

TRADE MARKS ACT

CHAPTER 82:81

Act

11 of 1955

Amended by

45 of 1979

46 of 1979

7 of 1984

4/1985

17 of 1994

25 of 1996

31 of 1997

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-199	..

Index of Subsidiary Legislation

	<i>Page</i>
Trade Marks Rules (GN 91/1956) 	67

Note on Adaptation

1. Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to LN 51/1980 (the Legal Notice by which the President's approval was signified).

2. Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LN 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

CHAPTER 82:81

TRADE MARKS ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.

THE REGISTER

3. Register of Trade Marks.
- 3A. Application of Act to trade marks for services.

**EFFECT OF REGISTRATION AND THE ACTION
FOR INFRINGEMENT**

4. No action for infringement of unregistered trade mark.
5. Rights given by registration in Part A and infringement thereof.
6. Rights given by registration in Part B and infringement thereof.
7. Infringement by breach of certain restrictions.
8. Saving for vested rights.
9. Registration to be in respect of particular goods.

REGISTRABILITY AND VALIDITY OF REGISTRATION

10. Distinctiveness requisite for registration in Part A.
11. Capability of distinguishing requisite for registration in Part B.
12. Saving for use of name, address or description of goods.
13. Prohibition of registration of deceptive, etc., matter.
- 13A. Protection of well-known trade marks.
14. Prohibition of registration of identical and resembling trade marks.
15. Registration in Part A to be conclusive as to validity after seven years.
16. Registration subject to disclaimer.
17. Words used as name or description of an article or substance.
18. Effect of limitation as to colours.

PROCEDURE FOR AND DURATION OF REGISTRATION

19. Application for registration.
20. Advertisement of acceptance.
21. Opposition to registration.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

22. Conflicting claims to registration.
23. Registration.
24. *(Repealed by Act No. 25 of 1996).*
25. Duration of registration.
- 25A. Renewal of registration.
26. Registration of parts of trade marks and of trade marks as a series.

**ASSIGNMENT, TRANSMISSION AND
ASSOCIATED MARKS**

27. Powers of and restrictions on assignment and transmission.
28. Powers of assignment and transmission of unregistered mark.
29. Restrictions on assignment or transmission where exclusive rights would subsist in different persons.
30. Restrictions on assignment or transmission where multiple exclusive rights would subsist in different parts of Trinidad and Tobago.
31. Conditions of assignment otherwise than in connection with the goodwill of the business.
32. Associated trade marks.
33. Power of registered proprietor to assign and give receipts.
34. Registration of assignments and transmissions.

USE AND NON-USE

35. Removal from Register and imposition of limitations on ground of non-use.
36. *(Repealed by Act No. 25 of 1996).*
37. Registered users.
38. Power of Controller to refuse application.
39. Registration as registered user.
40. Controller not to disclose information to trade rivals, if so required.
41. Power of Controller to vary or cancel registration of registered user.
42. No right of assignment or transmission in registered user.
43. Proposed use of trade mark by corporation to be constituted, etc.
44. Use of one of associated or substantially identical trade marks equivalent to use of another.
45. Use of trade mark for export trade.

SECTION

RECTIFICATION AND CORRECTION OF REGISTER

46. General power to rectify entries in Register.
47. Power to expunge or vary registration for breach of condition.
48. Correction of Register.
49. Alteration of registered trade mark.

CERTIFICATION TRADE MARKS

50. Certification Trade Marks.

RULES AND FEES

51. Power to make Rules.
52. Fees.

POWERS AND DUTIES OF CONTROLLER

53. Hearing before exercise of Controller's discretion.
54. Power of Controller to award costs.

LEGAL PROCEEDINGS AND APPEALS

55. Registration to be *prima facie* evidence of validity.
56. Certificate of validity.
57. Costs of Controller in proceedings before Court, and payment of costs of Controller.
58. Trade usage, etc., to be considered.
59. Controller's appearance in proceedings involving rectification.
60. Discretion of Court in appeals.
61. Procedure in cases of option to apply to Court or Controller.

EVIDENCE

62. Mode of giving evidence.
63. Evidence of entries in Register.
64. Evidence of things done by Controller.

OFFENCES

65. } (*Repealed by Act No. 31 of 1997*).
66. }
- 66A. Unauthorised use of trade mark, etc., in relation to goods.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 66B. Falsification of Registers, etc.
- 66C. Falsely representing trade mark as registered.
- 66D. Forfeiture of counterfeit goods, etc.
- 66E. Offences by corporations.

MISCELLANEOUS

- 67. Change of form of trade connection not to be deemed to cause deception.
- 68. Jointly owned trade marks.
- 69. Trusts and equities.
- 69A. (*Repealed by Act No. 31 of 1997*).
- 70. Recognition of agents.
- 71. References in written law to Patents, Designs and Trade Marks Ordinance.
- 71A. Notice of objection to importation.
- 71B. Comptroller of Customs and Excise.
- 71C. Notice of seizure.
- 71D. Forfeiture of goods.
- 71E. Release of goods to owner—no action for infringement.
- 71F. Action for infringement.
- 71G. Action for infringement by registered user.
- 71H. Forfeited goods—how to be disposed of.
- 71I. Power of Comptroller to retain control of goods.
- 71J. Insufficient security.
- 71K. State not liable for loss, etc., suffered because of seizure.
- 71L. Power to require information.
- 71M. Importation for personal use.

VALIDITY OF REGISTRATIONS UNDER
PREVIOUS ORDINANCE

- 72. Incorporation of existing Register with Part A.
- 73. Trade mark registrable under this Act not removable on certain grounds.
- 74. Nothing in this Act to invalidate registration of trade mark previously made.
- 75. Previous use of a trade mark by person becoming registered user.

SECTION

**INTERNATIONAL AND INTER-COMMONWEALTH
ARRANGEMENTS**

- 76. Arrangements with Convention countries.
- 77. Arrangements with Commonwealth countries not being Convention countries.

**RESTRAINT OF USE OF ARMS OF
TRINIDAD AND TOBAGO**

- 78. Restraint of use of national coat of arms, etc.

REPEAL AND SAVINGS

- 79. Repeal and savings.

SCHEDULE.

CHAPTER 82:81

TRADE MARKS ACT

11 of 1955. **An Act to make provision with respect to the law relating to Trade Marks.**

Commencement. [2ND JANUARY 1957]
178/1956.

Short title. **1.** This Act may be cited as the Trade Marks Act.

Interpretation. **2.** (1) In this Act—
[46 of 1979
17 of 1994
25 of 1996
31 of 1997].
“assignment” means assignment by act of the parties concerned;
“associated trade marks” means trade marks that are registered as, or that are deemed by virtue of this Act to be, associated trade marks;

Ch. 82:76. “Controller” has the same meaning assigned to it under section 2 of the Patents Act;

“Convention” means the Paris Convention for the Protection of Industrial Property made on the 20th March 1883 and any amendments and revisions thereof to which Trinidad and Tobago is a party;

“the Court” means the High Court;

Ch. 78:01. “designated owner” means the person identified as the importer of the goods on the entry made in relation to the goods under the Customs Act;

“Judge” means a Judge of the Court;

Ch. 82:76. “Intellectual Property Office” has the meaning assigned to it under section 2 of the Patents Act;

“limitation” means a limitation of the exclusive right to the use of a trade mark given by the registration of a person as proprietor of the trade mark, including a limitation of that right as to mode of use or as to use relating to—

- (a) goods to be exported to any market outside of Trinidad and Tobago; or
- (b) services for use or available for acceptance in any country outside of Trinidad and Tobago;

“mark” in relation to—

- (a) goods includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof, or packaging of goods or their shape provided, however, that the trade mark does not exclusively consist of the shape which results from the nature of the goods themselves, or which is necessary to obtain a technical result or which gives substantial value to the goods;
- (b) services includes a device, name, signature, word, letter, numeral or any combination thereof;

“notified trade mark” means a trade mark in respect of which a notice under section 71A is in force;

“objector” means any person who has given under section 71A a notice in respect of those goods that are in force;

“permitted use” means the use of a trade mark by a registered user of it in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered user, being use such as to comply with any conditions or restrictions to which his registration is subject;

“prescribed” means, in relation to proceedings before the Court, prescribed by Rules of Court, and, in other cases, prescribed by this Act or the Rules;

“provision” in relation to services, means the provision of services, whether or not for valuable consideration;

“registered trade mark” means a trade mark that is actually on the register;

“registered user” means a person who is for the time being registered as such under section 37;

“the register” means the register of trade marks kept under this Act;

“the Rules” means Rules made under section 51;

“trade mark” means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification trade mark, a mark registered or deemed to have been registered under section 50;

“transmission” means transmission by operation of law, devolution on the personal representative of a deceased person, and any other mode of transfer not being assignment.

(2) A reference in this Act to the use of a trade mark shall be construed as a reference to the use of a printed or other visual representation of the trade mark and—

- (a) in relation to goods, shall be construed as a reference to the use of the trade mark upon, or in physical or other relation to, goods; and
- (b) in relation to services, shall be construed as a reference to—
 - (i) the use of the trade mark; or
 - (ii) part of a statement about the use of the trade mark,

at or near the place where the services are available for acceptance or are performed or otherwise in relation to services.

THE REGISTER

Register of
Trade Marks.

3. (1) There shall be kept by the Controller at his office a record called the Register of Trade Marks, in which shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations and such other matters as may be prescribed.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

(2) The Register of Trade Marks shall be divided into two parts called respectively Part A and Part B.

3A. The provisions of this Act with respect to trade marks relating to goods apply *mutatis mutandis* to trade marks relating to services.

Application of Act to trade marks for services. [31 of 1997].

EFFECT OF REGISTRATION AND THE ACTION FOR INFRINGEMENT

4. No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark, but nothing in this Act shall be deemed to affect rights of action against any person for passing off or the remedies in respect thereof.

No action for infringement of unregistered trade mark. [17 of 1994].

5. (1) Subject to this section and to sections 8 and 12, the registration of a person in Part A of the Register as proprietor of a trade mark other than a certification trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses, for the same, similar or related goods or services for which the mark is registered, a mark identical with it or so nearly resembling it, as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

Rights given by registration in Part A and infringement thereof. [4/1985 17 of 1994 25 of 1996].

- (a) as being used as a trade mark; or
- (b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or as registered user to use the trade mark or to goods with which such a person as mentioned above is connected in the course of trade.

(2) The right to the use of a trade mark given by registration as mentioned above shall be subject to any conditions or limitations entered on the Register, and shall not be deemed to be infringed by the use of any such mark as mentioned above in any mode, in relation to goods to be sold or otherwise traded in, in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(3) The right to the use of a trade mark given by registration as mentioned above shall not be deemed to be infringed by the use of any such mark as mentioned above by any person—

- (a) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark;
- (b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as mentioned above or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods;
- (c) in relation to services to which the proprietor or registered user of the trade mark conforming to the permitted use has applied the trade mark, where the purpose and effect of the use of the trade mark is to indicate that those services have been performed by the proprietor or a registered user of the trade mark;

- (d) in relation to services the provision of which is connected in the course of trade with the proprietor or a registered user of the trade mark, where the proprietor or registered user has at any time expressly or impliedly consented to the use of the trade mark; or
- (e) in relation to services available for use with other services in relation to which the trade mark has been used without infringement of the right given by registration or might for the time being be so used, if—
 - (i) the use of the trade mark is reasonably necessary in order to indicate that the services are available for such use; and
 - (ii) neither the purpose nor the effect of the use of the trade mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the provision of those services.

(4) The use of a registered trade mark, being one of two or more registered trade marks that are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as mentioned above, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

(5) For the purposes of the fees specified in the First Schedule each mark in a series of marks is deemed to be a mark that is separately registered.

6. (1) Except as provided by subsection (2), the registration of a person in Part B of the Register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the Register, and the provisions of section 5 shall have effect in like manner in relation to a trade mark registered in Part B of the Register as they have effect in relation to a trade mark registered in Part A of the Register.

Rights given by registration in Part B and infringement thereof.

(2) In any action for infringement of the right to the use of a trade mark given by registration as mentioned above in Part B of the Register, otherwise than by an act that is deemed to be an infringement by virtue of section 7, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the Court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.

Infringement by breach of certain restrictions.

7. (1) Where, by a contract in writing made with the proprietor or a registered user of a registered trade mark, a purchaser or owner of goods enters into an obligation to the effect that he will not do, in relation to the goods, an act to which this section applies, any person who, being the owner for the time being of the goods and having notice of the obligation, does that act, or authorises it to be done, in relation to the goods, in the course of trade or with a view to any dealing therewith in the course of trade, shall be deemed thereby to infringe the right to the use of the trade mark given by the registration thereof, unless that person became the owner of the goods by purchase for money or money's worth in good faith before receiving notice of the obligation or by virtue of a title derived through another who so became the owner thereof.

(2) The acts to which this section applies are—

- (a) the application of the trade mark upon the goods after they have suffered alteration in any manner specified in the contract as respects their state or condition, get-up or packing;
- (b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;
- (c) in a case in which the trade mark is upon the goods, and there is also thereon other matter, being matter indicating a connection in the course of trade between the proprietor or registered user and

the goods, the removal or obliteration, whether wholly or partly, of the trade mark unless that other matter is wholly removed or obliterated;

- (d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;
- (e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

(3) In this section references in relation to any goods to the proprietor, to a registered user, and to the registration, of a trade mark shall be construed, respectively, as references to the proprietor in whose name the trade mark is registered, to a registered user who is registered, and to the registration of the trade mark, in respect of those goods, and the expression “upon” includes in relation to any goods, a reference to physical relation thereto.

8. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date anterior—

Saving for vested rights.

- (a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or
- (b) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his,

whichever is the earlier, or to object (on such use being proved) to that person being put on the Register for that identical or nearly resembling trade mark in respect of those goods under section 14(2).

9. A trade mark must be registered in respect of particular goods or classes of goods, and any question arising as to the class within which any goods fall shall be determined by the Controller, whose decision shall be final.

Registration to be in respect of particular goods.

REGISTRABILITY AND VALIDITY OF REGISTRATION

Distinctiveness
requisite for
registration in
Part A.

10. (1) In order to be registrable in Part A of the Register a trade mark other than a certification trade mark must contain or consist of at least one of the following essential particulars:

- (a) the name of a company, individual, or firm, represented in a special or particular manner;
- (b) the signature of the applicant for registration or some predecessor in his business;
- (c) an invented word or invented words;
- (d) 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;
- (e) any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in paragraphs (a), (b), (c) and (d) shall not be registrable under this paragraph except upon evidence of its distinctiveness.

(2) For the purposes of this section “distinctive” means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid the Controller may have regard to the extent to which—

- (a) the trade mark is inherently adapted to distinguish as aforesaid; and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact adapted to distinguish as aforesaid.

11. (1) In order to be registrable in Part B of the Register a trade mark must be capable, in relation to the goods in respect of which it is registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

Capability of distinguishing requisite for registration in Part B.

(2) In determining whether a trade mark is capable of distinguishing as mentioned above the Controller may have regard to the extent to which—

- (a) the trade mark is inherently capable of distinguishing as mentioned above; and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact capable of distinguishing as mentioned above.

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

12. No registration of a trade mark shall interfere with—

- (a) any *bona fide* use by a person of his own name or of the name of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business; or
- (b) the use by any person of any *bona fide* description of the character or quality of his goods.

Saving for use of name, address or description of goods.

13. It shall not be lawful to register as a trade mark or part of a trade mark—

- (a) any matter the use of which would, by reason of its being likely to—
 - (i) deceive or cause confusion;
 - (ii) disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs or national symbols or bring them into contempt or disrepute,

Prohibition of registration of deceptive, etc., matter. [25 of 1996].

be disentitled to protection in a Court of Justice;

- (b) subject to section 17, words that generically designate goods or services or types of goods or services to which the trade mark applies;
- (c) any matter the use of which would be contrary to law or morality; or
- (d) any scandalous design.

Protection of well-known trade marks. [25 of 1996].

13A. (1) A trade mark shall not be registered—

- (a) if it is identical with, or confusingly similar to, or constitutes a translation of, a trade mark or a trade name which is well-known in Trinidad and Tobago as being already the mark of a person other than the applicant for registration and used for identical or similar goods or services; or
- (b) if it is identical with, or confusingly similar to, or constitutes a translation of, a trade mark which is registered with respect to goods or services which are not similar to those with respect to which registration is applied for, provided that use of the trade mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trade mark and that the interests of the owner of the registered trade mark are likely to be damaged by such use.

