. 91, 232.
Procedure, K., p. 91; Rules 36 to 40.
"Person" includes any body of persons corporate or incorporate. Interpretation Act, 1889, s. 19, K., p. 716.

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.

Sheffield marks, K., chap. vi., p. 120.
Procedure, K., p. 125; Rules 104 to 109.
"The Court" means in England the High Court of Justice, section 3.
"Person aggrieved," cf. section 35, and see K., p. 313.
Certificate of the Registrar, section 51.

Cotton Marks.

64. (1) The Manchester Branch of the Trade Marks Registry of the Patent Office (hereinafter 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.

(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 Act, 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 (hereinafter 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 [in respect of cotton piece goods or cotton yarn]* 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 whatever 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.

(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 Marks 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.

Cotton Marks, K., chap. vii., p. 129.
Procedure, K., p. 131; Rules 110 to 121.
"Person aggrieved," cf. section 35, and see K., p. 313.

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* These words were added by section 1 of the Trade Marks Act, 1914 (4 & 5 Geo. 5, c. 16).

"Passing of the Act," August 11th, 1905. The Act generally only came into force on April 1st, 1906.

"The Court" means in England the High Court of Justice, section 3, but as regards cotton marks, the Court of Chancery of the County Palatine of Lancaster has a co-ordinate jurisdiction, section 71.

Request for certificate under sub-section (12), Form Cotton No. 4; certificate, Form MB No. 1. Request for general certificate, Form Cotton No. 5.

Rules 113 to 116 relate to the collection of refused cotton marks, and forms and fees thereunder.

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.

Registration of foreign and colonial trade marks, K., chap. xx., p. 640

Sections 103 and 104 of the Patents, &c., Act, 1883, and the amending section are repealed by the Patents and Designs Act, 1907, and replaced by section 91 of that Act, which so far relates to trade marks is set out in K., p. 641.

The International Conventions of 1883 (signed at Paris, March 20th, 1883, ratified June 6th, 1884) and 1891 (signed at Madrid, April 14th, 1891, ratified June 15th, 1892) are printed at K., pp. 813-821. The convention as revised at Washington in 1911, and the list of countries which have ratified it, are printed at K., pp. 823-829.

Definition of "British Possession," Patents and Designs Act, 1907, s. 93.

Great Britain did not sign the arrangement relating to the International Registration of trade marks of 1891.

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 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.

K., p. 649.

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.

K., p. 649. Cf. Rule 11.

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.

K., pp. 428 and 651. Cf. Rule 12.

As to the proviso, see *Imperial Tobacco Company Lim.'s Trade Marks*, [1915] 2 Ch. 27; 32 R. P. C. 361.

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.

"The Court" is by section 3 defined to mean (subject to the provisions for Scotland, Ireland and the Isle of Man) the High Court of Justice in England.

As to rectification of the Register in or under proceedings in Scotland or Ireland, see K., p. 339.

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 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.

K., pp. 94, 338.

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 in 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.

"The Manchester Branch," K., chap. vii., p. 129.

"Other proceeding" includes the special jurisdiction on rectification under section 35, and also jurisdiction upon appeals under section 64 (5).

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

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, table of fees, or classification under this Act.

The repeal is of all parts of the Acts of 1883 and 1888, which related to trade marks, except sections 103 and 104 (International and Colonial Arrangements) which are now repealed and are replaced by section 91 of the Patents and Designs Act, 1907, section 106 (penalty on unauthorised use of Royal Arms), repealed by section 90 of the Patents and Designs Act, 1907 (see also section 68 of the Act of 1905), and sections 82, 83, and 84, which related to the constitution and seal of the Patent Office, which are now replaced by sections 62, 63, and 64 of the Patents and Designs Act, 1907.

The former rules of 1906 and 1912, and the forms, table of fees, and classification of goods thereunder, have been from March 31st, 1920, superseded by the Trade Mark Rules, 1920, with new forms, table of fees and classification: these are printed below.

The commencement of the Act, except where otherwise provided, was April 1st, 1906.

The general saving provisions of section 38 of the Interpretation Act, 1889, apply, see K., p. 718.

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 section 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.

STATUTORY RULES AND ORDERS,
1920, No. 397.

TRADE MARK.

THE TRADE MARKS RULES, 1920. DATED MARCH 9, 1920.

By virtue of the provisions of the Trade Marks Acts, 1905, to 1919, the Board of Trade do hereby make the following Rules :—

PRELIMINARY.

1. These Rules may be cited as the Trade Marks Rules, 1920, and shall come into operation from and immediately after the 31st day of March, 1920.

INTERPRETATION.

Interpretation.

52 & 53 Vict. c. 63.

2. In the construction of these Rules any words herein used the meaning of which is defined by the said Acts or the Interpretation Act, 1889,(a) 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.2.

"Journal" means "Trade Marks Journal."

"Acts" means the Trade Marks Acts, 1905 to 1919.

FEES.

Fees.

3. The fees to be paid in pursuance of the Acts 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.

(a) 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 unincorporate.

Words in the singular shall include the plural and words in the plural shall include the singular.

[*Price* 1*s. Net.*]

(11453—15) Wt. 38—P 8 500 11/20 H. St. G. 10

Classification of Goods.

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.

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

Documents.

Size, &c., of 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 Acts or by these Rules to be left with or sent to the Registrar or to the Keeper of Cotton Marks or to the Cutler's 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.

Service 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.

Address.

8. Where any person is by the Acts or these Rules bound to furnish the Registrar with an 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.

The Registrar may require the address to include the name of the street, and the number in the street or name of premises, if any.

Address for service.

9. Every applicant for the registration of any trade mark, and 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 conduct discreditable to a patent agent has been erased from the Register of Patent Agents, kept under the provisions of the Patents and Designs Act, 1907 and 1919, and not since restored.

7 Edw. 7, c. 29; 9 & 10 Geo. 5, c. 80.

REGISTRABLE TRADE MARKS.

Registrable trade marks.

11. The Registrar may refuse to accept any application for the registration of a mark upon which any of 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 a forgery," or words to like effect.

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

Royal Arms &c.

12. Representations of the Royal or Imperial Arms or crests, armorial bearings, insignia or devices so nearly resembling them as to lead to mistake, or of British Royal or Imperial crowns, or of the Royal, Imperial or National flags, or the word Royal or Imperial or any other words, letters, or devices calculated to lead persons to think that the applicant has Royal patronage or authorisation, 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.

5 Edw. 7, c. 15.

Arms of city, &c.

13. Where a representation of the armorial bearings, insignia, decorations or flags of any state, 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 emblems.

Representations of living person or persons recently dead.

14. 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, and in the case of persons recently dead the Registrar may call for consents from their legal representatives.

Name or description of goods.

15. 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.

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.

Form of Application.

16. An application for the registration of a trade mark must be made upon the appropriate form as in the Second Schedule to these Rules, and must be signed by the applicant or his agent.

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, but the full names of all the partners shall be given in the body of the application.

Application by body corporate.

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.

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, 501, Royal Exchange, Manchester. Other applications (except applications which under Section 63 of the Trade Marks Act, 1905, 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 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 application form 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. 4 or, in the case of a cotton mark, on Form Cotton No. 3, exactly corresponding to that affixed to the application form, 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. 4, or Form Cotton 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.

Representations to be satisfactory.

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.

Specimens of trade marks in exceptional cases.

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.

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 manner as he may think fit.

Series of trade marks.

27. When application is made for the registration of a series of trade marks under Section 26 of the Trade Marks Act, 1905, a representation of each trade mark of the series shall be affixed, as aforesaid, to the application form, and to each of the accompanying Forms TM No. 4 or Forms Cotton No. 3.

Transliteration and translation.

28. When a trade mark contains a word or words in other than Roman characters, there shall be indorsed on the application form, and on each of the accompanying Forms TM No. 4 or Forms Cotton No. 3, a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words and every such endorsement shall be signed by the applicant or his agent.

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 indorsed and signed as aforesaid.

Procedure on Receipt of Application.

Search.

29. Upon receipt of an application for registration the Registrar shall, or may, if he deem it necessary, in the case of an application under the provisions of Section 2 of the Trade Marks Act, 1919, 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.

9 & 10 Geo. 5. c. 79.

Acceptance.

30. After such search (if any), if on consideration of the application and of any evidence which the applicant may or may be required to furnish the Registrar thinks there is no objection to the Mark being registered, he may accept it absolutely, or subject to such conditions, amendments, modifications or limitations as he may think right to impose, which he shall communicate to the applicant in writing.

Objections.

31. After such search (if any), if on consideration of the application and of any evidence which the applicant may or may be required to furnish 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, modifications, or limitations, and the applicant objects to such conditions, amendments, modifications, or limitations, 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, modifications, or limitations, 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 T.M. No. 5, 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.

35. An application under the provisions of Section 2 of the Trade Marks Act, 1919, shall be made on Form TM No. 3 or in the case of a cotton mark, on Form Cotton No. 2, with a statutory declaration as required, but the Registrar may require such further evidence as to user or otherwise as he may think necessary. **Application under section 2 of Trade Marks Act, 1919.**

Special Trade Marks under Section 62.

36. Where an association or person desires to register a mark under Section 62 of the Acts, application shall be made to the Registrar in writing upon the Form TM No. 6. **Application under section 62.**

37. Such application shall be in duplicate and shall be accompanied by four copies of the mark applied for. **Mode of application.**

38. 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 copy of the application together with two 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 Comptroller, Industrial Property Department, Board of Trade, 25, Southampton Buildings, London, W.C.2, 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. **Report by Registrar.**

39. 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, modifications or limitations, if any, the application may be permitted to proceed. **Hearing.**

40. 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 therein as if it were an application under Section 12 of the Trade Marks Act, 1905. **Advertisement, &c.**

Advertisement of Application.

41. Every application either before or after acceptance, as provided by Section 13 of the Acts, shall be advertised by the Registrar in the Journal during such times and in such manner as he may direct. **Advertisement of application.**

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.

42. 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 **Wood block or electrotype.**

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.

43. 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 Trade Marks Act, 1905, 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.

Advertisement under section 14(9).

44. Advertisements under Section 14 (9) of the Trade Marks Act, 1905, shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

Opposition to Registration.

Opposition.

45. 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.

Notice of opposition.

46. 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.

Counter-statement.

47. 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 counterstatement shall be accompanied by a duplicate in writing.

Evidence in support of opposition.

48. 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 application.

49. If an opponent leaves no evidence, he shall, unless the Registrar otherwise directs, 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.

50. 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.

51. No further evidence shall be left on either side, but 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 he may think fit. Further evidence.

52. 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. Exhibits.

53. 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. Hearing.

54. 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. Extension of time.

55. Where a party giving notice of opposition neither resides nor 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. Security for costs.

56. In the event of an opposition being uncontested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the opposition was filed. Costs in uncontested cases.

Non-Completion.

57. 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 within 12 months

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, or such further time as the Registrar may allow, the registration is not completed, the application shall be deemed to be abandoned.

Entry on the Register.

Entry on registor.

58. 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 Section 16 of the Acts, and upon payment of the prescribed fee, on Form TM No. 10, 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 Trade Marks Act, 1905, 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.

Associated marks.

59. 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.

Death of applicant before registration.

60. 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.

Certificate of registration.

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

Renewal.

Renewal of registration.

62. At any time not less than two months and not more than three months before the expiration of the last registration of a trade mark any person may leave at the Office a fee for the renewal of the registration of the mark upon Form TM No. 11. 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.

63. 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.

Notification of receipt of renewal fee.

64. 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. 11 has been received, the Registrar shall send to the registered proprietor at his registered address a notice in the Form O No. 3.

Notice before removal of trade mark from register.

65. At a time not less than 14 days and not more than 28 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.

Second notice before removal of trade mark from register.

66. 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. 12, together with an additional fee upon Form TM No. 13, is received, he may renew the registration without removing the mark from the register.

Advertisement of non-payment.

67. 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. 12, together with the additional fee upon the Form TM No. 14, 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 trade mark from register.

68. 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.

Record of removal of mark from register.

69. 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.

Notice and advertisement of renewal.

Assignments.

70. Where a person becomes entitled by assignment, transmission, or other operation of law to a registered trade mark he may conjointly with the registered proprietor, make application to the Registrar on Form TM No. 15 to register his title.

Joint application for entry of assignment.

71. Where a person becomes entitled to a registered trade mark in the manner referred to in Rule 70, and no conjoint application as therein mentioned is made, he shall make application to the Registrar on Form TM No. 16 to register his title. Such application shall in the case of an individual be signed by the applicant 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.

Application for entry of assignment by subsequent proprietor.

Particulars to be stated in application.