(2) In determining whether a trade mark is well-known, account shall be taken of the knowledge of the trade mark, including knowledge in Trinidad and Tobago obtained as a result of the promotion of the trade mark, in the relevant sector of the public that normally deals with the relevant goods or services.

Prohibition of registration of identical and resembling trade marks. [25 of 1996].

14. (1) Subject to subsection (2), no trade marks shall be registered in respect of any goods or description of goods that is identical with a trade mark belonging to a different proprietor and already on the Register in respect of the same, similar or related goods or services or description of goods or services, or that so nearly resembles such a trade mark as to be likely to deceive or cause confusion, unless the proprietor of the earlier trade mark consents to the registration.

(2) In case of honest concurrent use, or of other special circumstances which in the opinion of the Court or the Controller make it proper to do so, the Court or the Controller may permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as the Court or the Controller, as the case may be, may think it right to impose.

(3) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks that are identical or nearly resemble each other in respect of the same, similar or related goods or services or description of goods or services, the Controller may refuse to register any of them until their rights have been determined by the Court.

15. (1) In all legal proceedings relating to a trade mark registered in Part A of the Register (including applications under section 46) the original registration in Part A of the Register of the trade mark shall, after the expiration of seven years from the date of that registration, be taken to be valid in all respects, unless—

Registration in Part A to be conclusive as to validity after seven years.

- (a) that registration was obtained by fraud; or
- (b) the trade mark offends against section 13.

(2) Nothing in section 6(1) shall be construed as making applicable to a trade mark, as being a trade mark registered in Part B of the Register, the foregoing provisions of this section relating to a trade mark registered in Part A of the Register.

16. If a trade mark—

- (a) contains any part not separately registered by the proprietor as a trade mark; or
- (b) contains matter common to the trade or otherwise of a non-distinctive character,

Registration subject to disclaimer.

the Controller or the Court, in deciding whether the trade mark shall be entered or shall remain on the Register, may require, as a condition of its being on the Register—

- (i) that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark, or to the exclusive use of all or any

portion of any such matter as mentioned above, to the exclusive use of which the Controller or the Court holds him not to be entitled; or

- (ii) that the proprietor shall make such other disclaimer as the Controller or the Court may consider necessary for the purpose of defining his rights under the registration,

but no disclaimer on 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.

Words used as name or description of an article or substance. [17 of 1994].

17. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use after the date of the registration, of a word or words which the trade mark contains, or of which it consists, as the name or description of an article, substance or activity.

(2) If, however, it is proved either—

- (a) that there is a well-known and established use of the word or words as the name or description of the article, substance or activity by a person or persons carrying on a trade therein, not being used in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or
- (b) that the article, substance or activity was formerly manufactured under a patent (being a patent in force on, or granted after the date of, the commencement of this Act) that a period of two years or more after the cesser of the patent has elapsed, and that the word or words is or are the only practicable name or description of the article, substance or activity,

the provisions of subsection (3) shall have effect.

(3) Where the facts mentioned in subsection (2)(a) or (b) are proved with respect to any word or words, then—

- (a) if the trade mark consists solely of that word or those words, the registration of the trade mark, so far as regards registration in respect of the article, substance or activity in question or of any goods of the same description, shall be deemed for the purposes of section 46 to be an entry wrongly remaining on the Register;
- (b) if the trade mark contains that word or those words and other matter, the Court or the Controller, in deciding whether the trade mark shall remain on the Register, so far as regards registration in respect of the article, substance or activity in question and of any goods of the same description, may in case of a decision in favour of its remaining on the Register require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article, substance or activity and any goods of the same description of that word or those words, so, however, that no disclaimer on 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; and
- (c) for the purposes of any other legal proceedings relating to the trade mark—
 - (i) if the trade mark consists solely of that word or those words, all rights of the proprietor, whether under the common law or by registration, to the exclusive use of the trade mark in relation to the article, substance or activity in question or to any goods of the same description; or
 - (ii) if the trade mark contains that word or those words and other matter, all such rights of the proprietor to the exclusive use of that word or those words in such relation as mentioned above,

shall be deemed to have ceased on the date at which the use mentioned in subsection (2)(a) first became well-known and established, or at the expiration of the period of two years mentioned in subsection (2)(b).

(4) No word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration in force at the commencement of this Act or thereafter shall, notwithstanding anything in section 15, be deemed for the purposes of section 46 to be an entry made in the Register without sufficient cause, or an entry wrongly remaining on the Register, as the circumstances may require. However, the foregoing provisions of this subsection shall not have effect in relation to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

Effect of
limitation as to
colours.

18. A trade mark may be limited in whole or in part to one or more specified colours and in any such case the Controller or the Court shall have regard to the fact that it is so limited when considering the distinctive character of the trade mark. If a trade mark is registered without limitations of colour it shall be deemed to be registered for all colours.

PROCEDURE FOR AND DURATION OF REGISTRATION

Application for
registration.

19. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Controller in the prescribed manner for registration either in Part A or in Part B of the Register.

(2) Subject to this Act, the Controller may refuse the application, or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think right.

(3) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the Register, the Controller may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(4) In the case of a refusal or conditional acceptance the Controller shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat and the decision shall be subject to appeal to a Judge in Chambers.

(5) On an appeal under this section the Judge shall, if required, hear the applicant and the Controller, and shall make an order determining whether, and subject to what amendments, modifications, conditions or limitations, if any, the application is to be accepted.

(6) Appeals under this section shall be heard on the materials stated as mentioned above by the Controller, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Controller, other than those so stated as mentioned above by him, except by leave of the Judge 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.

(7) The Controller or a Judge, 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 the Controller or the Judge, as the case may be, may think fit.

20. (1) Subject to subsection (2), where an application for registration of a trade mark is accepted, the Controller shall—

Advertisement
of acceptance.
[17 of 1994].

- (a) give notice in writing of the acceptance to the applicant;
- (b) require the applicant, within sixty days from the receipt of the notification of acceptance, to pay the prescribed fee for the publication of the application; and

(c) upon payment of the prescribed fee, cause to be published in the prescribed manner, an advertisement which shall state the limitations and conditions upon which the application was accepted.

(2) The Controller may cause an application to be advertised in the prescribed manner before its acceptance where—

- (a) the application is made under section 10(1)(e); or
- (b) it appears to him to be expedient to do so by reason of exceptional circumstances.

(3) Where an application is advertised under subsection (2), the Controller may advertise that application again in the prescribed manner upon acceptance of the application.

Opposition to registration.

21. (1) Any person may, within three months of the advertisement of the application, give notice in duplicate to the Controller of opposition to the registration of the trade mark. The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition. The Controller shall send the duplicate of such notice to the applicant.

(2) Within one month after the receipt of such duplicate or such further time as the Controller may allow, the applicant shall send to the Controller, in the prescribed manner, a counter statement in duplicate 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.

Conflicting claims to registration.

22. (1) On receipt of a counter statement as mentioned in section 21(2), the Controller shall send one copy to the person or 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 limitations, if any, registration is to be permitted. The decision of the Controller shall be subject to appeal to a Judge in Chambers.

(2) On an appeal under this section the Judge shall, if required, hear the parties and the Controller, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(3) On the hearing of an appeal under this section any party may, either in the manner prescribed or by special leave of the Judge, bring forward further material for the consideration of the Judge.

(4) On an appeal 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 Controller, other than those so stated as mentioned above by the opponent, except by leave of the Judge. 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.

(5) On an appeal under this section the Judge may, after hearing the Controller, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity thereof, but in any such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.

(6) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice, or an appellant, neither resides nor carries on business in Trinidad and Tobago, the Judge or the Controller may require him to give security for costs of the proceedings relative to the opposition or to the appeal, as the case may be, and in default of such security being duly given may treat the opposition or application, or the appeal, as the case may be, as abandoned.

23. (1) When an application for registration of a trade mark in Part A or in Part B of the Register 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 Controller shall, unless the application has been accepted in error register the trade mark in Part A or Part B, as the case may be, and the trade mark, when registered, shall be registered as of the date of the application for registration, and that date shall be deemed for the purpose of this Act to be the date of registration. However, the foregoing provisions of this section, relating to the

Registration.

date as of which a trade mark shall be registered and to the date to be deemed to be the date of registration, shall, as respects a trade mark registered under this Act with the benefit of any written law relating to international or commonwealth arrangements, have effect subject to the provisions of that written law.

(2) On the registration of a trade mark, the Controller shall issue to the applicant, on payment by him of the prescribed fee, a certificate in the prescribed form of the registration sealed with the seal of the Controller.

24. (Repealed by Act No. 25 of 1996).

Duration of registration.
[25 of 1996].

25. (1) A trade mark shall be registered for a period of ten years from the date of registration.

(2) Registration may be renewed in accordance with section 25A for further periods of ten years.

Renewal of registration.

25A. (1) The registration of a trade mark may be renewed at the request of the proprietor, subject to payment of the prescribed renewal fee.

(2) The Controller shall give due notice of such approaching expiration to the proprietor of such trade mark at least six months before the expiration of the period of registration.

(3) Subject to this section, a request for renewal shall be made, and the renewal fee shall be paid, before the expiry of the registration.

(4) Where no request is made before the expiry of the registration, a request may be made, and the fee together with the prescribed additional renewal fee may be paid, within six months of the expiration or such longer period as the Controller may permit.

(5) Renewal shall take effect from the expiry of the previous registration.

(6) Where the registration is not renewed in accordance with this section, the Controller shall remove the trade mark from the Register.

(7) Where a trade mark is removed from the Register for non-payment of the renewal fee, the trade mark shall, for the purpose of an application for registration during one year next after the date of the removal, be deemed to be a trade mark which is already registered, unless it is shown to the satisfaction of the Controller that there has been no *bona fide* user of the trade mark during the two years immediately preceding the removal, or that no deception or confusion would be likely to arise from the use of the trade mark that is the subject of the application for registration by reason of any previous use of the trade mark that has been removed.

26. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and any such part as separate trade marks.

Registration of parts of trade marks and of trade marks as a series.

(2) Each such separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to section 32(2) and section 44(2), have all the incidents of an independent trade mark.

(3) Where a person claiming to be the proprietor of several trade marks, in respect of the same goods or description of goods, which while resembling each other in the material particulars thereof, yet differ in respect of—

- (a) statements of the goods in relation to 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 those trade marks, they may be registered as a series in one registration.

**ASSIGNMENT, TRANSMISSION AND
ASSOCIATED MARKS**

Powers of and
restrictions on
assignment and
transmission.

27. (1) Notwithstanding any rule of law or equity to the contrary, a registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible either in connection with the goodwill of a business or not.

(2) A registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible in respect either of all the goods in respect of which it is registered or was registered, as the case may be, or of some (but not all) of those goods.

Powers of
assignment and
transmission of
unregistered
mark.

28. Section 27 has effect in the case of an unregistered trade mark used in relation to any goods as it has effect in the case of a registered trade mark registered in respect of any goods, if at the time of the assignment or transmission of the unregistered trade mark it is or was used in the same business as a registered trade mark, and if it is or was assigned or transmitted at the same time and to the same person as that registered trade mark and in respect of goods all of which are goods in relation to which the unregistered trade mark is or was used in that business and in respect of which that registered trade mark is or was assigned or transmitted.

Restrictions on
assignment or
transmission
where exclusive
rights would
subsist in
different
persons.

29. (1) Notwithstanding anything in sections 27 and 28, a trade mark shall not be, or be deemed to have been, assignable or transmissible in a case in which as a result of assignment or transmission there would in the circumstances subsist, or have subsisted, whether under the common law or by registration, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of identical trade marks or trade marks nearly resembling each other, so that, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be, or have been, likely to deceive or cause confusion. However, where a trade mark is, or has been, assigned or transmitted in such a case as mentioned above, the assignment or transmission shall not be deemed to be, or to have been, invalid under this subsection if the exclusive rights subsisting as a result

thereof in the persons concerned respectively are, or were, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within Trinidad and Tobago (otherwise than for export therefrom) or in relation to goods to be exported to the same market outside Trinidad and Tobago.

(2) The proprietor of a registered trade mark who proposes to assign it in respect of any goods in respect of which it is registered may submit to the Controller in the prescribed manner a statement of case setting out the circumstances, and the Controller may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment of the first-mentioned trade mark would or would not be invalid under subsection (1), and a certificate so issued shall, subject to this section as to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under subsection (1) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but as regards a certificate in favour of validity, only if application for the registration under section 34 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

(3) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

30. (1) Notwithstanding anything in sections 27 and 28, a trade mark shall not be assignable or transmissible in a case in which as a result of an assignment or transmission thereof there would in the circumstances subsist, whether under the common law or by registration, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in a place or places in Trinidad and Tobago, and an exclusive right in another of those persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in another place or other

Restrictions on assignment or transmission where multiple exclusive rights would subsist in different parts of Trinidad and Tobago.

places in Trinidad and Tobago. However, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or of a person who claims that a trade mark has been transmitted to him or to a predecessor in title of his since the commencement of this Act, in any such case, the Controller, if he is satisfied that in all the circumstances the use of the trade marks in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission and an assignment or transmission, so approved shall not be deemed to be or to have been invalid under this section or under section 29; but in the case of a registered trade mark this provision shall not have effect unless application for the registration under section 34 of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of transmission, was made before the date.

(2) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

Conditions of assignment otherwise than in connection with the goodwill of the business.

31. (1) Where an assignment in respect of any goods of a trade mark that is at the time of the assignment used in a business in those goods is made, on or after the coming into operation of this Act, otherwise than in connection with the goodwill of that business, the assignment shall not take effect until the following requirements have been satisfied, that is to say, the assignee must, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Controller may allow, apply to him for directions with respect to the advertisement of the assignment, and must advertise it in such form and manner and within such period as the Controller may direct.

(2) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

Associated trade marks.

32. (1) Associated trade marks shall be assignable and 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.

(2) Where a trade mark that is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark that is registered, or is subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Controller may at any time require that the trade marks be entered on the Register as associated trade marks.

(3) Where a trade mark and any part or parts thereof are, by virtue of section 26(1), registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(4) All trade marks that are, by virtue of section 26(3), registered as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(5) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Controller may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by another person in relation to any of the goods in respect of which it is registered, and may amend the Register accordingly.

(6) Any decision of the Controller under subsection (2) or subsection (5) shall be subject to appeal to a Judge in Chambers.

33. Subject to this Act, the person for the time being entered in the Register as proprietor of a trade mark shall, subject to any rights appearing from the Register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for assignment thereof.

Power of registered proprietor to assign and give receipts.

34. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make application to the Controller to register his title, and the Controller shall, on

Registration of assignments and transmissions.

receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the Register.

(2) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

(3) Except for the purposes of an appeal under this section or of an application under section 46, a document or instrument in respect of which no entry has been made in the Register in accordance with subsection (1) of this section shall not be admitted in evidence in any Court in proof of the title to a trade mark unless the Court otherwise directs.

USE AND NON-USE

Removal from Register and imposition of limitations on ground of non-use. [25 of 1996].

35. (1) Subject to subsection (2), a registered trade mark may be taken off the Register in respect of any of the goods in respect of which it is registered on application by any person aggrieved to the Court or, at the option of the applicant and subject to section 61, to the Controller, on the ground either—

- (a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him, and that there has been in fact no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for a continuous period of three years or longer up to the date one month before the date of the application; or
- (b) that up to the date one month before the date of the application a continuous period of five years or longer elapsed during which the trade mark was a registered trade mark and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being.

However (except where the applicant has been permitted under section 14(2) to register an identical or nearly resembling trade mark in respect of the goods in question or where the Court or the Controller, as the case may be, is of opinion that he might properly be permitted so to register such a trade mark), the Court or the Controller, as the case may be, may refuse an application made under paragraph (a) and (b) of this subsection in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a trade mark is registered—

- (a) the matters referred to in subsection (1)(b) are shown so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in a particular place in Trinidad and Tobago (otherwise than for export from Trinidad and Tobago), or in relation to goods to be exported to a particular market outside Trinidad and Tobago; and
- (b) a person has been permitted under section 14(2) to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be sold, or otherwise traded in, in that place (otherwise than for export from Trinidad and Tobago) or in relation to goods to be exported to that market, or the Court, or the Controller, as the case may be, is of opinion that he might properly be permitted so to register such a trade mark,

on application by that person to the Court or, at the option of the applicant and subject to section 61 to the Controller, the Court or the Controller, as the case may be, may impose on the registration of the first-mentioned trade mark such limitations as the Court or the Controller thinks proper for securing that registration shall cease to extend to such use as last mentioned above.

(3) An applicant shall not be entitled to rely for the purposes of subsection (1)(b), or for the purposes of subsection (2), on any non-use of a trade mark that is shown to have been due to—

- (a) special circumstances in the trade; or
- (b) circumstances arising independently of the will of the trade mark owner that constitute an obstacle to the use of the trade mark, such as import restrictions on, or other Government requirements for, goods or services identified by the trade mark,

and not to any intention not to use or to abandon the trade mark in relation to the goods to which the application relates.

36. (*Repealed by Act No. 25 of 1996*).

Registered
users.

37. (1) Subject to this section, a person other than the proprietor of a trade mark may be registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for the purposes of section 35 and for any other purpose for which such use is material under this Act or at common law.

(3) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and if the proprietor refuses or neglects to do so within two months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant. A proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(4) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed

registered user must apply in writing to the Controller in the prescribed manner and must furnish him with a statutory declaration made by the proprietor, or by some person authorised to act on his behalf and approved by the Controller—

- (a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;
- (b) stating the goods in respect of which registration is proposed;
- (c) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter; and
- (d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof; and with such further documents, information or evidence as may be required under the rules or by the Controller.

38. (1) The Controller shall refuse an application under section 37 if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

Power of Controller to refuse application.

(2) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

39. (1) When the requirements of section 37(4) have been complied with, if the Controller, after considering the information furnished to him under that subsection, is satisfied that in all the circumstances the use of the trade mark in relation to the proposed goods or any of them by the proposed registered user, subject to

Registration as registered user.

any conditions or restrictions which the Controller thinks proper, would not be contrary to the public interest, the Controller may register the proposed registered user as a registered user in respect of the goods subject as mentioned above.

(2) Any decision of the Controller under this section refusing registration of a person as a registered user of a trade mark shall be subject to appeal to a Judge in Chambers.

Controller not to disclose information to trade rivals, if so required.

40. The Controller shall if so required by an applicant take steps to ensure that information given for the purposes of an application under section 37 (other than matter entered in the Register) is not disclosed to rivals in trade.

Power of Controller to vary or cancel registration of registered user.

41. (1) Without prejudice to the provisions of section 46 the registration of a person as a registered user—

- (a) may be varied by the Controller as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark to which the registration relates;
- (b) may be cancelled by the Controller on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark; or
- (c) may be cancelled by the Controller on the application in writing in the prescribed manner of any person on any of the following grounds:
 - (i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause, or to be likely to cause, deception or confusion;
 - (ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration;

- (iii) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested; or
- (d) may be cancelled by the Controller in respect of any goods in relation to which the trade mark is no longer registered.

(2) Any decision of the Controller under the foregoing provisions of this section shall be subject to appeal to a Judge in Chambers.

(3) The Controller shall notify the registration of a person as a registered user to any other registered user of the trade mark, and also notify any application under subsection (1) to the registered proprietor and each registered user (not being the applicant) of the trade mark, and shall give to the applicant on such an application, and to all persons to whom such an application is notified and who intervene in the proceedings in accordance with the rules, an opportunity of being heard.

42. Nothing in this Act shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

No right of assignment or transmission in registered user.

43. (1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark—

Proposed use of trade mark by corporation to be constituted, etc.

- (a) if the Controller is satisfied that a body corporate is about to be constituted, and that the applicant intends to assign the trade mark to the corporation with a view to the use thereof in relation to those goods by the corporation; or
- (b) if the application is accompanied by an application for the registration of a person as a registered user of the trade mark, and the Controller is satisfied that the proprietor intends it to be used by that person in relation to those goods and the Controller is also satisfied that the

person will be registered as a registered user thereof immediately after the registration of the trade mark.

(2) Section 35 shall have effect in relation to a trade mark registered under the power conferred by subsection (1) of this section, as if for the reference in section 35(1)(a) to intention on the part of an applicant for registration that a trade mark should be used by him there were substituted a reference to intention on his part that it should be used by the corporation or registered user concerned.

(3) Where a trade mark is registered in respect of any goods under the power conferred by subsection (1) in the name of an applicant who relies on intention to assign to a corporation as mentioned above, then, unless the corporation has been registered as the proprietor of the trade mark in respect of those goods within a period of six months or within such further period not exceeding six months as the Controller may allow, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Controller shall amend the Register accordingly.

Use of one of associated or substantially identical trade marks equivalent to use of another.

44. (1) Where under this Act use of a registered trade mark is required to be proved for any purpose, the Court or the Controller may, if and so far as the Court or the Controller thinks right, accept use of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any registered trade mark, being a part thereof, registered in the name of the same proprietor by virtue of section 26(1).

Use of trade mark for export trade.

45. The application in Trinidad and Tobago of a trade mark to goods to be exported from Trinidad and Tobago, and any other act done in Trinidad and Tobago in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within Trinidad and Tobago, would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or at common law.

RECTIFICATION AND CORRECTION OF REGISTER

46. (1) Subject to the Schedule, 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.

General power to rectify entries in Register. Schedule.

(2) In case of fraud in the registration, assignment or transmission of a registered trade mark, the Controller may himself apply to the Court under this section.

(3) Any order of the Court rectifying the Register shall direct that notice of rectification shall be served in the prescribed manner on the Controller, and the Controller shall on receipt of the notice rectify the Register accordingly.

(4) The power to rectify the Register conferred by this section shall include power to remove a registration in Part A of the Register to Part B.

47. The Court may, on application by any person aggrieved, or on application by the Controller, make such order as it may think fit for expunging or varying the registration of a trade mark on the ground of any contravention of, or failure to observe, a condition entered on the Register in relation thereto.

Power to expunge or vary registration for breach of condition.

48. (1) The Controller may on request, made in the prescribed manner by the registered proprietor or by some person entitled by law to act in his name—

Correction of Register.

- (a) correct any error in the name, address or description of the registered proprietor of a trade mark;
- (b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;
- (c) cancel the entry of a trade mark on the Register;
- (d) strike out any goods or classes of goods from those in respect of which a trade mark is registered; or

(e) 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 the trade mark.

(2) The Controller may, on request made by a registered user of a trade mark, correct any error, or enter any change, in the name, address or description of the registered user.

(3) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

Alteration of registered trade mark.

49. (1) The registered proprietor of a trade mark may apply in the prescribed manner to the Controller for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Controller may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

(2) The Controller may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient to do so, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Controller in the prescribed manner of opposition to the application, the Controller shall, after hearing the parties if so required, decide the matter.

(3) Any decision of the Controller under this section shall be subject to appeal to a Judge in Chambers.

(4) Where leave as mentioned above is granted, the trade mark as altered shall be advertised in the prescribed manner, unless it has already been advertised, in the form to which it has been altered, in an advertisement under subsection (2).

CERTIFICATION TRADE MARKS

Certification trade marks.

50. (1) A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified shall be registrable as a certification trade mark in Part A of the Register in respect of those goods in the name, as proprietor thereof, of that person; but a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

(2) In determining whether a mark is adapted to distinguish as mentioned above, the Controller may have regard to the extent to which—

- (a) the mark is inherently adapted to distinguish as mentioned above in relation to the goods in question; and
- (b) by reason of the use of the mark or of any other circumstances, the mark is in fact adapted to distinguish as mentioned above in relation to the goods in question.

(3) Subject to subsections (4), (5) and (6), and to sections 8 and 12, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods, and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a person authorised by him under the regulations in that behalf using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such a manner as to render the use of the mark likely to be taken either—

- (a) as being used as a trade mark; or
- (b) in a case in which the use is use upon goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or by his authorisation under the relevant regulations to use the trade mark or the goods certified by the proprietor.

(4) The right to the use of a certification trade mark given by registration as mentioned above shall be subject to any conditions or limitations entered on the Register, and shall not be deemed to be infringed by the use of any such mark as mentioned

above in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(5) The right to the use of a certification trade mark given by registration as mentioned above shall not be deemed to be infringed by the use of any such mark as mentioned above by any person—

- (a) in relation to goods certified by the proprietor of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the trade mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the trade mark; or
- (b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as mentioned above or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor,

but paragraph (a) shall not have effect in the case of use consisting of the application of any such mark as mentioned above to any goods, notwithstanding that they are such goods as are mentioned in that paragraph, if such application is contrary to the relevant regulations.

(6) Where a certification trade mark is one of two or more registered trade marks that are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

(7) There shall be deposited with the Controller in respect of every trade mark registered under this section regulations approved by the Controller for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the trade mark, and may contain any other provisions that the Controller may require or permit to be inserted therein.

(8) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Controller.

(9) The provisions of the Schedule shall have effect with respect to the registration of a mark under this section and to marks so registered.

RULES AND FEES

51. (1) The Minister, subject to negative resolution of Parliament, may make such Rules as he considers expedient—

Power to make
Rules.
[45 of 1979
31 of 1997].

- (a) for regulating the practice under this Act, including the service of documents;
- (b) for classifying goods for the purposes of registration of trade marks and for empowering the Controller to amend the Register so far as may be requisite for the purpose of adapting the entries therein to any amended or substituted classification that may be prescribed;
- (c) for prohibiting the registration of any mark on the grounds of morality, public policy or other good and sufficient reason;
- (d) for making or requiring duplicates of trade marks and other documents;
- (e) prescribing anything (including forms) which is required to be, or may be, prescribed under this Act and any other forms which he may consider necessary for the purposes of this Act;
- (f) generally for regulating the business of the Intellectual Property Office in relation to trade marks and all things by this Act placed under the direction or control of the Controller;
- (g) for the regulation of Customs and border measures.

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

Fees.

52. There shall be paid in respect of applications and other matters under this Act such fees as may be prescribed.

POWERS AND DUTIES OF CONTROLLER

Hearing before exercise of Controller's discretion.

53. Where any discretionary or other power is given to the Controller by this Act or the Rules, 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 to do so within the prescribed time) giving to the applicant or registered proprietor an opportunity of being heard.

Power of Controller to award costs.

54. In all proceedings before the Controller under this Act, the Controller 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, by leave of the Court, be enforced in the same manner as a judgment or order of the Court to the same effect.

LEGAL PROCEEDINGS AND APPEALS

Registration to be *prima facie* evidence of validity.

55. In all proceedings related to a registered trade mark (including applications under section 46) the fact that a person is registered as proprietor of the trade mark shall be *prima facie* evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Certificate of validity.

56. 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 the trade mark, the Court may certify to that effect, and if it so certifies then in any subsequent legal proceeding in which the validity of the registration comes into question the proprietor of the trade mark on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between Attorney-at-law and client, unless in the subsequent proceeding the Court certifies that he ought not to have them.

57. In all proceedings before the Court under this Act the costs of the Controller shall be in the discretion of the Court, but the Controller shall not, except in a case in which he has appeared in the proceedings, be ordered to pay the costs of any other of the parties.

Costs of Controller in proceedings before Court, and payment of costs of Controller.

58. In any action or proceeding relating to a trade mark or trade name the Court 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.

Trade usage, etc., to be considered.

59. (1) In any legal proceeding in which the relief sought includes alteration or rectification of the Register, the Controller shall have the right to appear and be heard and shall appear if so directed by the Court.

Controller's appearance in proceedings involving rectification.

(2) Unless otherwise directed by the Court, the Controller in lieu of appearing and being heard, may submit to the Court a statement in writing signed by him stating the grounds of any decision given by him.

(3) The Court in dealing with any question of the rectification of the Register (including all applications under section 46) shall have power to review any decision of the Controller relating to the entry in question or the correction sought to be made.

60. In any appeal from a decision of the Controller to the Court or a Judge in Chambers under this Act, the Court or Judge in Chambers shall have and exercise the same discretionary powers as under this Act as are conferred upon the Controller.

Discretion of Court in appeals.

61. Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the Court or to the Controller—

Procedure in cases of option to apply to Court or Controller.

- (a) if an action concerning the trade mark in question is pending, the application must be made to the Court;
- (b) if in any other case the application is made to the Controller, he may, at any stage of the proceedings, refer the application to the Court, or he may, after hearing the parties, determine the question between them, subject to appeal to the Court.

EVIDENCE

Mode of giving evidence.

62. (1) In any proceeding under this Act before the Controller the evidence shall be given by statutory declaration in the absence of directions to the contrary, but in any case in which the Controller thinks it right to do so, the Controller may take evidence *viva 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.

(2) In case any part of the evidence is taken *viva voce*, the Controller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as a Judge of the High Court.

Evidence of entries in Register.

63. (1) A printed or written copy of any entry in the Register, purporting to be certified by the Controller and sealed with the seal of the Controller, shall be admitted in evidence in all Courts and in all proceedings without further proof or production of the original.

(2) Any person requiring such a certified copy as aforesaid shall be entitled to obtain it on payment of the prescribed fee.

Evidence of things done by Controller.

64. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing that he is authorised by this Act or the Rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done.

OFFENCES

65. }
66. } (*Repealed by Act No. 31 of 1997*).

Unauthorised use of trade mark, etc., in relation to goods.
[25 of 1996
31 of 1997].

66A. (1) A person commits an offence who, with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

(a) applies to goods or their packaging a mark identical to, or likely to be mistaken for, a registered trade mark;

- (b) sells or lets for hire, offers or exposes for sale or hire or distributes goods which bear, or the packaging of which bears, such a mark; or
- (c) has in his possession, custody or control in the course of a business any such goods with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).

(2) A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

- (a) applies a mark identical to, or likely to be mistaken for, a registered trade mark to material intended to be used—
 - (i) for labelling or packaging goods;
 - (ii) as a business paper in relation to goods; or
 - (iii) for advertising goods; or
- (b) uses in the course of a business material bearing such a mark for labelling or packaging goods, as a business paper in relation to goods, or for advertising goods; or
- (c) has in his possession, custody or control in the course of a business any such material with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).

(3) A person commits an offence who, with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

- (a) makes an article specifically designed or adapted for making copies of a mark identical to, or likely to be mistaken for, a registered trade mark; or
- (b) has such an article in his possession, custody or control in the course of a business,

knowing or having reason to believe that it has been, or is to be, used to produce goods, or material for labelling or packaging goods, as a business paper in relation to goods, or for advertising goods.

(4) A person does not commit an offence under this section unless—

- (a) the goods are goods in respect of which the trade mark is registered; or
- (b) the trade mark has a reputation in Trinidad and Tobago and the use of the mark takes or would take unfair advantage of, or is or would be detrimental to, the distinctive character or the repute of the trade mark.

(5) It is a defence for a person charged with an offence under this section to show that he believed on reasonable grounds that the use of the mark in the manner in which it was used, or was to be used, was not an infringement of the registered trade mark.

(6) A person who commits an offence under this section is liable—

- (a) on summary conviction, to a fine of ten thousand dollars and to imprisonment for six months;
- (b) on conviction on indictment, to a fine of forty thousand dollars and to imprisonment for ten years.

Falsification of Register, etc. [25 of 1996].

66B. (1) It is an offence for a person to make, or cause to be made, a false entry in the Register, knowing or having reason to believe that it is false.

(2) It is an offence for a person—

- (a) to make or cause to be made anything falsely purporting to be a copy of an entry in the Register; or
- (b) to produce or tender or cause to be produced or tendered in evidence any such thing,

knowing or having reason to believe that it is false.

(3) A person who commits an offence under this section is liable—

- (a) on summary conviction, to a fine of twenty thousand dollars and to imprisonment for six months;

- (b) on conviction on indictment, to a fine of forty thousand dollars and to imprisonment for ten years.

66C. (1) It is an offence for a person—

- (a) falsely to represent that a mark is a registered trade mark; or
- (b) to make a false representation as to the goods or services for which a trade mark is registered,

Falsely representing trade mark as registered. [25 of 1996].

knowing or having reason to believe that the representation is false.