72. An application under Rule 70 or Rule 71 shall contain the name, address and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced for inspection by the Registrar. The full names of all the partners in a firm or partnership shall be given in the body of the application.

Copies of documents.

73. The Registrar may in any case require an attested copy of any instrument produced for inspection in proof of title.

Case accompanying application.

74. Where in the case of an application on Form TM No. 15 or Form TM No. 16 the applicant does not claim to be entitled under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Registrar otherwise directs, either upon or with the application, state a case setting forth the full particulars of the facts upon which his claim to be proprietor of the trade mark is based, and showing that the trade mark has been transmitted or assigned in connection with the goodwill of the business concerned. Such case shall be verified by a statutory declaration if so required by the Registrar on Form TM No. 17.

Proof of title.

75. 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.

Entry in registry.

76. When the Registrar is satisfied as to the applicant's title, he shall cause the applicant to be registered as proprietor of the trade mark, and shall record in the Register such particulars as he may consider necessary of the instrument, if any, under which the title was acquired.

Alteration of Address.

Alteration of address in register.

77. Every registered proprietor of a trade mark who alters his address shall forthwith apply to the Registrar on Form TM No. 18 to insert the new address on the register, and the Registrar shall alter the register accordingly.

Discretionary Power.

Hearing.

78. Before exercising any discretionary power given to the Registrar by the Acts, or these Rules, 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.

79. 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.

80. 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.

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

APPLICATIONS UNDER SECTION 23 OF THE TRADE MARKS ACT, 1905.

82. All applications to the Registrar under Section 23 of the Trade Marks Act, 1905, shall be upon the Form TM No. 19. 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. Application under section 23 of Act of 1905.

83. 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. Registrar to enquire and decide.

The decision of the Registrar shall be in writing.

84. 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. Note in register.

APPLICATIONS UNDER SECTION 32 OF THE TRADE MARKS ACT, 1905.

85. Applications under section 32 of the Trade Marks Act, 1905, 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. Application under section 32 of Act of 1905.

86. 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.

87. Where application is made, on Form TM No. 24, 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 OF THE TRADE MARKS ACT, 1905.

88. Where a person desires to apply under section 34 of the Trade Marks Act, 1905, to alter a trade mark he shall make his application in writing on Form TM No. 25, and shall furnish the Registrar with four copies of the mark as it will appear when altered. Alteration of trade mark.

89. 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 Advertisement of alteration.

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.

When 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.

Applications under Section 9 of the Trade Marks Act, 1919.

Application to rectify, or remove a trade mark from the register.

90. An application for the rectification of the register or the removal of a trade mark from the register, if made to the Registrar, shall be in Form TM No. 26. Such application shall be accompanied by an unstamped copy and a statement in duplicate setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks. Copies of the application and the statement of case will be transmitted forthwith by the Registrar to the registered proprietor.

Further procedure.

91. Upon such application being made and copy thereof transmitted to the registered proprietor the provisions of Rules 47 to 56 shall apply *mutatis mutandis* to the further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

Intervention by third parties.

92. Any person other than the registered proprietor alleging interest in a registered Trade Mark in respect of which an application is made on Form TM No. 26 may apply to the Registrar on Form TM No. 27 for leave to intervene, and the Registrar may refuse or grant such leave, after hearing the parties concerned, upon such conditons and terms as he may deem fit. Before dealing with such application in any way the Registrar may require the applicant to give an undertaking to pay such costs as in the circumstances he may award to any party.

Search.

Searches

93. The Registrar, if requested so to do in writing upon a Form T.M. 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.

Hours of Inspection.

Hours of inspection.

94. 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:

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.

95. 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.

96. 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.

97. 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.

98. Whenever the last day fixed by the Acts, 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.

Certificates.

Certificates by Registrar

99. The Registrar, when required otherwise than under Section 17 of the Trade Marks Act, 1905, to give a certificate as to any entry, matter, or thing which he is authorised by the Acts, 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.

Marks registered without limitation of colour.

100. 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.

Certificates for use in obtaining registration abroad.

101. 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.

Declarations.

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

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

(*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.

103. 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 submitted 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.

104. All applications to the Cutlers' Company for registration of a trade mark, under Section 63 of the Trade Marks Act, 1905, 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) of the Trade Marks Act, 1905, should be made on form Sheffield No. 1.

Notice to Registrar.

105. 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.

106. 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.

Objections by Registrar to acceptance.

107. 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.

Advertisement of application.

108. 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 Trade Marks Act, 1905, 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.

Notification to Cutlers'. Company of Application.

109. 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.

Similarity of proceedings in London and Sheffield.

Cotton Marks.

110. An application to the Manchester Branch for registration of a trade mark under section 64 of the Trade Marks Act, 1905, 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.

111. 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.

112. As soon as may be after receiving any application, the Keeper of Cotton Marks shall, or may, if he deem it necessary, in the case of an application under the provisions of Section 2 of the Trade Marks Act, 1919, make a search amongst the marks on the Manchester register, in the B List, those which have been refused upon application made within fourteen years next before the date of application under examination and those refused upon applications of earlier date, which have been continued for quotation in the collection of refused marks under the provisions of Rule 113 of these Rules 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.

Refused marks.

113. A mark shall not be continued in the collection of refused marks as a mark to be quoted by the Keeper for a period of more than fourteen years from the date of the application to register unless the applicant or his successor in business shall, before the expiration of the said period of fourteen years from the date of the application to register, pay the prescribed continuance fee; and a mark which has been continued for quotation in the said collection on payment of the prescribed continuance fee shall not be continued in the collection for quotation after the expiration of a period of fourteen years from the date when the prescribed continuance fee became payable, unless the said fee shall be again paid before the expiration of such period and so on for every succeeding period of fourteen years from the date when the last prescribed continuance fee became payable.

Discontinuance on record of refused marks.

114. Before discontinuing for quotation a mark in the collection of refused marks, the Keeper of Cotton Marks shall, at a date not more than six months nor less than three months from the date on which the mark would be so discontinued, give notice that the mark will not be continued for quotation in the collection of refused marks unless the prescribed continuance fee shall be paid before the expiration of the periods of fourteen years mentioned in the last preceding Rule.

Notice to applicant

115. The notice mentioned in Rule 114 of these Rules shall be addressed to the applicant at the address given on the form of application. In case such notice is returned by the Postal authorities, the Keeper of Cotton Marks may, so far as he can but without being under any obligation to do so, discover the present address of the applicant if he be still in business, or of his successors in business, or of the existing owner of the refused mark, if any, with a view of bringing the notice to his or their attention.