(2) For the purposes of this section, the use in Trinidad and Tobago in relation to a trade mark—

- (a) of the word “registered”; or
- (b) of any other word or symbol importing a reference, express or implied, to registration,

shall be deemed to be a representation as to registration under this Act unless it is shown that the reference is to registration elsewhere than in Trinidad and Tobago and that the trade mark is in fact so registered for the goods or services in question.

66D. (1) Where there has come into the possession of any person in connection with the investigation or prosecution of a relevant offence—

Forfeiture of counterfeit goods, etc. [25 of 1996].

- (a) goods which, or the packaging of which, bears a sign identical to or likely to be mistaken for a registered trade mark;
- (b) material bearing such a sign and intended to be used for labelling or packaging goods, as a business paper in relation to goods, or for advertising goods; or
- (c) articles specifically designed or adapted for making copies of such a sign,

that person may apply under this section for an order for the forfeiture of the goods, material or articles.

- (2) An application under this section may be made—
- (a) where proceedings have been brought in any Court for a relevant offence relating to some or all of the goods, material or articles, to that Court;
 - (b) where no application for the forfeiture of the goods, material or articles has been made under paragraph (a), by way of complaint to a summary Court.

(3) On an application under this section, the Court shall make an order for the forfeiture of any goods, material or articles only if it is satisfied that a relevant offence has been committed in relation to the goods, material or articles.

(4) A Court may infer for the purposes of this section that such an offence has been committed in relation to any goods, material or articles if it is satisfied that such an offence has been committed in relation to goods, material or articles which are representative of them, whether by reason of being of the same design or part of the same consignment or batch or otherwise.

(5) An order under this section may contain such provision as appears to the Court to be appropriate for delaying the coming into force of the order pending the making and determination of an appeal.

(6) Any person aggrieved by an order made under this section by a summary Court, or by a decision of the Court not to make such an order, may appeal against that order or decision to the Court of Appeal.

(7) Subject to subsection (8), where any goods, material or articles are forfeited under this section they shall be destroyed in accordance with such directions as the Court may give.

(8) On making an order under this section the Court may, if it considers it appropriate to do so, direct that the goods, material or articles to which the order relates shall, instead of being destroyed, be released, to such person as the Court may specify, on condition that that person—

- (a) causes the offending sign to be erased, removed or obliterated; and

(b) complies with any order to pay costs which has been made against him in the proceedings for the order for forfeiture.

(9) For the purposes of this section, “relevant offence” means an offence under section 66A, an offence involving dishonesty or deception or such other offence as may be prescribed.

66E. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by corporations.
[25 of 1996].

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

MISCELLANEOUS

67. The use of a registered trade mark in relation to goods between which and the person using it in any form of connection in the course of trade subsists, shall not be deemed to be likely to cause deception or confusion on the ground only that the trade mark has been, or is, used in relation to goods between which and that person or a predecessor in title of his a different form of connection in the course of trade subsisted or subsists.

Change of form of trade connection not to be deemed to cause deception.

68. Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

Jointly owned trade marks.
[17 of 1994].

- (a) on behalf of both or all of them; or
- (b) in relation to any goods with which both or all of them are connected in the course of trade,

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

Subject as mentioned above, nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

Trusts and equities.

69. (1) There shall not be entered in the Register any notice of any trust express, implied or constructive, nor shall any such notice be receivable by the Controller.

(2) Subject to the provisions of this Act, equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

69A. (Repealed by Act No. 31 of 1997).

Recognition of agents.

70. 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, the act may, under and in accordance with the Rules, be done by or to an agent of that person duly authorised in the prescribed manner.

References in written law to Patents, Designs and Trade Marks Ordinance. Ch. 31 No. 18. (1950 Ed.).

71. Any reference in any written law to the provisions relating to trade marks (repealed by this Act) formerly contained in the Patents, Designs and Trade Marks Ordinance shall be read as referring to this Act.

Notice of objection to importation. [31 of 1997].

71A. (1) The registered owner of a registered trade mark may give to the Comptroller of Customs and Excise a notice in the prescribed form objecting to the importation after the date of the notice of goods that infringe the trade mark, and the notice shall be given together with any prescribed document.

(2) Where—

- (a) the registered owner of the registered trade mark has not given a notice under subsection (1); or

- (b) any notice given under subsection (1) is no longer in force,

a registered user of the trade mark having power to give a notice under subsection (1) may ask the registered owner to give such a notice in respect of the trade mark.

(3) Where the registered owner does not comply with the request within the prescribed period the registered user may give the notice to the Comptroller of Customs and Excise and the registered user shall give also to the Comptroller, together with the notice—

- (a) any document prescribed for the purposes of subsection (1); and
(b) any other prescribed document.

(4) A notice given by the registered owner of a registered trade mark remains in force for two years from the day on which the notice is given unless it is revoked, before the end of that period, by notice in writing given to the Comptroller of Customs and Excise by the person who is then the registered owner of the registered trade mark.

(5) A notice given by a registered user of the registered trade mark remains in force for two years unless it is revoked, before the end of that period, by notice in writing given to the Comptroller of Customs and Excise—

- (a) if the registered user has power to revoke the notice, by the registered user; or
(b) in any other case by the person who is then the registered owner of the registered trade mark.

71B. (1) This section applies to goods manufactured outside Trinidad and Tobago that—

- (a) are imported into Trinidad and Tobago; and
(b) are subject to the control of the Comptroller of Customs and Excise pursuant to the Customs Act.

Comptroller of
Customs and
Excise.
[31 of 1997].

Ch. 78:01.

- (2) Where goods to which this section applies—
- (a) have applied to them or in relation to them a mark that, in the opinion of the Comptroller of Customs and Excise, is substantially identical with, or deceptively similar to, a notified trade mark; and
 - (b) are goods in respect of which the notified trade mark is registered or for similar or related goods for which the mark is registered,

the Comptroller of Customs and Excise shall seize the goods unless satisfied that there are no reasonable grounds for believing that the notified trade mark is infringed by the importation of the goods.

(3) The Comptroller of Customs and Excise may from time to time require the objector who has given notice under section 71A, to give the Comptroller security or further security within such time and in such manner, whether by way of bond, deposit of a sum of money or otherwise, as the Comptroller may specify, against all actions, proceedings, claims and demands which may be taken or made against, or cost and expenses which may be incurred by, the Comptroller in consequence of the seizure of goods to which the notice relates.

(4) The Comptroller of Customs and Excise may decide not to seize the goods if he has not been given by the objector, such security in accordance with subsection (3).

(5) Goods seized under this section shall be kept in a secure place as directed by the Comptroller of Customs and Excise.

Notice of seizure.
[31 of 1997].

71C. (1) The Comptroller of Customs and Excise shall, as soon as practicable—

- (a) give (either personally or by post) to the designated owner of any seized goods a notice in writing identifying the goods and stating that they have been seized under section 71B; and
- (b) give (either personally or by post) to the objector, or to each objector, a notice in the prescribed form—
 - (i) identifying the goods and stating that they have been seized under section 71B;

- (ii) giving the full name and address of the designated owner of the goods and any information that the Comptroller of Customs and Excise has and that he believes, on reasonable grounds, to be likely to help the objector to identify the importer of the goods; and
- (iii) stating that the goods will be released to the designated owner unless the objector or one of the objectors brings an action for infringement of the notified trade mark in respect of the goods, and gives to the Comptroller of Customs and Excise notice in writing of the action, within the period of ten working days after he has been given the notice or, if the Comptroller of Customs and Excise extends that period under section 71F, within the extended period.

(2) Where the Comptroller of Customs and Excise gives notice under subsection (1), the Comptroller shall allow the designated owner and the objector sufficient opportunity to inspect the seized goods for the purposes of substantiating any claim.

71D. (1) The designated owner of any seized goods may, at any time before an objector starts an action for infringement of a notified trade mark in respect of the goods, consent to the goods being forfeited to the State by giving notice in the prescribed form to that effect to the Comptroller of Customs and Excise.

Forfeiture
of goods.
[31 of 1997].

(2) Where the designated owner gives such a notice, the goods are forfeited to the State.

71E. (1) The Comptroller shall release the seized goods to their designated owner if within the action period, the objector has not, or none of the objectors has—

Release of
goods to
owner—no
action for
infringement.
[31 of 1997].

- (a) brought an action for infringement of the notified trade mark in respect of the goods; and
- (b) given to the Comptroller of Customs and Excise notice in writing of the action in the prescribed form.

(2) The Comptroller of Customs and Excise shall also release the seized goods to their designated owner if—

- (a) before the end of the action period, the objector or each of the objectors has, by notice in the prescribed form to the Comptroller of Customs and Excise, consented to the release of the goods; and
- (b) at that time—
 - (i) the objector has not, or none of the objectors has, brought an action for infringement of the notified trade mark in respect of the goods; or
 - (ii) any action brought by an objector has been withdrawn.

(3) The Comptroller of Customs and Excise may release the seized goods to their designated owner at any time before the end of the action period if—

- (a) the Comptroller of Customs and Excise, having regard to information that has come to his knowledge after the goods were seized, is satisfied that there are no reasonable grounds for believing that the notified trade mark has been infringed by the importation of the goods; and
- (b) the objector has not, or none of the objectors has, brought action for infringement of the notified trade mark in respect of the goods.

(4) In this section, “action period”, in relation to seized goods, means—

- (a) if there is only one objector to the importation of the goods, the period within which the objector may bring an action for infringement of the registered trade mark in respect of goods under section 71F; or
- (b) if there is more than one objector to the importation of the goods, the period beginning on the earliest day on which an objector may bring

an action for infringement of the registered trade mark in respect of the goods under section 71F and ending at the end of the last day on which an objector may bring such an action under section 71F.

71F. (1) An objector may bring an action for infringement of a notified trade mark in respect of seized goods and give notice of it in the prescribed form to the Comptroller of Customs and Excise—

Action for infringement. [31 of 1997].

- (a) where paragraph (b) does not apply, within the notified period of ten working days specified in the notice given to the objector in respect of the goods under section 71C; or
- (b) where—
 - (i) the objector has, before the end of the notified period, applied in writing to the Comptroller of Customs and Excise for an extension of the notified period; and
 - (ii) the Comptroller of Customs and Excise, being satisfied that in the circumstances of the case it is fair and reasonable to do so, has extended the notified period for a number of working days not exceeding ten,

within that period as so extended by the Comptroller of Customs and Excise.

(2) The Court hearing the action—

- (a) may, on the application of a person, allow the person to be joined as a defendant to the action; and
- (b) shall allow the Comptroller of Customs and Excise to appear and be heard.

(3) In addition to any relief that the Court may grant apart from this section, the Court may—

- (a) at any time, if it thinks it just, order that the seized goods be released to their designated owner subject to any conditions that the Court considers fit to impose; or

(b) order that the seized goods be forfeited to the State.

(4) Where—

(a) the Court decides that the trade mark was not infringed by the importation of the goods; and

(b) the designated owner of the goods, or any other defendant, satisfies the Court that he has suffered loss or damage because the goods were seized,

the Court may order the objector to pay to the designated owner or other defendant compensation, in the amount determined by the Court, for any part of that loss or damage that is attributable to any period beginning on or after the day on which the action was brought.

(5) Where, after three weeks from the day on which the action was brought, there is not in force at any time an order of the Court preventing the goods from being released, the Comptroller of Customs and Excise shall release the goods to their designated owner.

(6) Where the Court orders that the goods be released, the Comptroller shall, subject to section 71I, comply with the order.

Action for infringement by registered user. [31 of 1997].

71G. Notwithstanding section 37(3), where a registered user of a notified trade mark is an objector in relation to any seized goods, the registered user may start an action for the infringement of the trade mark in respect of the goods within the required period without first ascertaining whether the registered owner is willing to bring the action.

Forfeited goods—how to be disposed of. [31 of 1997].

71H. Where—

(a) goods are forfeited to the State under section 71D; or

(b) the Court orders under section 71F that goods be forfeited to the State,

the goods are to be destroyed or otherwise disposed of as the Comptroller of Customs and Excise directs, except that in the case of counterfeit goods, the Comptroller shall not permit the re-exportation of those goods in an unaltered state other than in exceptional circumstances.

71I. The Comptroller of Customs and Excise—

- (a) shall not release, or dispose of, any seized goods; or
- (b) shall not take any action in relation to the goods to give effect to any order of a Court under section 71F,

Power of Comptroller to retain control of goods.
[31 of 1997].

if the Comptroller is required or allowed to retain control of the goods under any other law of Trinidad and Tobago.

71J. If security given under section 71B(3) by the objector who gave notice under section 71A in respect of a trade mark is not sufficient to meet the expenses incurred by the State as a result of the action taken by the Comptroller of Customs and Excise under this Act because of the notice, the amount of the difference between those expenses and the amount of security—

Insufficient security.
[31 of 1997].

- (a) is a debt due by the objector, or by the objectors jointly or each of them separately, to the State; and
- (b) may be recovered by an action taken in a Court of competent jurisdiction.

71K. The State is not liable for any loss or damage suffered by a person—

State not liable for loss, etc., suffered because of seizure.
[31 of 1997].

- (a) because the Comptroller of Customs and Excise seized, or failed to seize, goods under this Act; or
- (b) because of the release of any seized goods.

71L. (1) Where—

- (a) goods that may be seized under this Act are imported into Trinidad and Tobago; and
- (b) the Comptroller of Customs and Excise relying on information received, is satisfied on reasonable grounds that the use of a trade mark applied to or in relation to those goods is fraudulent,

Power to require information.
[31 of 1997].

the Comptroller of Customs and Excise may ask the importer of the goods—

- (c) to produce any document in his or her possession relating to the goods; and
- (d) to give information about—
 - (i) the name and address of the person by whom the goods were consigned to Trinidad and Tobago; and
 - (ii) the name and address of the person in Trinidad and Tobago to whom the goods were consigned.

(2) Where the importer intentionally or recklessly fails to comply with the request within the prescribed period, the importer is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding six months.

Importation for personal use. [31 of 1997].

71M. Notwithstanding the provisions of sections 71A to 71L, the importation by a natural person for his own personal use of not more than five of the same items bearing a registered trade mark in respect of which a notice has been given in accordance with section 71A shall be permitted, except that the Comptroller of Customs and Excise may permit the importation of a greater number of items if he is satisfied that they are for the personal use of the natural person.

VALIDITY OF REGISTRATIONS UNDER PREVIOUS ORDINANCE

Incorporation of existing Register with Part A.

72. The Register of Trade Marks existing at the date of the commencement of this Act shall be incorporated with and form part of Part A of the Register. Subject to sections 8, 15 and 73 of this Act the validity of the original entry of any trade mark upon the Register so incorporated shall be determined in accordance with the Ordinance 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.

73. No trade mark which was 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 Ordinance in force at the date of registration. But nothing in this section 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 Ordinance then in force.

Trade mark registrable under this Act not removable on certain grounds.

74. Nothing in this Act shall be taken to have invalidated the original registration of a trade mark that immediately before the commencement of this Act was validly in the Register of Trade Marks existing at the commencement of this Act.

Nothing in this Act to invalidate registration of trade mark previously made.

75. Where a person is registered as a registered user of a trade mark on an application made within one year from the commencement of this Act, section 37(2) shall have effect in relation to any previous use (whether before or after the commencement of this Act) of the trade mark by that person, being use in relation to the goods in respect of which he is registered and, where he is registered subject to conditions or restrictions, being use such as to comply substantially therewith, as if such previous use had been permitted use.

Previous use of a trade mark by person becoming registered user.

INTERNATIONAL AND INTER-COMMONWEALTH ARRANGEMENTS

76. (1) (a) Any person who has applied for protection for any trade mark in a Convention country or his legal representative or assignee, is entitled to registration of his trade mark under this Act in priority to other applicants; and the registration shall take effect from the same date as the date of the application in the Convention country.

Arrangements with Convention countries. [46 of 1979].

(b) This section shall not apply unless the application for protection in Trinidad and Tobago is made within six months from the date of the application in the Convention country.

(c) Nothing in this section shall entitle the proprietor of the trade mark to recover damages for infringements happening

prior to the actual date on which his trade mark is registered in Trinidad and Tobago.

(2) The trade mark shall not be invalidated by reason only of the use thereof in Trinidad and Tobago during the period specified in this section as that within which the application may be made.

(3) The application for the registration of a trade mark under this section shall be made in the same manner, and subject to the payment of the same fees, as an ordinary application under this Act.

(4) Where a person has applied for protection for any trade mark by an application which—

(a) in accordance with the terms of a treaty subsisting between any two or more Convention countries, is equivalent to an application duly made in any one of those Convention countries; or

(b) in accordance with the law of any Convention country, is equivalent to an application duly made in that Convention country,

he shall be deemed for the purposes of this section to have applied in that Convention country.

(5) In this section the expression “Convention country” means a country in the case of which there is for the time being in force an Order made by the President with a view to the fulfilment of the obligations of Trinidad and Tobago under the Convention declaring that that country is a Convention country; and with respect to any country such declaration might extend to all or to only some of the provisions of this Act, and where a declaration is in force for some (but not all) of the provisions of this Act with respect to any country that country shall be considered a Convention country for the purposes of those provisions only.

Arrangements
with
Commonwealth
countries not
being
Convention
countries.

77. (1) Whenever it appears to the President that the Legislature of any Commonwealth country not being a Convention country has made satisfactory provision for the protection in such country of trade marks registered in Trinidad and Tobago, the President may by Order apply all or any of the provisions of section 76 relating to

the protection of trade marks registered in a Convention country, with such variations or additions, if any, as he thinks fit, to trade marks registered in such Commonwealth country.

(2) An Order made under this section shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act.

RESTRAINT OF USE OF ARMS OF TRINIDAD AND TOBAGO

78. (1) No person shall adopt in connection with any trade, business, profession or calling, as a trade mark or otherwise, any mark consisting of, or so nearly resembling as to be likely to be mistaken for—

Restraint of use of national coat of arms, etc. [45 of 1979].

- (a) the Coat of Arms of Trinidad and Tobago;
- (b) the flag of Trinidad and Tobago;
- (c) the standard, arms or crest of the President;
- (d) any word or symbol likely to lead to the belief that the goods or services in association with which it is used have received or are produced, sold or performed under presidential or governmental patronage, approval or authority.

(2) Where it is made to appear to the Court that any act has been done contrary to this section, the Court may make any such order as the circumstances require including provision for relief by way of injunction and the recovery of damages or profits, and may give directions with respect to the disposition of any offending wares, packages, labels and advertising material and of any dies used in connection therewith.

REPEAL AND SAVINGS

79. (1) The Patents, Designs and Trade Marks Ordinance is hereby repealed so far as the same relates to trade marks.

Repeal and savings.

(2) Nothing in this Act shall affect any order, rule or requirement made, table of fees or certificate issued, notice,

decision, determination, direction or approval given, application made, or thing done, under any written law repealed by this Act; and every such order, rule, direction, approval, application or thing shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, issued, given or done under this Act, have effect as if made, issued, given or done under the corresponding written law of this Act.

(3) Any document referring to any written law repealed by this Act shall be construed as referring to the corresponding written law of this Act.

SCHEDULE

CERTIFICATION TRADE MARKS

1. (1) An application for the registration of a mark under section 50 of this Act must be made to the Controller in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

(2) The provisions of section 19(2), (4), (5), (6) and (7) of this Act shall have effect in relation to an application under the said section 50 as they have effect in relation to an application under section 19(1).

(3) In dealing under the said provisions with an application under section 50, the Controller (or Judge in Chambers, as the case may be) shall have regard to the like considerations, so far as relevant, as if the application were an application under section 19 of this Act and to any other considerations relevant to applications under section 50, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark, and also to the following matters:

- (a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;
- (b) whether the draft regulations are satisfactory; and
- (c) whether in all circumstances the registration applied for would be to the public advantage.

(4) An applicant for the registration of a trade mark under section 50 shall transmit to the Controller draft regulations for governing the use thereof at such time before the decision of the Controller as he may require in order to enable him to consider the draft.

2. Where an application has been accepted, the Controller shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the prescribed manner, and sections 21 and 22 of this Act shall have effect in relation to the registration of the mark as if the application had been an application under section 19 of this Act.

3. (1) The regulations deposited in respect of a certification trade mark may, on the application of the registered proprietor be altered by the Controller.

(2) The Controller may cause an application for an amendment of the regulations to be advertised in any case where it appears to him that it is expedient so to do, and, where he causes an application to be advertised, if within one month from the date of the advertisement any person gives notice to him of opposition to the application, he shall not decide the matter without giving the parties an opportunity to be heard.

4. (1) The Controller may, on the application in the prescribed manner of any person aggrieved, make such order as he thinks fit for expunging or varying any entry in the Register relating to a certification trade mark, or for varying the deposited regulations, on the ground—

- (a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods;
- (b) that the proprietor has failed to observe a provision of the deposited regulations to be observed on his part;
- (c) that it is no longer to the public advantage that the trade mark should be registered; or
- (d) that it is requisite for the public advantage that, if the trade mark remains registered, the regulations should be varied.

(2) The Register and the deposited regulations shall be rectified in such manner as may be requisite for giving effect to an order made under sub-paragraph (1).

5. Any decision of the Controller under paragraph 3 and any order of the Controller under paragraph 4 of this Schedule shall be subject to appeal to a Judge in Chambers.

6. Notwithstanding anything in section 54 of this Act, the Controller shall not have any jurisdiction to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the trade mark.

7. The following provisions of this Act shall not have effect in relation to a certification trade mark, that is to say, sections 5, 7, 10, 19, 20, 21 and 22 (except as expressly applied by this Schedule), sections 29, 30, 31, 35, 37, 38, 39, 40, 41, 42, 43, 67 and any provisions the operation of which is limited by the terms thereof to registration in Part B of the Register.

SUBSIDIARY LEGISLATION

TRADE MARKS RULES

ARRANGEMENT OF RULES

RULE

SHORT TITLE

1. Citation.

INTERPRETATION

2. Interpretation.

FEES

3. Fees.

FORMS

4. Forms.

CLASSIFICATION OF GOODS

5. Classification of goods.

DOCUMENTS

6. Size, etc., of documents.
- 6A. Communication by telefacsimile.
7. Signature of documents by partnerships, companies and associations.

ADDRESS

8. Address.
9. Address for service.

AGENTS

10. Agency.
- 10A. Acts of agent or representative.

ARRANGEMENT OF RULES—*Continued***REGISTRABLE TRADE MARKS**

11. Registrable trade marks.
12. National emblems, etc., of Convention countries.
- 12A. Emblems, etc., of certain international organisations.
- 12B. Notification under Article 6ter of the Convention.
13. Arms of city, etc.
14. Restraint of arms, etc., of Convention countries.
15. Living persons or persons recently dead.
16. Name or description of goods on a trade mark.

**APPLICATION FOR REGISTRATION OF A
TRADE MARK SPECIFICATION**

17. Form of application. Specification.
18. Representation of mark.
19. Additional forms and representations.
20. Representations to be durable.
21. Single applications for goods and services in several classes.
- 21A. Division of application or registration.
22. Representations to be satisfactory.
23. Specimens of trade marks in exceptional cases.
24. Series of trade marks.
25. Transliteration and translation.

**PROCEDURE ON RECEIPT OF APPLICATION FOR
REGISTRATION OF A TRADE MARK**

26. Search.
27. Acceptance, absolute or conditional; objection.
28. Controller's objections. Hearing.
29. Controller's conditions, etc. Hearing.
30. Decision of Controller.
31. Disclaimer.
32. *(Revoked by LN 197/1997).*

RULE

CERTIFICATION TRADE MARKS

33. Application under section 50.
34. Authorisation to proceed.
35. Case; draft regulations.

ADVERSTIEMENT OF APPLICATION

36. Advertisement of application.
37. Wood block or electrotype printing.
38. Advertisement of series.
39. Advertisement under section 22 or section 49.

OPPOSITION TO REGISTRATION

40. Opposition.
41. Notice of opposition.
42. Counter-statement.
43. Evidence in support of opposition.
44. Evidence in support of application.
45. Evidence in reply by opponent.
46. Further evidence.
47. Exhibits.
48. Hearing.
49. Extension of time.
50. Security for costs.
51. Costs in uncontested case.
52. Opposition to application under section 50.

NON-COMPLETION

53. Filing requirements.

ENTRY IN THE REGISTER AND ASSOCIATED MARKS

54. Entry in Register.
55. Associated marks.
56. Death of applicant before registration.

ARRANGEMENT OF RULES—*Continued***RENEWAL**

- 57. Application for renewal.
 - 58.)
 - 59.)
 - 60. Record of removal of mark.
- (Revoked by LN 197/1997).

ASSIGNMENTS AND TRANSMISSIONS

- 61. Registration of assignment.
 - 62.)
 - 65.)
 - 66. Application for entry of assignment without goodwill.
 - 67. Entry in Register.
 - 68. Separate registrations.
 - 69. Controller's certificate or approval as to certain assignments and transmissions.
 - 70. Controller's directions for advertisement of assignment without goodwill of trade mark in use.
- (Revoked by LN 197/1997).

ALTERATION OF ADDRESS

- 71. Alteration of address in Register.

**APPLICATIONS TO THE CONTROLLER
FOR RECTIFICATION**

- 72. Application to rectify or remove a trade mark from the Register.
- 73. Further procedure.
- 74. Intervention by third parties.

**APPLICATIONS FOR ALTERATION OF THE REGISTER
BY CORRECTION, CHANGE, CANCELLATION OR
STRIKING OUT GOODS, OR FOR ENTRY OF
DISCLAIMER, MEMORANDUM OR NOTE**

- 75. Application under section 48(1).
- 76. Evidence.

RULE

- 77. Advertisement of certain applications.
- 78. Certificates of validity to be noted.

**APPLICATIONS TO ALTER REGISTERED
TRADE MARKS**

- 79. Alteration of registered trade mark.
- 80. Advertisement before decision.
- 81. Decision.
Advertisement.
Notification.
- 82. Advertisement illustration.

**RECTIFICATION AND ALTERATION OF CERTIFICATION
TRADE MARK ENTRIES AND REGULATIONS**

- 83. Rectification of certification Trade Mark entries by the Controller.

**ALTERATION OF CERTIFICATION
TRADE MARK REGULATIONS**

- 84. Alteration of regulations.

REGISTERED USERS

- 85. Application for entry of Registered User.
- 86. Entry and notification.
- 87. Registered proprietor's application to vary entry.
- 88. Application by registered proprietor of user to cancel entry.
- 89. Application under section 41(1)(c) to cancel entry.
- 90. Notification and hearing.
- 91. Registered user's application under section 48(2).
Cancellation by Controller.

EXTENSION OF TIME

- 92. Extension of time.
- 93. Excluded days.

ARRANGEMENT OF RULES—*Continued***DISCRETIONARY POWER**

94. Hearing.
95. Application for hearing.
96. Notice of hearing.
97. Notification of decision.

POWER TO DISPENSE WITH EVIDENCE

98. Dispensing with evidence.

AMENDMENTS

99. Amendment of documents.

CERTIFICATES

100. Certificates by Controller.
101. Marks registered without limitation of colour.
102. Certificates for use in obtaining registration abroad.

DECLARATIONS

103. Manner in which, and person before whom, declaration is to be taken.
104. Notice of seal of officer taking declaration to prove itself.

APPLICATIONS TO AND ORDERS OF THE COURT

105. Application to Court.
106. Order of Court.
107. Publication of Order of Court.

FIRST SCHEDULE.**SECOND SCHEDULE.****THIRD SCHEDULE.****FOURTH SCHEDULE.**

TRADE MARKS RULES

made under section 51

91/1956*.
[45 of 1979
198/1994
6 of 1993].

SHORT TITLE

1. These Rules may be cited as the Trade Marks Rules.

Citation.

INTERPRETATION

2. In these Rules—

Interpretation.

“agent” means an agent duly authorised to the satisfaction of the Controller;

“the Office” means the office of the Controller;

“specification” means the designation of goods in respect of which a trade mark, or a registered user of a trade mark, is registered or is proposed to be registered.

FEES

3. The fees to be paid in relation to trade marks shall be those prescribed in the First Schedule.

Fees.

First Schedule.

FORMS

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

Forms.
Second
Schedule.

CLASSIFICATION OF GOODS

5. For the purposes of trade marks registrations, and of registrations of registered users thereunder, goods are classified in the manner appearing in the Third Schedule.

Classification
of goods.

Third Schedule.

DOCUMENTS

6. Subject to any other directions that may be given by the Controller, all applications, notices, statements, papers having

Size, etc., of
documents.

*These rules were amended by 45 of 1979; 180/1992; 185/1992; 6 of 1993; 169/1993; 3 of 1994; 198/1994; 25 of 1996 and 197/1997.

representations affixed or other documents authorised or required by the Act or these Rules to be made, left or sent, at or to the Office or with or to the Controller, shall be upon strong paper and, except in the case of statutory declarations and affidavits, on one side only of a size of approximately thirteen inches by eight inches, and shall have on the left-hand part thereof a margin of not less than one inch and a half.

Communication
by telefacsimile.
[197/1997].

6A. (1) Documents required or authorised by the Act or these Rules to be sent to the Controller may be transmitted by telefacsimile, provided that the original of the document so transmitted shall be filed with the Controller within one month of such transmission.

(2) Where any form under these Rules are transmitted by telefacsimile, the paper copy resulting from such transmittal shall correspond to the form.

(3) The date of transmission of an application for registration transmitted by telefacsimile shall be the date of application provided that the original of such application is received by the Controller within one month.

(4) The Controller shall consider documents transmitted by telefacsimile signed if, on the printout produced by the telefacsimile, the reproduction of the signature appears.

Signature of
documents by
partnerships,
companies and
associations.

7. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners, or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Controller that he is authorised to sign the document.

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Controller that he is authorised to sign the document.

(3) A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Controller to be duly qualified.

ADDRESS

8. (1) Where any person is by the Act or these Rules bound to furnish the Controller 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 trade or business of the person whose address is given. Address.

(2) The Controller may require the address to include the name of the street, and the number in the street or name of the premises, if any.

9. (1) The Controller may require an applicant, opponent or agent, or a registered proprietor or registered user of a trade mark, who does not reside or carry on business within Trinidad and Tobago to give an address for service within Trinidad and Tobago, and such address may be treated as the actual address of that person for all purposes connected with the matter in question. Address for service. [197/1997].

(2) } **(Revoked by LN 197/1997).**
(3) }

(4) In any case in which no address for service is entered in the Register, the Controller may treat the trade or business address of the registered proprietor or registered user as therein entered as his address for service for all purposes connected with the registration.

(5) Any written communication addressed to a party or person as mentioned above at an address given by him, or treated by the Controller, as his address for service shall be deemed to be properly addressed.

(6) The Controller, at any time that a doubt arises as to the continued availability of an address for service entered in the Register, may request the person for whom it is entered, by letter addressed to his trade or business address in the Register, to confirm the address for service, and if within three months of making such a request the Controller receives no confirmation of that address, he may strike it off the Register.

AGENTS

Agency.

10. (1) Except as otherwise required by these Rules, any application, request or notice which is required or permitted by the Act or these Rules to be made or given to the Controller, and all other communications between an applicant or a person making such a request or giving such a notice and the Controller, and between the registered proprietor or a registered user of a trade mark and the Controller or any other person, may be signed, made or given by or through an agent.

(2) Any such applicant, person making request or giving notice, proprietor or registered user, may appoint an agent to act for him in any proceeding or matter before or affecting the Controller under the Act and these Rules by signing and sending to the Controller an authority to that effect in the Form TM—No. 1, or in such other written form as the Controller may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all attendances upon the Controller relating thereto may be made by or through such agent. In any particular case the Controller may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Controller shall not be bound to recognise as such agent any person who has been convicted of an offence or whose name has been struck off the Roll of Attorneys-at-law or who has been suspended from acting as an Attorney-at-law.

Acts of agent or representative.
[197/1997].

10A. (1) This rule shall apply where an application for registration of a trade mark is made by a person who is an agent or representative of a person who is the proprietor of the mark in a Convention country.

(2) Where the proprietor opposes the application, registration shall be refused.

(3) Where the application is granted without being opposed by the proprietor, the proprietor may—

- (a) apply for a declaration of the invalidity of the registration; or
- (b) apply for the rectification of the Register so as to substitute his name as the proprietor of the registered trade mark.