Continuance Fee.

116. The prescribed continuance fee shall be paid by transmitting to the Keeper of Cotton Marks, at the Manchester Branch, the Form Cotton No. 6 in the Second Schedule hereto.

Hearings.

117. Upon considering the report of the Keeper of Cotton Marks, 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.

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

Registration.

118. 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.

Procedure.

119. Where under the Acts, 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, 501, Royal Exchange, Manchester," were substituted for the word "Office," and the expression "Keeper of Cotton Marks" were substituted for the word "Registrar."

Service of documents

120. 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 93.

121. Where under Rule 93 a search has to be made by the Keeper of Cotton Marks, such search shall cover all marks of which there is a right to inspection under Section 64 (11) of the Trade Marks Act, 1905.

Appeals to the Court.

Appeal to Court.

122. 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 the Board of Trade.

Appeal to Board of Trade.

123. 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 Acts, 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 two representations of the mark applied for and a copy of the grounds of the Registrar's decision.

(2) 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.

124. 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.

125. A copy of the notice and all the accompanying documents shall also be forthwith sent by the appellant to the Comptroller. Industrial Property Department, Board of Trade, 25, Southampton Buildings, London, W.C.2.

Directions by Board

126. 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.

Hearing of appeal.

127. 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.

No appeal unless notice duly given.

128. 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.

Withdrawal of Appeals.

Withdrawal of appeal.

129. Where under section 12 (5) or section 14 (8) of the Trade Marks Act, 1905, 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.

Applications to and Orders of the Court.

Application to Court.

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

Order of Court.

131. Where an order has been made by the Court in any case under the Acts, 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.

Publication of order of Court

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

Repeal.

Repeal.

133. All general rules relative to Trade Marks heretofore made by the Board of Trade under the Trade Marks Act, 1905, and in force on the 31st March, 1920, shall be, and they are, hereby repealed as from that date, without prejudice nevertheless, to anything done under such rules, or to any application or other matter then pending.

Dated this 9th day of March, 1920.

A. C. Geddes,
President of the Board of Trade.

SCHEDULES.

First Schedule.

Fees.

The following fees shall be paid in connection with applications, registrations, and other matters under the Trade Marks Acts, 1905 to 1919. 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 :—

	£ s. d.	Corresponding Form.
1. On application not otherwise charged to register a trade mark for one or more articles included in one class	1 0 0	T.M. No. 2 or 3, Cotton No. 1 or 2.
1*a*. On application not otherwise charged to register a series of trade marks for one or more articles included in one class ...	1 0 0	T.M. No. 2 or 3, Cotton No. 1 or 2.
1*b*. On request to the Cutlers' Company to enter a mark on the Sheffield Register under section 63, sub-section (2) ...	5 0 0	Sheffield No. 1
1*c*. On application to the Board of Trade under section 62 for leave to register a mark for goods in one class	1 0 0	T.M. No. 6.
1*d*. On application to the Board of Trade under section 62 for leave to register a mark for goods in more than one class— In respect of every class ... ... Total fee in no case to exceed £20 for any number of classes.	1 0 0	T.M. No. 6.
2. On an application to Registrar to state grounds of decision and materials used	1 0 0	T.M. No. 5.
3. On notice of opposition for each application opposed, by opponent	2 0 0	T.M. No. 7
3*a*. On filing a counter-statement in answer to a notice of opposition, by the applicant for each application opposed ...	1 0 0	T.M. No. 8.
3*b*. On the hearing of each opposition, by applicant and by opponent respectively, or on the hearing of an application under section 9 of the Act of 1919, by applicant and proprietor respectively	2 0 0	T.M. No. 9.
4. For registration of a trade mark for one or more articles included in one class ..	2 0 0	T.M. No. 10.
4*a*. For registration of a series of marks for one or more articles included in one class— For the first mark ... ... And for every other mark of the series	2 0 0 0 5 0	T.M. No. 10.
4*b*. For registration under section 62 of a mark for goods in more than one class— In respect of every class ... ... Total fee in no case to exceed £40 for any number of classes.	2 0 0	T.M. No. 10.

	£ s. d.	Corresponding Form.
5. Upon each entry in the register of a mark of a note that the mark is associated with a newly registered mark	0 2 0	—
6. On application to register a subsequent proprietor in cases of assignment or transmission of a single mark—		
If made within six months from the date of acquisition of proprietorship or the coming into force of these Rules	2 0 0	T.M. No. 15 or 16.
If made after expiration of six months from date of acquisition of proprietorship and the coming into force of these Rules...	10 0 0	,,
6a. 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 —		
If made within six months from the date of acquisition of proprietorship or the coming into force of these Rules—		
For the first mark...	2 0 0	T.M. No. 15 or 16
And for every other mark ...	0 2 6	
If made after expiration of six months from date of acquisition of proprietorship and the coming into force of these Rules—		
For the first mark...	10 0 0	,,
And for every other mark ...	0 2 6	
7. On application to change the name of a proprietor of a single mark where there has been no alteration in the proprietorship	0 10 0	T.M. No. 21
7a. 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 10 0	T.M. No. 21
And for every other mark	0 2 0	
8. For renewal of registration of a mark at expiration of last registration	2 0 0	T.M. No. 11 or 12.
8a. For renewal of registration of a series of marks at the expiration of last registration—		
For the first mark of the series ...	2 0 0	T.M. No. 11 or 12.
And for every other mark of the series...	0 2 6	
8b. For renewal of a mark registered under section 62 for goods in more than one class—		
In respect of every class	2 0 0	T.M. No. 11 or 12.
Total fee in no case to exceed £40 for any number of classes.		
9. Additional fee under Rule 66	1 0 0	T.M. No. 13
10. Additional fee under Rule 67	2 0 0	T.M. No. 14
11. For altering a single entry of the address of a registered proprietor...	0 10 0	T.M. No. 18