(4) The proprietor may, notwithstanding the rights conferred by this Act in relation to a registered trade mark, by injunction restrain any use of the trade mark which is not authorised by him.

(5) Subrules (2), (3) and (4) do not apply if, or to the extent that, the agent or representative justifies his action.

(6) An application under subrule (3)(a) or (b) shall be made within three years of the proprietor becoming aware of the registration, and no injunction shall be granted under subrule (4) in respect of a use in which the proprietor has acquiesced for a continuous period of three years or more.

REGISTRABLE TRADE MARKS

11. (1) The Controller may refuse to accept any application for the registration of a mark upon which any of the following appear:

Registrable trade marks.

- (a) the words “Patent”, “Patented”, “Registered”, “Registered Design”, “Copyright”, “Entered at Stationers’ Hall”, “To counterfeit this is a forgery”, or words to like effect;
- (b) representations of the President or any colourable imitations thereof;
- (c) the words “Red Cross” or “Geneva Cross”, and representations of the Geneva and other crosses in red, or of the Swiss Federal Cross in white on a red ground or silver on a red ground, or such representations in a similar colour or colours.

(2) Where there appears in a trade mark the registration of which is applied for a representation of a cross in any colour, not being one of those mentioned in subrule 1(c), the Controller may require the applicant as a condition of acceptance to undertake not to use the cross device in red, or in white on a red ground or silver on a red ground, or in any similar colour or colours.

National emblems, etc., of Convention countries. [197/1997].

12. (1) A trade mark which consists of or contains the flag of a Convention country shall not be registered without the authorisation of the competent authorities of that country, unless it appears to the Controller that the use of the flag in the manner proposed is permitted without such authorisation.

(2) A trade mark which consists of or contains the armorial bearings or any other State emblem of a Convention country which is protected under the Paris Convention shall not be registered without the authorisation of the competent authorities of that country.

(3) A trade mark which consists of or contains an official sign or hallmark adopted by a Convention country and indicating control and warranty shall not, where the sign or hallmark is protected under the Paris Convention, be registered in relation to goods or services or the same, or a similar kind, as those in relation to which it indicates control and warranty, without the authorisation of the competent authorities of the country concerned.

(4) The provisions of this section as to national flags and other State emblems, and official signs of hallmarks, apply equally to anything which from a heraldic point of view imitates any such flag or other emblem, or sign or hallmark.

(5) Nothing in this section prevents the registration of a trade mark on the application of a national of a country who is authorised to make use of a State emblem, or official sign or hallmark, of that country, notwithstanding that it is similar to that of another country.

(6) Where by virtue of this section the authorisation of the competent authorities of a Convention country is or would be required for the registration of a trade mark, those authorities are entitled to restrain by injunction any use of the mark in Trinidad and Tobago without their authorisation.

12A. (1) This section applies to—

- (a) the armorial bearings, flags or other emblems; and
- (b) the abbreviations and names,

Emblems, etc.,
of certain
international
organisations.
[197/1997].

of international inter-governmental organisations of which one or more Convention countries are members.

(2) A trade mark which consists of or contains any such emblem, abbreviation or name which is protected under the Paris Convention shall not be registered without the authorisation of the international organisation concerned, unless it appears to the Controller that the use of the emblem, abbreviation or name in the manner proposed—

- (a) is not such as to suggest to the public that a connection exists between the organisation and the trade mark; or
- (b) is not likely to mislead the public as to the existence of a connection between the user and the organisation.

(3) The provisions of this rule as to emblems of an international organisation apply equally to anything which from a heraldic point of view imitates any such emblem.

(4) Where by virtue of this rule the authorisation of an international organisation is or would be required for the registration of a trade mark, that organisation is entitled to restrain by injunction any use of the mark in Trinidad and Tobago without its authorisation.

(5) Nothing in this section affects the rights of a person whose *bona fide* use of the trade mark in question began before 1st August 1964 (when the relevant provisions of the Paris Convention entered into force in relation to Trinidad and Tobago).

12B. (1) For the purposes of rule 12 State emblems of a Convention country (other than the national flag), and official signs or hallmarks, shall be regarded as protected under the Paris Convention only if, or to the extent that—

Notification
under Article
6ter of the
Convention.
[197/1997].

- (a) the country in question has notified Trinidad and Tobago in accordance with Article 6ter(3) of the Convention that it desires to protect that emblem, sign or hallmark;

- (b) the notification remains in force; and
- (c) Trinidad and Tobago has not objected to it in accordance with Article 6ter(4) or any such objection has been withdrawn.

(2) For the purposes of rule 12A the emblems, abbreviations and names of an international organisation shall be regarded as protected under the Paris Convention only if, or to the extent that—

- (a) the organisation in question has notified Trinidad and Tobago in accordance with Article 6ter(3) of the Convention that it desires to protect that emblem, abbreviation or name;
- (b) the notification remains in force; and
- (c) Trinidad and Tobago has not objected to it in accordance with Article 6ter(4) or any such objection has been withdrawn.

(3) Notification under Article 6ter(3) of the Paris Convention shall have effect only in relation to applications for registration made more than two months after receipt of the notification.

(4) The Controller shall keep and make available for public inspection by any person, at all reasonable hours and free of charge, a list of—

- (a) the State emblems and official signs or hallmarks; and
- (b) the emblems, abbreviations and names of international organisations,

which are for the time being protected under the Paris Convention by virtue of notification under Article 6ter(3).

Arms of city,
etc.
[45 of 1979].

13. Subject to the next following rule, where a representation of the armorial bearings, insignia, orders of chivalry, decorations or flags of any State, Colony, city, borough, town, place, society, body corporate, institution or person appears on a mark, the Controller, before proceeding to register the mark, shall, if he so

require, be furnished with a consent to the registration and use of such emblems from such official or other person as appears to the Controller to be entitled to give consent, and in default of such consent he may refuse to register the mark.

14. The Controller shall refuse to register any mark consisting of, or so nearly resembling as to be likely to be mistaken for, any national, territorial or civic flag, arms, crest or emblem or official control and guarantee stamp, notice of the objection to the use of which as a commercial device has been received by the Controller pursuant to the provisions of the Convention except either with the consent of such person, authority, society or organisation as may be considered to have been intended to be protected by this rule or otherwise in accordance with the provisions of the Convention.

Restraint of arms, etc., of Convention countries. [45 of 1979].

15. Where the name or representation of any person appears on a trade mark, the Controller shall, if he so requires, before proceeding to register the mark be furnished with consent from him or, in the case of a person recently dead, from his legal representatives, and in default of such consent he may refuse to register the mark.

Living persons or persons recently dead.

16. (1) Where the name or description of any goods appears on a trade mark, the Controller may refuse to register such mark in respect of any goods other than the goods so named or described.

Name or description of goods on a trade mark.

(2) Where the name or description of any goods appears on a trade mark, which name or description in use varies, the Controller may permit the registration of the mark for those and other goods, and in that case the applicant shall state in his application that the name or description will be varied when the mark is used upon goods covered by the specification other than the named or described goods.

APPLICATION FOR REGISTRATION OF A TRADE MARK SPECIFICATION

17. (1) An application to the Controller for the registration of a trade mark shall be signed by the applicant or his agent. For a trade mark other than a Certification trade mark the application shall be made on Form TM—No. 2. For a Certification trade mark the application shall be made on Form TM—No. 4.

Form of application. Specification. [197/1997].

(2) Every application claiming priority under section 76 or 77 by reason of an application to register the trade mark made or deemed to have been made in a Convention country as defined in section 76 in a Commonwealth country not being a Convention country as defined in section 77 which country shall be named, shall state the date of that application, and the applicant shall furnish a certificate by the Controller or other registering authority of that country, or shall otherwise verify the application made or deemed to have been made therein to the satisfaction of the Controller.

(3) In the case of an application for registration in respect of a large variety of goods, the Controller may refuse to accept the application unless he is satisfied that the specification is justified by the use of the mark which the applicant has made, or intends to make if and when it is registered.

Representation of mark.

18. (1) Every application for the registration of a trade mark shall contain a representation of the mark in the space provided on the application form for that purpose.

(2) Where the representation exceeds such space in size the representation shall be mounted upon linen, tracing cloth or such other material as the Controller may consider suitable. Part of the mounting shall be affixed in the space mentioned above and the rest may be folded.

Additional forms and representations.

19. There shall be sent with every application for registration of a trade mark four additional representations of the mark. The representation of the mark on the application and the additional representations shall correspond exactly.

Representations to be durable.

20. All representations of marks must be of a durable nature.

Single applications for goods and services in several classes. [197/1997].

21. (1) One and the same application may relate to several goods, services, or goods and services irrespective of whether they belong to one class or to several classes of the Nice Classification.

(2) Goods or services may not be considered as being similar to each other on the ground that in any registration or publication by the office, they appear in the same class of the Nice Classification.

(3) Goods or services may not be considered as being dissimilar to each other on the ground that in any registration or publication by the office, they appear in different classes of the Nice Classification.

21A. (1) Any application listing several goods, services or goods and services may—

Division of application or registration. [197/1997].

- (a) at least until the decision by the Controller on the registration of the mark;
- (b) during any opposition proceedings against the decision of the Controller to register the mark; and
- (c) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at his request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter goods, services or goods and services listed in the initial application.

(2) The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(3) Subrules (1) and (2) shall apply, *mutatis mutandis*, with respect to a division of a registration.

(4) A division of a registration shall be permitted—

- (a) during any proceedings in which the validity of the registration is challenged before the Controller by a third party; or
- (b) during any appeal proceedings against a decision taken by the Controller during the former proceedings.

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

Representations to be satisfactory.

Specimens of trade marks in exceptional cases.

23. (1) Where a drawing or other representation or specimen cannot be given in manner mentioned above, 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 Controller may think most convenient.

(2) The Controller 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.

24. Where application is made for the registration of a series of trade marks under section 26(3), a representation of each trade mark of the series shall be included, all as mentioned above, in the application form.

Transliteration and translation.

25. (1) Where a trade mark contains a word or words in characters other than Roman, there shall, unless the Controller otherwise directs, be endorsed on the application form, a sufficient transliteration and translation to the satisfaction of the Controller of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant or his agent.

(2) Where a trade mark contains a word or words in a language other than English, the Controller may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as mentioned above.

PROCEDURE ON RECEIPT OF APPLICATION FOR REGISTRATION OF A TRADE MARK

Search.

26. Upon receipt of an application for the registration of a trade mark in respect of any goods the Controller shall cause a search to be made, amongst the registered marks, and pending applications, for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark applied for, or so nearly resembling

it as to render the mark applied for likely to deceive or cause confusion, and the Controller may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

27. After such search, and consideration of the application, and of any evidence of use or of distinctiveness or of any other matter which the applicant may or may be required to furnish, the Controller may accept the application absolutely, or he may object to it, or he may express his willingness to accept it subject to such conditions, amendments, disclaimer, modifications or limitations as he may think right to impose.

Acceptance,
absolute or
conditional;
objection.

28. If the Controller objects to the application, he shall inform the applicant of his objections in writing, and unless within one month the applicant applies for a hearing or makes a considered reply in writing to those objections he shall be deemed to have withdrawn his application.

Controller's
objections.
Hearing.

29. (1) If the Controller is willing to accept the application subject to any conditions, amendments, disclaimer, modifications or limitations, he shall communicate such willingness to the applicant in writing, and, if the applicant objects to such conditions, amendments, disclaimer, modifications, or limitations he shall, within one month from the date of the communication apply for a hearing or communicate his considered objections in writing, and if he does not do so he shall be deemed to have withdrawn his application.

Controller's
conditions, etc.
Hearing.

(2) If the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations, he shall forthwith notify the Controller in writing, and alter his application accordingly.

30. (1) The decision of the Controller, at a hearing as in rule 28 or rule 29, or without a hearing if the applicant has duly communicated his considered objections or considered reply, in writing, and has stated that he does not desire to be heard,

Decision of
Controller.

shall be communicated to the applicant in writing, and if the applicant objects to such decision he may within one month by applying upon Form TM—No. 3 require the Controller to state in writing the grounds of, and the materials used by him in arriving at, his decision.

(2) In a case where the Controller makes any requirements to which the applicant does not object, the applicant shall comply therewith before the Controller issues such statement in writing. The date when such statement is sent to the applicant shall be deemed to be the date of the Controller's decision for the purpose of appeal.

Disclaimer.

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

32. (*Revoked by LN 197/1997*).

CERTIFICATION TRADE MARKS

Application under section 50.

33. An application for the registration of a certification trade mark under section 50 shall be made to the Controller upon Form TM—No. 4, and shall be accompanied by two duplicates of the application on unstamped copies of Form TM—No. 4, and by six additional representations of the trade mark.

Authorisation to proceed.

34. (1) These Rules shall apply to such applications as they apply to applications for the registration of ordinary trade marks, except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application, and that the applicant shall not be deemed to have abandoned his application if in the circumstances of rule 28 or rule 29 he does not apply for a hearing or reply in writing.

(2) The address of an applicant to register a certification trade mark shall be deemed to be a trade or business address for all the purposes for which such an address is required by these Rules.

35. (1) The applicant shall send to the Controller with his application or when required by the Controller a case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the mark and Form TM—No. 28, all being in duplicate.

Case; draft regulations.

(2) The Controller may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may modify either of those documents.

ADVERTISEMENT OF APPLICATION

36. (1) An application for the registration of a trade mark required or permitted to be advertised by section 20 or paragraph 2 of the Schedule to the Act shall be advertised in a daily newspaper or other periodical circulating in Trinidad and Tobago during such times and in such manner as the Controller may direct.

Advertisement of application. [198/1994].

(2) In the case of an application with which the Controller proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant, the words “By Consent” shall appear in the advertisement.

(3) If no representation of the trade mark be included in the advertisement of the application, the Controller shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

37. For the purposes of such advertisement the applicant may, at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of the trade mark satisfactory to the Controller, of such dimensions as may from time to time be approved or directed by the Controller, or shall supply such information or other means of advertising the trade mark as may be required by the Controller; and the Controller, if dissatisfied with the printing block supplied by the applicant or his agent, may require a fresh block before proceeding with the advertisement.

Wood block or electrotype printing.

Advertisement
of series.

38. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in section 26(3), the applicant may be required to supply a printing block (or more than one if necessary) satisfactory to the Controller of any or of each of the trade marks constituting the series; or the Controller may, if he thinks fit, insert with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

Advertisement
under section 22
or section 49.

39. Advertisements under sections 22(5), 49(2) and 49(4) shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

OPPOSITION TO REGISTRATION

Opposition.
[198/1994].

40. Any person may within three months from the date of any advertisement in a daily newspaper or other periodical circulating in Trinidad and Tobago of an application for registration of a trade mark give notice on Form TM—No. 5 to the Controller of opposition to the registration.

Notice of
opposition.
[198/1994].

41. (1) The notice shall include a statement of the grounds upon which the opponent objects to the registration.

(2) If registration is opposed on the ground that the mark resembles marks already on the Register, the numbers of such trade marks and the numbers of a daily newspaper or other periodical circulating in Trinidad and Tobago in which they have been advertised shall be set out.

(3) The notice shall be accompanied by an unstamped duplicate which the Controller will forthwith send to the applicant.

Counter-
statement.

42. (1) Within one month from the receipt of such duplicate the applicant shall send to the Controller a counter-statement on Form TM—No. 6 setting out the grounds on which he relies as supporting his application.

(2) The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits.

(3) The counter-statement shall be accompanied by an unstamped duplicate.

43. Upon receipt of the counter-statement and duplicate the Controller will forthwith send the duplicate to the opponent and within one month from the receipt of the duplicate the opponent shall leave with the Controller such evidence by way of statutory declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant copies thereof.

Evidence in support of opposition.

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

Evidence in support of application.

45. Within one month from the receipt by the opponent of the copies of the applicant's declarations the opponent may leave with the Controller evidence by statutory declaration in reply, and shall deliver to the applicant copies thereof. This evidence shall be confined to matters strictly in reply.

Evidence in reply by opponent.

46. No further evidence shall be left on either side but, in any proceedings before the Controller, he may at any time if he thinks fit give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.

Further evidence.

47. (1) 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 and at his expense, or, if such copies or impressions cannot conveniently be furnished, the originals shall be left with the Controller in order that they may be open to inspection.

Exhibits.

(2) The original exhibits shall be produced at the hearing unless the Controller otherwise directs.

Hearing.

48. (1) Upon completion of the evidence the Controller shall give notice to the parties of a date when he will hear the arguments in the case.

(2) 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.

(3) Within seven days from the receipt of the notice any party who intends to appear shall so notify the Controller on Form TM—No. 7.

(4) A party who receives notice as mentioned above and who does not, within seven days from the receipt thereof, so notify the Controller on Form TM—No. 7, may be treated as not desiring to be heard and the Controller may act accordingly.

Extension of time.

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

Security for costs.

50. Where a party giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in Trinidad and Tobago, the Controller may require him to give security, in such form as the Controller may deem sufficient, for the costs of the proceedings before the Controller, for such amount as to the Controller may seem fit, and at any stage in the opposition proceedings may require further security to be given at any time before giving his decision in the case.

Costs in uncontested case.

51. In the event of an opposition being uncontested by the applicant, the Controller 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 notice of opposition was lodged.

52. Within three months from the date of any advertisement in a daily newspaper or other periodical circulating in Trinidad and Tobago of an application for the registration of a certification trade mark, any person may give notice to the Controller on Form TM—No. 5 of opposition under paragraph 2 of the Schedule to the Act, and rules 41 to 51 shall apply to the proceedings thereon; in any case of doubt any party may apply to the Controller for directions.

Opposition to application under section 50. [198/1994].

NON-COMPLETION

53. (1) Where an application does not, at the time of its receipt by the Controller, comply with any of the following requirements:

- (a) an express or implicit indication that the registration of a mark is sought;
- (b) indications allowing the identity of the applicant to be established;
- (c) indications sufficient to contact the applicant or his representative, if any, by mail;
- (d) a sufficiently clear reproduction of the trade mark whose registration is sought;
- (e) the list of the goods or services for which the registration is sought,

Filing requirements. [197/1997].

the Controller shall invite the applicant to comply with such requirements within one month from the date of the invitation where the applicant's address is in Trinidad and Tobago and two months where the applicant's address is outside Trinidad and Tobago, but if the Controller fails to send the invitation the above requirements shall remain unaffected.

(2) Where, within the time limit indicated in the invitation, the applicant complies with the invitation and pays the prescribed fees, the filing date shall be the date on which all the requirements referred to in subsection (1) have been received by the Controller and the prescribed fee has been paid to the office and, if the applicant does not comply with the invitation or pay the prescribed fees within the time, then such application shall be treated as if it has not been filed.

(3) The Controller may accord as the filing date of the application the date on which the Controller received only some, rather than all, of the indications and elements referred to in subsection (1) or received them in a language other than English.

ENTRY IN THE REGISTER AND ASSOCIATED MARKS

Entry in
Register.
[198/1994
197/1997].

54. (1) As soon as may be after the expiration of three months from the date of the advertisement in a daily newspaper or other periodical circulating in Trinidad and Tobago of any application for the registration of a trade mark, the Controller shall, subject to any opposition and the determination thereof, and subject to the provisions of section 23, enter the trade mark in the Register.

(2) The entry of a trade mark in the Register shall give the date of the registration, the goods in respect of which it is registered, and all particulars mentioned in section 3(1), including both the trade or business address and the address for service, particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertakings by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration, and such other particulars as are prescribed.

(3) In the case of an application as mentioned above which the Controller accepts only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant for registration, the above-mentioned entry in the Register shall state that it is "By Consent" and shall give the number of the previous registration or the application for registration.

Associated
marks.

55. (1) Where a mark is registered as associated with any other mark or marks the Controller shall note in the Register in connection with the first-mentioned mark the numbers of the marks with which it is associated and shall also note in the Register in connection with each of the associated marks the number of the first-mentioned mark as being a mark associated therewith.

(2) An application by a registered proprietor under section 32(5) to the Controller to dissolve the association between two or more associated trade marks shall be made on Form TM—No. 16, and shall include a statement of the grounds of the application.

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

Death of applicant before registration.

RENEWAL

57. An application for the renewal of the registration of a trade mark under section 25A of the Act shall be made on Form TM—No. 9.

Application for renewal. [197/1997].

58. }
59. } (*Revoked by LN 197/1997*).

60. Where a trade mark has been removed from the Register, the Controller shall cause to be entered in the Register a record of the removal and of the cause thereof.

Record of removal of mark.

ASSIGNMENTS AND TRANSMISSIONS

61. Where a person becomes entitled by assignment or transmission to a registered trade mark he may, jointly with the proprietor, make application to the Controller on Form TM—No. 12 together with a certificate on Form TM—No. 13 or a transfer document on Form TM—No. 14 to register his title.

Registration of assignment. [197/1997].

62. }
 to } *(Revoked by LN 197/1997).*
 65. }

Application for
 entry of
 assignment
 without
 goodwill.
 [198/1994
 197/1997].

66. (1) Where an application made under rule 61 is made the applicant shall leave with the Controller a copy of the Controller's directions, to advertise the assignment, obtained upon application under section 31 and rule 70, and such proof, including copies of advertisements or otherwise, as the Controller may require that his directions have been fulfilled; and if the Controller is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

(2) For the purposes of section 43(3), the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark, upon application made under rule 61, shall be six months from the date of advertisement in a daily newspaper or other periodical circulating in Trinidad and Tobago of the registration of the trade mark or such further period not exceeding six months as the Controller may allow, on application being made to him on Form TM—No. 11 by the applicant for registration of title or the registered proprietor, as the case may be, at any time before or during the period for which the extension can be allowed.

Entry in
 Register.

67. When the Controller is satisfied as to the title of the person claiming to be registered, he shall cause him to be registered as proprietor of the trade mark in respect of the relevant goods, and shall enter in the Register his name, trade or business address and description and particulars of the assignment or transmission.

Separate
 registrations.
 [197/1997].

68. Where pursuant to an application under rule 61, and as the result of a division and separation of the goods of a registration or a division and separation of places or markets, different persons become registered separately under the same official number as subsequent proprietors of a trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be a separate registration for all the purposes of the Act.

69. (1) Any person who desires to obtain the Controller's certificate under section 29(2), or his notification of approval under section 30(1), or under section 73, shall send to the Controller, with his application on Form TM—No. 31 or No. 32, as the case may be, a statement of case in duplicate setting out the circumstances, and a copy of any instrument or proposed instrument effecting the assignment or transmission.

Controller's certificate or approval as to certain assignments and transmissions.

(2) The Controller may call for any evidence of further information that he considers necessary, and the statement of case shall be amended if required to include all the relevant circumstances and shall if required be verified by a statutory declaration.

(3) The Controller, after hearing if so required the applicant and any other person whom the Controller may consider to be interested in the transfer, shall consider the matter and issue a certificate thereon or a notification in writing of approval or disapproval thereof, as the case may be.

(4) Where a statement of case is amended, two fair copies thereof in its final form shall be left with the Controller.

(5) The Controller shall seal a copy of the statement of case in its final form to the certificate or notification.

70. (1) An application to the Controller under section 31(1) shall be made by the assignee on Form TM—No. 33 and shall state the date on which the assignment was made.

Controller's directions for advertisement of assignment without goodwill of trade mark in use.

(2) The application shall give particulars of the registration in the case of a registered trade mark, and, in the case of an unregistered trade mark, shall show the mark and give particulars of the registered trade mark that has been assigned therewith in accordance with section 28.

(3) The Controller may call for any evidence or further information, and if he is satisfied with regard to the various matters he shall issue directions in writing with respect to the advertisement of the assignment.

(4) The Controller may refuse to consider such an application in a case to which section 30(1) applies unless his approval has been obtained under the said subsection and a reference identifying the Controller's notification of approval is included in the application.

(5) A request to the Controller for an extension of the period within which the application may be made, which shall be on Form TM—No. 34, may be made at any time before or during the period for which extension can be allowed. The extension of the period which the Controller may allow shall not exceed three months.

ALTERATION OF ADDRESS

Alteration of
address in
Register.
[197/1997].

71. (1) A registered proprietor of a trade mark—

- (a) whose trade or business relation is changed so that the entry in the Register is rendered incorrect;
- (b) whose address for service in Trinidad and Tobago entered in the Register is changed, whether by discontinuance of the entered address or otherwise, so that the entry in the Register is rendered incorrect;
- (c) whose registered trade or business address or address for service is altered by a public authority, so that the changed address designates the same premises as before,

shall forthwith request the Controller on Form TM—No. 15 to make the appropriate alteration of the address in the Register, and the Controller shall alter the Register accordingly if he is satisfied in the matter.

(2) In case of the alteration of the address of a person entered in the Register as the address for service of more than one registered proprietor or registered user of trade marks, the Controller may, on proof that the said address is the address of the applicant and if satisfied that it is just to do so, accept

an application from that person on Form TM—No. 15 amended so as to suit the case for the appropriate alteration of the entries of his address as the address for service in the several registrations, particulars of which shall be given in the form, and may alter the entries accordingly.

(3) All applications made under this rule or Form TM—No. 15, shall be signed by the registered proprietor, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Controller otherwise allows.

APPLICATIONS TO THE CONTROLLER FOR RECTIFICATION

72. (1) An application to the Controller under any of the sections 35, 36, 46 or 47 for the making, expunging or varying of any entry in the Register shall be made on Form TM—No. 23, and shall be accompanied by a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks.

Application to rectify or remove a trade mark from the Register.

(2) Where the application is made by a person who is not the registered proprietor of the trade mark in question it shall be accompanied by an unstamped copy of the application and a copy of the statement, and these copies will be transmitted forthwith by the Controller to the registered proprietor.

73. Upon such application being made, and copy thereof transmitted to the registered proprietor, if necessary, the provisions of rules 42 to 51 shall apply *mutatis mutandis* to the further proceedings thereon; but the Controller shall not rectify the Register or remove the mark from the Register merely because the registered proprietor has not filed a counter-statement. In any case of doubt any party may apply to the Controller for directions.

Further procedure.

Intervention by
third parties.

74. (1) 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. 23 may apply to the Controller on Form TM—No. 24 for leave to intervene, stating thereon the nature of his interest, and the Controller may refuse or grant such leave, after hearing (if so required) the parties concerned, upon such conditions and terms as he deems fit.

(2) Before dealing in any way with the application for leave to intervene the Controller may require the applicant to give an undertaking to pay such cost as in the circumstances he may award to any party.

**APPLICATIONS FOR ALTERATION OF THE REGISTER
BY CORRECTION, CHANGE, CANCELLATION OR
STRIKING OUT GOODS, OR FOR ENTRY OF
DISCLAIMER, MEMORANDUM OR NOTE**

Application
under section
48(1).

75. (1) An application to the Controller under section 48(1) for the alteration of the Register by correction, change, cancellation or striking out goods, or for the entry of a disclaimer or memorandum, may be made by the registered proprietor of the trade mark or by such person as may satisfy the Controller that he is entitled to act in the name of the registered proprietor.

(2) Such applications shall be made on Form TM—No. 15, TM—No. 17, TM—No. 19, TM—No. 20, TM—No. 21 or as may be appropriate; but an application on Form TM—No. 19, or TM—No. 20, shall be signed by the registered proprietor or other person entitled under this rule unless in exceptional circumstances the Controller otherwise allows or, in the case of Form TM—No. 15 only, it is signed by an agent expressly authorised for the purpose of such an application.

Evidence.

76. In the case of an application as in rule 75, the Controller may require such evidence by statutory declaration or otherwise as he thinks fit as to the circumstances in which the application is made.

77. Where application is made, on Form TM—No. 21, to enter a disclaimer or memorandum relating to a trade mark, the Controller, before deciding upon such application, shall advertise the application in a daily newspaper or other periodical circulating in Trinidad and Tobago in order to enable any person desiring so to do to state, within one month of the advertisement, any reasons in writing against the making of the entry of the disclaimer or memorandum.

Advertisement of certain applications. [198/1994].

78. (1) Where the Court has certified as provided in section 56 with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Controller on Form TM—No. 37 to add to the entry in the Register a note that the certificate of validity has been granted in the course of the proceedings which shall be named in the Form.

Certificates of validity to be noted. [198/1994].

(2) An office copy of the certificate shall be sent with the request, and the Controller shall so note the Register and publish the note in a daily newspaper or other periodical circulating in Trinidad and Tobago.

APPLICATIONS TO ALTER REGISTERED TRADE MARKS

79. (1) A registered trade mark shall not be altered in the Register, during the period of registration or on renewal.

Alteration of registered trade mark. [197/1997].

(2) Notwithstanding subrule (1), the Controller may, at the request of the proprietor, allow the alteration of a registered trade mark where the mark includes the proprietor's name or address and the alteration is limited to alteration of that name or address and does not substantially affect the identity of the trade mark.

80. (1) The Controller shall consider the application and shall, if it appears to him expedient, advertise the application in a daily newspaper or other periodical circulating in Trinidad and Tobago before deciding it.

Advertisement before decision. [198/1994].

(2) Within one month from the date of such advertisement any person may give notice of opposition to the application, on Form TM—No. 35 accompanied by an unstamped duplicate of the notice, and may also send therewith a further statement of his objections in duplicate.

(3) The Controller shall send the duplicate notice, and the duplicate of any further statement of objections, to the applicant, and rules 41 to 52 shall apply *mutatis mutandis* to the further proceedings thereon.

(4) In any case of doubt any party may apply to the Controller for directions.

Decision.
[198/1994].

Advertisement.

Notification.

Advertisement
illustration.

81. If the Controller decides to allow the application he shall add to or alter the mark in the Register, and if the mark so added to or altered has not been advertised under rule 80, he shall advertise it in a daily newspaper or other periodical circulating in Trinidad and Tobago and in any case shall insert in a daily newspaper or other periodical circulating in Trinidad and Tobago a notification that the mark has been altered.

82. In connection with an application to alter a registered trade mark the Controller may at any time call on the applicant to supply a printing block satisfactory to the Controller and suitable for advertising the mark with the addition or alteration as mentioned above, if in the opinion of the Controller an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

RECTIFICATION AND ALTERATION OF CERTIFICATION TRADE MARK ENTRIES AND REGULATIONS

Rectification of
certification
Trade Mark
entries by the
Controller.

83. An application on any of the grounds mentioned in paragraph 4 of the Schedule to the Act, made by an aggrieved person to the Controller for an order expunging or varying an entry in the Register of or relating to a certification trade mark, or varying the relevant deposited regulations, shall be made on Form TM—No. 30 and shall include full particulars of the grounds on which the application is made.

ALTERATION OF CERTIFICATION TRADE MARK REGULATIONS

Alteration of
regulations.

84. (1) An application by the registered proprietor of a certification trade mark for an alteration of the deposited regulations shall be made on Form TM—No. 29.

(2) Where the Controller causes such an application to be advertised the time within which any person may give notice to the Controller of opposition to the application shall be one month from the date of the advertisement.

REGISTERED USERS

85. An application to the Controller for the registration under section 37 of a person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on Form TM—No. 38.

Application for entry of Registered User.

86. (1) The entry of a registered user in the Register shall state the date on which it was made.

Entry and notification. [198/1994].

(2) In addition to the trade or business address of the registered user it may include an address for service, if an application by him on Form TM—No. 15 therefor has been approved.

(3) A notification in writing of the registration of a registered user shall be sent to the registered proprietor of the trade mark, to the registered user, and to every other registered user whose name is entered in relation to the same registration of a trade mark, and shall be inserted in a daily newspaper or other periodical circulating in Trinidad and Tobago.

87. An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under section 41(1)(a) shall be made on Form TM—No. 39, and shall be accompanied by a statement of the grounds on which it is made and, where the registered user in question consents, by the written consent of that registered user.

Registered proprietor's application to vary entry.

88. An application by the registered proprietor or any registered user of a trade mark for the cancellation of the registration of a registered user of that trade mark under section 41(1)(b) shall be made on Form TM—No. 40, and shall be accompanied by a statement of the grounds on which it is made.

Application by registered proprietor of user to cancel entry.

Application under section 41(1)(c) to cancel entry.

89. An application by any person for the cancellation of the registration of a registered user under section 41(1)(c) shall be made on Form TM—No. 41, and shall be accompanied by a statement of the grounds on which it is made.