	£ s. d.	Corresponding Form.
11*a*. 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 10 0	T.M. No. 18
And for every other entry	0 2 0	
12. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged	1 0 0	T.M. No. 30
13. 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 10 0	T.M. No. 22 or 23.
14. On application for rectification of register or removal of trade mark from register	3 0 0	T.M. No. 26
15. On application for leave to intervene in proceedings for rectification of register or removal of trade mark from the register	2 0 0	T.M. No. 27
16. On request, not otherwise charged, for correction of clerical error, or for permission to amend application, or for entry of disclaimer	0 10 0	T.M. No. 20 or 24.
17. For a search under Rule 93	1 0 0	T.M. No. 28
18. For certificate of Registrar of registration to be used in legal proceedings	2 0 0	T.M. No. 34
19. For certificate of Registrar of the registration of a trade mark to be used for the purpose of obtaining registration abroad	0 10 0	T.M. No. 33
19*a*. For certificate of Registrar of the registration of a series of marks for the purpose of obtaining registration abroad ...	1 0 0	T.M. No. 33
20. For certificate of Registrar other than certificate under section 17 or certificate of registration to be used in legal proceedings, or for the purpose of obtaining registration abroad	2 0 0	T.M. No. 31 or 32.
21. For certificate of Keeper of Cotton Marks	0 10 0	Cotton No. 4 or 5.
22. For the continuance for quotation of a Cotton Mark in the Collection of Refused Marks—		
For each mark in each class for each period of fourteen years	1 0 0	Cotton No. 6
23. On appeal from Registrar to Board of Trade in respect of each decision appealed against by Appellant	2 0 0	T.M. No. 29
24. On an application to the Registrar under section 23	5 0 0	T.M. No. 19
25. On an application to the Registrar for leave to add to or alter a single mark ...	2 0 0	T.M. No. 25
25*a*. 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	2 0 0	T.M. No. 25
And for every other mark	1 0 0	

	£ s. d.	Corresponding Form.
26. For inspecting register, notice of opposition, counter-statement or decision in connection with any particular trade mark, for every quarter of an hour ...	0 1 0	—
27. For making a search amongst the classified representations of trade marks, for every quarter of an hour	0 1 0	—
28. For office copy of documents, for every 100 words (but never less than 1*s.*) ...	0 0 6	—
29. For certifying office copies MS. or printed matter	0 10 0	—
30. 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 4 0	—
For every inch or part of an inch over 2 inches in depth	0 4 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 section 66 of the Patents Designs and Trade Marks Act, 1883, or section 26 of the Trade Marks Act, 1905, shall be deemed to be a mark separately registered.

Dated this 9th day of March, 1920.

A. C. Geddes,
President of the Board of Trade.

Approved

James Parker,
J. Towyn Jones,
Lords Commissioners
of His Majesty's Treasury.

Second Schedule.

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Additional Representation of Trade Mark	29	—
Request for statement of grounds of decision	30	2
Application for registration of Trade Mark under section 62	31	1*c* or 1*d*
Opposition to application for registration	32	3
Counter-statement to opposition to application for registration	33	3*a*

——	Page.	Corresponding Fee.
		No.
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For registration of a Trade Mark	36	4, 4*a*, or 4*b*
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Application for alteration of address on Register ...	47	11, 11*a*
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Request to strike out goods from those for which a mark is registered	52	13
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Application to add to or alter a Trade Mark	54	25 or 25*a*
Application for rectification of Register or removal of Trade Mark from Register	55	14
Application for leave to intervene in proceedings for rectification of Register or removal of Trade Mark from Register	56	15
Request for search under Rule 93	57	17
Request to enter a mark on the Sheffield Register under section 63 (2)	58	1*b*
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FORM TM No. 1.

TRADE MARKS ACTS, 1905 TO 1919.

AUTHORISATION OF AGENT.

* The full names of all the partners in a firm must be inserted.

(*a*) Here insert name and address of agent.

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

* I (*or* We)_____

have appointed (*a*)_____

_____

of _____

_____

to act as my (or our) agent for (*b*)_____

_____

and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address. I revoke all previous authorisations, if any.

(c) Here state nationality.

I (or We) hereby declare that I am (or We are) a (*c*)_____

_____

(*d*)_____

*Address*_____

(*d*) To be signed by the person appointing the agent.

Dated the_____day of _____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

TRADE MARKS.

£1.

Form TM No. 2.

TRADE MARKS ACTS, 1905 to 1919.

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART A OF THE REGISTER (other than Cotton Mark).

One representation to be fixed within this square, and four others to be sent on separate Forms TM No. 4.

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

Only in one the same should be put here. separate application form required for separate

Here insert legibly the name, address, description and nationality of individual, or company. Add trading style (if any). The names of all partners in a firm must be given in full.

Alter to "Them to be proprietors thereof" in the case of a firm or company.

Application is hereby made for Registration in Part A of the Register of the accompanying Trade Mark in Class———, in respect of (*a*)

———

in the name of (*b*)———of

[*Address, description and nationality*]———

trading as———

who claims to be the proprietor thereof (*c*).

(Signed)———

Dated the———day of———19——.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

Form TM No. 3.

TRADE MARKS.

£1.

TRADE MARKS ACTS, 1905 to 1919.

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART B OF THE REGISTER (other than Cotton Mark).

One representation to be fixed in this space and four others to be sent on separate sheets of paper. Representations of larger size to be folded and must then be mounted on linen and affixed here.

Application is hereby made for Registration in Part B of the Register of the accompanying Trade Mark in Class———, in respect of (a)———

in the name of (b)———of

[*Address, description and nationality*]———

trading as———

who claims to be the proprietor thereof (c), having used it in respect of the said goods for not less than two years prior to the date of this application, the date of its first user being———

(Signed)———

Dated the———day of———19——.

(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, description and nationality of the individual, firm, or company. Add trading style (if any). The names of all partners in a firm must be given in full.

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

To the Registrar,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane,
London, W.C.2.

Statutory Declaration as to User.

(*To be indorsed on Form TM No. 3.*)

I———

of———

do hereby solemnly and sincerely declare that———have *bonâ fide* used the mark shown on the other side hereof as a Trade Mark in respect of the goods mentioned within the United Kingdom of Great Britain and Ireland since the———

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.

(Signature of Declarant)———

Declared at———

This———day of———19——.

Before me———

Signature of Authority before whom Declaration is made.

Form TM No. 4.

TRADE MARKS ACTS, 1905 to 1919.

ADDITIONAL REPRESENTATION OF TRADE MARK, TO ACCOMPANY APPLICATION FOR REGISTRATION (other than Cotton Mark).

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

Form TM No. 5.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. £1.

REQUEST FOR STATEMENT OF GROUNDS OF DECISION.

You are hereby requested 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.2.

Form TM No. 6.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS. 1d. or 1½d.

SPECIAL APPLICATION FOR REGISTRATION OF TRADE MARK UNDER SECTION 62.

(To be accompanied by an unstamped duplicate.)

One representation to be fixed within this square, and four 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.

Only goods named in and the one class ould be set here. A rate Application Form required for a separate

Application is hereby made for registration of the accompanying Trade Mark in Class———, in respect of (*a*)———

———

———

———

in the name of———of

[*Address, description and nationality*]———

———

———

who desire the Board of Trade to permit the registration thereof.

(Signed)———

Dated the———day of———19——.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM TM No. 7.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS. £2.

NOTICE OF OPPOSITION TO APPLICATION FOR REGISTRATION.

[To be accompanied by an unstamped duplicate.]

In the matter of an application,
No. _____ by _____
of _____

* Here state full name and address.

* 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.2.

Form TM No. 8.

TRADE MARKS ACTS, 1905 to 1919.

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.2.

Form TM No. 9.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.
£2.

APPLICATION FOR HEARING BY THE REGISTRAR.

Sir,

In reply to your Notice dated the_____giving

(a) Here insert address. _____of (a)_____

(b) & (c) Strike out words which are inapplicable.

a date on which you will hear the arguments in the case of (b) Opposition No._____to Application No._____or (c) application that the entry on the Register in respect of Trade Mark No._____may be rectified or removed, 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.2.

Form O No. 1.

NOTICE OF NON-COMPLETION OF REGISTRATION.

No._____

The Registrar has to call your attention to Section 18 of the Trade Marks Acts, 1905 to 1919, and to Rule 57 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.2.

Form TM No. 10.

TRADE MARKS.
Fee 4, 4a or 4b.

TRADE MARKS ACTS, 1905 TO 1919.

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,

Signature ————————————

Dated the————day of————19——.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM O No. 2.

TRADE MARKS ACTS, 1905 to 1919.

CERTIFICATE OF REGISTRATION UNDER SECTION 17 (not for use in legal proceedings, nor for obtaining Registration abroad).

To———————

I hereby certify, pursuant to Rule 61 of the T.M. Rules, 1920, that the Trade Mark in your application No.————was duly advertised in No. of the Trade Marks Journal and has been registered in your name in Class————, in respect of the goods specified by you, viz.:—

Witness my hand this————day of————, 19——.

Seal of Patent Office.

Registrar.

Registration will continue in force for 14 years from the date of this application, viz.:— , and may be renewed at the expiration of each period of 14 years.

The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane,
London, W.C.2.

Form TM No. 11.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.
Fee 8, 8a or 8b.

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.2.

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

Form O No. 8.

CHEQUES, MONEY ORDERS, OR CASH CANNOT BE ACCEPTED IN PAYMENT OF FEES.

TRADE MARKS ACTS, 1905 to 1919.

NOTICE BEFORE REMOVAL OF TRADE MARK FROM THE REGISTER, UNDER SECTION 30.

The Registrar hereby gives you notice that in conformity with the provisions of Section 30 of the Act of 1905 (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. 12) be received at this Office *before* the ————day of————19——, on which date the existing registration will expire.

A stamped Form TM No. 12, for payment of the fee, may be obtained as directed at the back of this Notice.

Dated this————day of————19——.

To————

The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane,
London, W.C.2.

FORM O No. 4.

TRADE MARKS ACTS, 1905 TO 1919.

SECOND NOTICE.

NOTICE BEFORE REMOVAL OF TRADE MARK FROM THE REGISTER, UNDER SECTION 30.

The Registrar hereby gives you notice that, in conformity with the *provisions of Section 30 of the Act of 1905 (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. 12) 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 £1 (payable by Form TM No. 13) be remitted.

Stamped Forms, for payment of renewal fees, may be obtained as directed at the back of this Notice.

Dated the————day of————19——.

To————

The Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane,
London, W.C.2.

CHEQUES, MONEY ORDERS, OR CASH CANNOT BE ACCEPTED IN PAYMENT OF FEES.

FORM TM No. 12.

TRADE MARKS ACTS, 1905 TO 1919.

ADE
ARKS.
8, 8a or
8b.

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.2.

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

FORM TM No. 13.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. £1.

ADDITIONAL FEE OF £1 TO ACCOMPANY RENEWAL FEE (FORM TM No. 12), 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 £1 (along with Form TM No. 12) 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.2.

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

Form TM No. 14.

TRADE MARKS ACTS, 1905 to 1919.

RESTORATION OF TRADE MARK WHERE REMOVED FOR NON-PAYMENT OF FEE.

[To accompany Form TM No. 12.]

Sir,

In pursuance of the notices issued by you, I hereby transmit the additional fee of £2 (along with Form TM No. 12) 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.2.

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

Form TM No. 15.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.
Fee 6 or 6a.

JOINT REQUEST BY REGISTERED PROPRIETOR AND ASSIGNEE TO REGISTER THE ASSIGNEE AS SUBSEQUENT PROPRIETOR OF A TRADE MARK.

We (a) _____

and (b) _____

hereby request, under Rule 70, that the name of (c) _____

carrying on business as (d) _____

at (e) _____

may be entered in the Register of Trade Marks as proprietor of the Trade Mark No. _____ in Class _____ as from the (f) by virtue of (g) _____

(Signatures) _____

_____

Dated this _____ day of _____ 19____.

(a) Name and address of registered proprietor.
(b) Full Name and address and nationality of assignee.
(c) Name of assignee.
(d) Trade or business of assignee.
(e) Address of assignee.
(f) Actual date on which the business was taken over.
(g) Full particulars of the instrument, if any, or statement of case.

To the Registrar,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings, Chancery Lane,*
London, W.C.2.

N.B.—The instrument under which the assignee claims should accompany this form.

FORM TM No. 16.

TRADE MARKS ACTS, 1905 to 1919

TRADE MARKS.
See 6 or 6a.

REQUEST TO ENTER NAME OF SUBSEQUENT PROPRIETOR OF THE TRADE MARK UPON THE REGISTER.

(a) Here insert full name, address, nationality and description.

I (or We) (a) _____

hereby request that you will enter my (or our) name in the Register of Trade Marks as proprietor (or proprietors) of Trade Mark No._____ in Class_____, as from the (b)

(b) Actual date on which the business was taken over.

I am (or We are) 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, by virtue of (c)_____

(c) Here insert all particulars of the instrument, if any, or statement of case.

_____

_____

_____

My (or our) address for service is_____

_____

(d) Signature.

(d)_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

N.B.—The instrument under which the applicant claims should accompany this form.

FORM TM No. 17.

TRADE MARKS ACTS, 1905 TO 1919.

DECLARATION (ONLY TO BE FURNISHED WHEN REQUESTED BY REGISTRAR) IN SUPPORT OF STATEMENT OF CASE ACCOMPANYING FORM T.M. No. 15 OR 16.

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.

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.

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

(a)——————————

Declared at ——————————

——————————

this————day of————19——.

Before me,

(b)

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

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

FORM TM No. 18.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. 11 or 11a.

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____.

*_____

* Signature Proprietor.

To the Registrar,
Patent Office, Trade Marks Branch,
25, Southampton Buildings, Chancery Lane,
London, W.C.2.

Form TM No. 19.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.

£5.

APPLICATION TO PERMIT AN APPORTIONMENT OF TRADE MARKS.

In the matter of the Registered Trade Marks Nos._____

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 82.

(Signed) _____

(Signed) _____

Dated this_____day of_____19 ____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM TM No. 20.

TRADE MARKS ACTS, 1905 TO 1919.

RADE
ARKS.
10s.

REQUEST FOR CORRECTION OF CLERICAL ERROR OR FOR PERMISSION TO AMEND APPLICATION.

SIR,

I HEREBY request that_____

_____

_____

Form TM No. 21.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.
Fee 7 or 7a.

REQUEST TO ENTER CHANGE OF NAME OF REGISTERED PROPRIETOR OF TRADE MARK UPON THE REGISTER.

(a) *Or* We.

I, (a)_____

Here insert name, address, and description.

_____

_____

(b) my *or* our.
(c) *Or* names.

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) I am *or* We are.

(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) _____

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

_____

_____

_____

_____

_____

* Signature _____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM I'M No. 22.

TRADE MARKS ACTS, 1905 TO 1919.

ADE
RKS.
Or.

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.

gnature. *_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

Form TM No. 23.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. 10s.

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_____.

* Signature. *_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

Form TM No. 24.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.

10s.

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—

_____

_____

_____

*_____

Signature.

Dated this_____day of_____19____

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

Form TM No. 25.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.
Fee 25 or 25*a*

APPLICATION UNDER SECTION 34 OF THE ACT OF 1905 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.)

Four 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.2.

Form TM No. 26.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS. £3.

APPLICATION FOR THE RECTIFICATION OF THE REGISTER OR THE REMOVAL OF A TRADE MARK FROM THE REGISTER.

(To be accompanied by an unstamped copy and a statement of case in duplicate.)

In the matter of the Trade Mark

No. _____

*Here state full name and address.

*I_____

_____

hereby apply that the entry on the Register in respect of the above-mentioned Trade Mark may be rectified or removed.

The grounds of my application are as follows:—

_____

_____

_____

(Signed)_____

Dated this_____day of_____19____.

Address for Service:—

_____

_____

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

Form TM No. 27.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARK. £2.

APPLICATION FOR LEAVE TO INTERVENE IN PROCEEDINGS FOR THE RECTIFICATION OF THE REGISTER OR THE REMOVAL OF A TRADE MARK FROM THE REGISTER.

In the matter of Trade Mark

No._____

* Here state full name and address.

*I_____

hereby apply for leave to intervene in the proceedings for the rectification or removal of the entry on the Register in respect of the above-mentioned Trade Mark.

My interest in the Trade Mark is

(Signed)_____

Dated this_____day of_____19____.

Address for Service:—

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

Form TM No. 28.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS.

£1.

REQUEST FOR SEARCH UNDER RULE 93.

You are hereby requested to search under Rule 93 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.

Signature. *_____

Address. †_____

_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

FORM SHEFFIELD No. 1.

TRADE MARKS ACTS, 1905 TO 1919.

CORPORATE MARK.

£5.

REQUEST TO ENTER A MARK UNDER SECTION 63, SUB-SECTION (2) OF THE ACT OF 1905.

You are hereby requested to register the accompanying Old Corporate Mark in Class_____ in respect of_____ in the name of (a)_____ who claims to be the proprietor thereof.

(a) Insert full name, address, description and nationality of applicant.

(Signed)_____

Dated this_____ day of_____ 19____.

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

COTTON No. 1.

TRADE MARKS ACTS, 1905 TO 1919.

STAMP. £1.

COTTON MARKS.

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART A OF THE REGISTER.

(To be accompanied by an unstamped duplicate of this Form, and also by four Additional Representations on Form Cotton No. 8.)

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 in Part A of the Register of the accompanying Trade Mark in Class_____ in respect of (*a*)_____

in the name of (*b*)_____

[*Address, description and nationality*] (*c*)_____

trading as_____

who claim to be the proprietor 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,
501, *Royal Exchange, Manchester.*

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

(b) The names of all the partners in a firm must be given in full.

(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.

COTTON No. 2.

STAMP. £1.

TRADE MARKS ACTS, 1905 TO 1919.

COTTON MARKS.

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART B OF THE REGISTER.

(To be accompanied by an unstamped duplicate of this Form, and also by four Additional Representations on Form Cotton No. 3.)

One representation to be fixed within the square. Representations of a larger size must be folded, but must then be mounted upon cloth and affixed here

Application is hereby made for Registration in Part B of the Register of the accompanying Trade Mark in Class_____

in respect of (a)_____

in the name of (b)_____

[*Address, description and nationality*] (c)_____

trading as_____

who claim to be the proprietor thereof, having used it in respect of the said goods for not less than two years prior to the date of this Application, the date of its first user being_____

(Signed)_____

Dated the_____day of_____19____.

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

(b) The names of all the partners in a firm must be given in full.

(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.

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

STATUTORY DECLARATION AS TO USER.

(To be indorsed on Form Cotton No. 2.)

I,_____

of _____

do hereby solemnly and sincerely declare that_____have bonâ fide used the mark shown on the other side hereof as a Trade Mark in respect of the goods mentioned within the United Kingdom of Great Britain and Ireland since the_____

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.

* (Signature of Declarant.)

Declared at _____ *_____

this _____day

† Signature of authority before whom Declaration is made.

of _____19____.

Before me

†_____

COTTON No. 8.

TRADE MARKS ACTS, 1905 TO 1919.

COTTON MARKS.

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 Form.

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_____

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

COTTON No. 4.

TRADE MARKS ACTS, 1905 TO 1919.

COTTON MARKS.

STAMP. 10s.

REQUEST FOR CERTIFICATE UNDER SUB-SECTION (12) OF SECTION 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,

501, *Royal Exchange, Manchester.*

Cotton No. 5.

TRADE MARKS ACTS, 1905 to 1919.

COTTON MARKS.

TAMP. 10s.

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*

_____

_____

_____

re state purpose for h the Cer- ate is re- ed, i.e., ther for in legal edings, or obtaining stration ed, or for t other pose.

Dated this_____day of_____, 19____.

(Signed)_____

Address_____

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

COTTON No. 6.

TRADE MARKS ACTS, 1905 TO 1919.

STAMP.
£1.

COTTON MARKS.

CONTINUANCE FOR QUOTATION OF MARK IN COLLECTION OF REFUSED MARKS.

SIR,

In pursuance of the notice received from you, I hereby transmit the prescribed fee for the continuance for quotation in the Collection of Refused Marks of the Mark No._____in Class_____.

I am, Sir,

Your obedient servant,

*Name*_____

*Address*_____

Dated this_____day of_____, 19____

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

MB No. 1.

TRADE MARKS ACTS, 1905 TO 1919.

COTTON MARKS.

CERTIFICATE UNDER SUB-SECTION (12) OF SECTION 64 OF THE ACT OF 1905.

Manchester Branch of the Trade Marks Registry,
501, 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 facsimile of the said Mark is attached thereto, and that the length of time of user of such Mark as stated on the application is_____

_____

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.

FORM TM No. 29.

TRADE MARKS ACTS, 1905 to 1919.

TRADE MARKS. £2.

APPEAL FROM THE REGISTRAR TO THE BOARD OF TRADE.

I, (a)_____

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

of (a)_____

hereby give notice of my intention to appeal to the Board of Trade

from (b)_____

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

of the Registrar of the_____day of_____19____

whereby he (c)_____

(c) Here insert the decision complained of.

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.2.

FORM TM No. 30

TRADE MARKS ACTS, 1905 TO 1919.

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____.

*_____

To the Registrar,
Patent Office, Trade Marks Branch,
25, *Southampton Buildings, Chancery Lane,*
London, W.C.2.

FORM TM No. 31.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. £2.

REQUEST FOR GENERAL CERTIFICATE OF REGISTRAR (OTHER THAN CERTIFICATE FOR USE IN LEGAL PROCEEDINGS OR FOR USE IN OBTAINING REGISTRATION 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)

_____

_____

_____

_____

_____

_____

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

(b)_____

(b) Signature.

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM TM No. 32.

TRADE MARKS ACTS, 1905 to 1919

TRADE MARKS. £2

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.

Signature of Applicant. *_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, Southampton Buildings, Chancery Lane,

London, W.C.2.

FORM TM No. 38.

TRADE MARKS ACTS, 1905 TO 1919.

TRADE MARKS. Fee 10 or 10*a*

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*_____

* Here state name of country in which registration is to be sought.

†_____

† Signature.

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

FORM TM No. 34.

TRADE MARKS ACTS, 1905 TO 1919.

RADE ARKS. 42.

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.

nature. *_____

Dated this_____day of_____19____.

To the Registrar,

Patent Office, Trade Marks Branch,

25, *Southampton Buildings, Chancery Lane,*

London, W.C.2.

Dated this 9th day of March, 1920.

A. C. Geddes,

President of the Board of Trade.

THIRD SCHEDULE

Classification of Goods.

Class 1.

Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.

Class 2.

Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.

Class 3.

Chemical substances prepared for use in medicine and pharmacy.

Class 4.

Raw, or partly prepared, vegetable, animal, and mineral substances used in manufactures, not included in other Classes.

Class 5.

Unwrought and partly wrought metals used in manufacture.

Class 6.

Machinery of all kinds, and parts of machinery, except agricultural and horticultural machines and their parts included in Class 7.

Class 7.

Agricultural and horticultural machinery, and parts of such machinery.

Class 8.

Philosophical instruments, scientific instruments, and apparatus for useful purposes; instruments and apparatus for teaching.

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.

Class 12.

Cutlery and edge tools.

Class 13.

Metal goods, not included in other Classes.

Class 14.

Goods of precious metals and jewellery, and imitations of such goods and jewellery.

Class 15.

Glass.

Class 16.

Porcelain and earthenware.

Class 17.

Manufactures from mineral and other substances for building or decoration.

Class 18.

Engineering, architectural, and building contrivances

Class 19.

Arms, ammunition, and stores, not included in Class 20

Class 20.

Explosive substances.

Class 21.

Naval architectural contrivances and naval equipments not included in other Classes.

Class 22.

Carriages.

Class 23

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

Class 24.

Cotton piece goods.

Class 25.

Cotton goods not included in other Classes.

Class 26.

Linen and hemp yarn and thread.

Class 27.

Linen and hemp piece goods.

Class 28.

Linen and hemp goods not included in other Classes.

Class 29.

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

Class 30.

Silk, spun, thrown, or sewing.

Class 31.

Silk piece goods.

Class 32.

Silk goods not included in other Classes.

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 other Classes.

Class 36.

Carpets, floor-cloth, and oil-cloth.

Class 37.

Leather, skins unwrought and wrought, and articles made of leather not included in other Classes.

Class 38.

Articles of clothing.

Class 39.

Paper (except paper hangings), stationery, and bookbinding.

Class 40.

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

Class 41.

Furniture and upholstery.

Class 42.

Substances used as food or as ingredients in food.

Class 43.

Fermented liquors and spirits.

Class 44.

Mineral and aërated 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.

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.

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 for the hair.
(6.) Furniture cream, plate powder.
(7). Tarpaulins, tents, rick-cloths, rope (jute or hemp), twine.
(8.) Buttons of all kinds other than of precious metal or imitations thereof.
(9.) Packing and hose.
(10.) Other goods not included in the foregoing Classes.

Dated this 9th day of March, 1920.

A. C. Geddes,
President of the Board of Trade.

LONDON:
PRINTED AND PUBLISHED BY
HIS MAJESTY'S STATIONERY OFFICE.
To be purchased through any Bookseller or directly from
H.M. STATIONERY OFFICE at the following addresses:
IMPERIAL HOUSE, KINGSWAY, LONDON, W.C.2, and
28, ABINGDON STREET, LONDON, S.W.1;
37, PETER STREET, MANCHESTER;
1, ST. ANDREW'S CRESCENT, CARDIFF:
23, FORTH STREET, EDINBURGH:
or from E. PONSONBY, LTD., 116, GRAFTON STREET, DUBLIN.
1920.

YALE LAW LIBRARY

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