Notification and hearing.

90. (1) The Controller shall notify in writing applications under rules 85, 86 and 87 to the registered proprietor and each registered user (not being the applicant) under the registration of the trade mark.

(2) Any person so notified who intends to intervene in the proceedings shall within one month of the receipt of such notification give notice to the Controller on Form TM—No. 42 to that effect and shall send therewith a statement of the grounds of his intervention.

(3) The Controller shall thereupon send copies of such notice and statement to the other parties, so that the intervention may be known to the applicant, the registered proprietor, the registered user whose registration is in suit, and any other registered user who intervenes.

(4) Any such party may, within such time or times as the Controller may appoint, leave evidence in support of his case, and the Controller after giving the parties an opportunity to be heard may accept or refuse the application or accept it subject to any conditions, amendments, modifications or limitations he may think right to impose.

Registered user's application under section 48(2).

91. (1) Applications under section 48(2) shall be made on Form TM—No. 15, or TM—No. 17, as may be appropriate, by a registered user of a trade mark, or by such person as may satisfy the Controller that he is entitled to act in the name of a registered user; and the Controller may require such evidence by statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Cancellation by Controller.

(2) In case of the registration of a registered user for a period, in accordance with section 37(4)(d) the Controller shall cancel the entry of the registered user at the end of the period.

(3) Where some or all of the goods are struck out from those in respect of which a trade mark is registered, the Controller shall at the same time strike them out from those specifications of registered users of the trade mark in which they are comprised.

(4) The Controller shall notify every cancellation or striking out under this subrule to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

EXTENSION OF TIME

92. If in any particular case the Controller is satisfied that the circumstances are such as to justify an extension of the time for doing any act or taking any proceeding under these Rules, not being a time expressly provided in the Act or prescribed by rule 66 or rule 70, he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceeding.

Extension of time.

93. Whenever the last day fixed by the Act, or by these Rules, for doing any act or thing at the Office shall fall on a day when the Office is not open or on a Saturday, which days shall be excluded days for the purposes of the Act and these Rules, it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.

Excluded days.

DISCRETIONARY POWER

94. Before exercising adversely to any person any discretionary power given to the Controller by the Act, or these Rules, the Controller shall, if so required, hear a person thereon.

Hearing.

95. An application for a hearing shall be made within one month from the date of notification by the Controller of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.

Application for hearing.

Notice of hearing.

96. (1) Upon receiving such application the Controller shall give the person applying ten days' notice of a time when he may be heard.

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

Notification of decision.

97. The decision of the Controller in the exercise of any such discretionary power as mentioned above shall be notified to the person affected.

POWER TO DISPENSE WITH EVIDENCE

Dispensing with evidence.

98. 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 Controller, or at the Office, and it is shown to the satisfaction of the Controller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as mentioned above, it shall be lawful for the Controller, 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, signature, declaration, document or evidence.

AMENDMENTS

Amendment of documents.

99. 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 Controller may be excused without detriment to the interests of any person may be corrected, if the Controller thinks fit, and on such terms as he may direct.

CERTIFICATES

Certificates by Controller.

100. (1) The Controller may give a certificate, as to any entry, matter or thing which he is authorised or required by the Act or these Rules to make or do, upon receipt of a request therefor on Form TM—No. 25 from any person who, if the Controller thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction.

(2) Except in a case falling under rule 101 the Controller shall not be obliged to include in the certificate a copy of any mark, unless he is furnished by the applicant with a copy thereof suitable for the purpose.

101. Where a mark is registered without limitation of colour the Controller may grant a certificate of 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; but in the last-mentioned case the certificate shall be marked: "For use in obtaining registration abroad only".

Marks registered without limitation of colour.

102. (1) Where a certificate or registration of a trade mark is desired for use in obtaining registration abroad, the Controller shall include in the certificate a copy of the mark and may require the applicant for the certificate to furnish him with a copy of the mark suitable for the purpose and, if the applicant fails to do so, may refuse to issue the certificate.

Certificates for use in obtaining registration abroad.

(2) The Controller may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimers appearing in the Register; but in the last-mentioned case the certificate shall be marked: "For use in obtaining registration abroad only".

DECLARATIONS

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

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

- (a) in Trinidad and Tobago, before any Justice or any Commissioner of Affidavits or other officer authorised by law in any part of Trinidad and Tobago to administer an oath for the purpose of any legal proceeding;

- (b) in any other part of the Commonwealth, before any Court, Judge, Justice or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and
- (c) if made out of the Commonwealth, before a diplomatic agent or a consular officer of Trinidad and Tobago, or a notary public, or a Judge or Magistrate.

Notice of seal of officer taking declaration to prove itself.

104. Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised by rule 103 to take a declaration in testimony that the declaration was made and subscribed before him, may be admitted by the Controller without proof of the genuineness of the seal or signature or of the official character of the person or his authority to take the declaration.

APPLICATIONS TO AND ORDERS OF THE COURT

Application to Court.

105. Every application to the Court under the Act shall be served on the Controller.

Order of Court.

106. (1) Where an order has been made by the Court in any case under the Act, the person in whose favour such order has been made, or such one of them, if more than one, as the Controller may direct, shall forthwith leave at the Office an office copy of such order, together with Form TM—No. 36 if required.

(2) The Register may, if necessary, thereupon be rectified or altered by the Controller.

Publication of Order of Court. [198/1994].

107. Whenever an order is made by the Court under the Act the Controller may, if he thinks that the order should be made public, publish it in a daily newspaper or other periodical circulating in Trinidad and Tobago.

FIRST SCHEDULE

Rule 3.
 [45 of 1979
 51/1980
 6 of 1993
 169/1993
 3 of 1994
 197/1997].

FEES

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

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
1. On application not otherwise charged to register a trade mark for a specification of goods included in one class or to register a series of trade marks under section 26(3) for a specification of goods included in one class	\$300.00 for an application in one class and \$100.00 for each additional class	TM—No. 2
1a. } Deleted		
1b. }		
1c. On application under section 50 to register a certification trade mark for a specification of goods included in one class	\$300.00	TM—No. 4
1d. On applications made at the same time under section 50 to register one certification trade mark for specification of goods not all included in one class— In respect of every class Total fee in no case to exceed \$150.00 for any number of classes	\$300.00	TM—No. 4
2. On a request to the Controller to state grounds of decision relating to an application to register a trade mark and materials used	\$60.00	TM—No. 3
3. On notice of opposition before the Controller under section 21, for each application opposed, by opponent	\$100.00	TM—No. 5
3a. On lodging a counter-statement in answer to a notice of opposition under section 21, for each application opposed, by the applicant; or in answer to an application under any of the sections 35, 36, 46 and 47, by the proprietor in respect of each trade mark; or in answer to a notice of opposition under section 49 for each application opposed, by the proprietor ...	\$100.00	TM—No. 6

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

108

Chap. 82:81

Trade Marks

[Subsidiary]

Trade Marks Rules

FEES—Continued

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
3b. On the hearing of each opposition under section 21, by applicant and by opponent respectively; or on the hearing of an application under any of the sections 35,36,46 and 47, by applicant and by proprietor respectively; or on the hearing of an opposition under section 49, by proprietor and by opponent respectively ...	\$100.00	TM—No. 7
4. Upon each addition to the registered entry of a trade mark of a note that the mark is associated with a newly registered mark	\$10.00	—
4a. On an application to dissolve the association between registered trade marks	\$60.00	TM—No. 16
5. On application to register a registered user of a registered trade mark in respect of goods within the specification thereof	\$100.00	TM—No. 38
5a. On application to register the same registered user of more than one registered trade mark of the same registered proprietor in respect of goods within the respective specifications thereof and subject to the same conditions and restrictions in each case— For the first mark	\$100.00	TM—No. 38
And for every other mark of the proprietor included in the application and statement of case	\$10.00	—
5b. On application by the proprietor of a single trade mark, under paragraph (a) of section 41(1)(a), to vary the entry of a registered user thereof	\$100.00	TM—No. 39
5c. On application by the proprietor of more than one trade mark under paragraph (a) of section 41(1) to vary the entries of a registered user thereof: For the first mark	\$100.00	TM—No. 39
And for every other mark of the proprietor for which the same is registered, included in the application	\$10.00	—
5d. On application by the proprietor or registered user of a single trade mark, under paragraph (b) of section 41(1)(b) for cancellation of the entry of a registered user thereof	\$100.00	TM—No. 40

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

Trade Marks

Chap. 82:81

109

Trade Marks Rules

[Subsidiary]

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
5e. On application by the proprietor or registered user of more than one trade mark under paragraph (b) of section 41(1)(b), for cancellation of the entries of a registered user thereof—		
For the first mark	\$100.00	TM—No. 40
And for every other mark of the same proprietor for which the same user is registered, included in the application...	\$20.00	—
5f. On application, under paragraph (c) of section 41(1), to cancel the entry of a registered user of a single trade mark.... ..	\$100.00	TM—No. 41
5g. On application, under paragraph (c) of section 41(1) to cancel the entries of a registered user of more than one trade mark—		
For the first mark	\$100.00	TM—No. 41
And for every other mark of the same proprietor for which the same user is registered, included in the application...	\$20.00	—
5h. On notice under section 41(3) and rule 89, of intention to intervene in one proceeding for the variation or cancellation of entries of a registered user of trade marks	\$30.00	TM—No. 42
6. On request to enter in the register and advertise a certificate of validity, under section 56 and rule 78—		
For the first registration certified ...	\$40.00	TM—No. 37
And for every other registration certified in the same certificate	\$10.00	
6a. On application under section 43(3) and rule 66 for extension of time for registering a corporation as subsequent proprietor of trade marks on one assignment—		
Not exceeding two months	\$60.00	TM—No. 11
Not exceeding four months	\$90.00	TM—No. 11
Not exceeding six months	\$120.00	TM—No. 11
7. On application, for certificate of the Controller, under section 29(2) and rule 69—		
For the first mark proposed to be assigned	\$100.00	TM—No. 31
And for every other mark of the same proprietor included in that assignment...	\$10.00	

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

110

Chap. 82:81

Trade Marks

[Subsidiary]

Trade Marks Rules

FEES—Continued

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
7a. On application for approval of the Controller, under section 30(1) or section 73 and rule 69—		
For the first mark	\$60.00	TM—No. 32
And for every other mark of the same proprietor included in the same transfer	\$10.00	
7b. On application for directions by the Controller for advertisement of assignment of trade marks in use, without goodwill—		
For one mark assigned	\$60.00	TM—No. 33
And for every other mark assigned with the same devolution of title	\$10.00	
7c. On application for extension of time for applying for directions for advertisement of assignment of trade marks in use, without goodwill, in respect of one devolution of title—		
Not exceeding one month	\$60.00	TM—No. 34
Not exceeding two months	\$90.00	TM—No. 34
Not exceeding three months	\$120.00	TM—No. 34
8. On application to register a subsequent proprietor in a case of assignment or transmission of a single trade mark—		
If made within six months from the date of acquisition of proprietorship or the coming into force of these Rules ...	\$60.00	TM—No. 12 or 13
If made after the expiration of six months but within twelve months from the date of acquisition of proprietorship or the coming into force of these Rules ...	\$80.00	TM—No. 12 or 13
If made after the expiration of twelve months from the date of acquisition of proprietorship or the coming into force of these Rules	\$100.00	TM—No. 12 or 13
8a. On application to register a subsequent proprietor of more than one trade mark standing in the same name, the devolution of title being the same 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	\$60.00	TM—No. 12 or 13
And for every other mark	\$10.00	

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

Trade Marks

Chap. 82:81

111

Trade Marks Rules

[Subsidiary]

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
8b. On application to register a subsequent proprietor of more than one trade mark standing in the same name, the devolution of title being the same in each case— If made after expiration of six months but within twelve months from the date of acquisition of proprietorship or the coming into force of these Rules: For the first mark \$80.00 And for every other mark \$10.00 If made after expiration of twelve months from the date of acquisition of proprietorship or the coming into force of these Rules— For the first mark \$80.00 And for every other mark \$10.00 ...		TM—No. 12 or 13
9. On application to change the name or description of a proprietor or a registered user of a single trade mark where there has been no change in the proprietorship or in the identity of the user	\$30.00	TM—No. 15
9a. On application to change the name or description of a proprietor or a registered user of more than one trade mark standing in the same name, where there has been no change in the proprietorship or in the identity of the user, the change being the same in each case— For the first mark \$40.00 And for every other mark \$20.00		TM—No. 15
10. For renewal of registration of a trade mark at expiration of last registration	\$200.00	TM—No. 9
10a. For renewal of registration of a series of trade marks under section 26(3) at expiration of last registration— For the first mark of the series \$200.00 And for every other mark of the series \$10.00		TM—No. 9
10b. For renewal of registration of the same certification trade mark with the same date for goods in more than one class— In respect of every class	\$120.00	TM—No. 9
10c. Late renewal fee (in addition to renewal fee) ...	\$200.00	TM—No. 10
11. On an application to the Controller for leave to add to or alter a single registered trade mark...	\$100.00	TM—No. 22

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

112

Chap. 82:81

Trade Marks

[Subsidiary]

Trade Marks Rules

FEES—Continued

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
11a. On an application to the Controller for leave to add to or alter more than one registered trade mark of the same proprietor, being identical marks, the addition or alteration to be made, in each case, being the same— For the first mark And for every other mark	\$100.00 \$60.00	TM—No. 22
11b. On notice of opposition to application for leave to add to or alter registered trade marks, for each application opposed	\$60.00	TM—No. 35
12. For altering one or more entries of the trade or business address of a registered proprietor or a registered user of a trade mark where the address in each case is the same and is altered in the same way (unless exempted from fee under rule 82)— For the first entry And for every other entry	\$20.00 \$10.00	TM—No. 15
13. For every entry in the Register of a rectification thereof or an alteration therein, not otherwise charged	\$40.00	TM—No. 36
14. For cancelling the entry or part of the entry of a trade mark upon the Register of the application of the registered proprietor of the trade mark	\$100.00	TM—No. 19 or 20
15. On application under any of the sections 35, 36, 46 and 47, for rectification of the Register or removal of trade mark from the Register ...	\$100.00	TM—No. 23
15a. On application for leave to intervene in proceedings under any of the sections 35, 36, 46 and 47 for rectification of the Register or removal of trade mark from the Register ...	\$100.00	TM—No. 24
16. On request, not otherwise charged, for correction of clerical error or for permission to amend application	\$20.00	TM—No. 17
17. On request by registered proprietor of a trade mark for entry of disclaimer or memorandum in the Register	\$20.00	TM—No. 21

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

Trade Marks

Chap. 82:81

Trade Marks Rules

[Subsidiary]

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
18. On application to the Controller under rule 83 to expunge or vary the registration of a certification trade mark or to vary the deposited regulations of a certification trade mark or of certification trade marks of the same registered proprietor where the regulations are substantially the same	\$100.00	TM—No. 30
18a. On request to the Controller by the registered proprietor of a certification trade mark to permit alteration of the deposited regulations thereof— For the regulations of one such registration For the same or substantially the same regulations of each other registration proposed to be altered in the same way and included in the same request ...	\$60.00 \$6.00	TM—No. 29
19. For certificate of the Controller of the registration of a trade mark	\$150.00	TM—No. 25
19a. For certificate of the Controller of the registration of a series of trade marks under section 26(3)	\$150.00	TM—No. 25
20. For cancelling or making one or more entries of an address for service of a registered proprietor or a registered user of a trade mark where the address in each case is the same, on application made after the registration in each case— For the first entry And for every other entry included in the application	\$40.00 \$20.00	TM—No. 15
20a. For altering one or more entries of an address for service in the Register included in one application for alteration, where the address and the alteration in each case are the same— For the first entry And for every other entry	\$40.00 \$20.00	TM—No. 15
21. For inspecting Register or notice of opposition, counter-statement or decision in connection with any opposition or application for rectification of the Register relating to any particular trade mark	\$20.00	—
22. For office copy of documents, for every page or part thereof	\$5.00	—
23. For certifying office copies M.S. or photographic or printed matter	\$50.00	—

FEES—Continued

MATTER OR PROCEEDING	AMOUNT	CORRESPONDING FORM
24. For conditions as to registration	\$20.00	—
24A* Recordal of an assignment	\$100.00	TM—No. 12
25. For any certificate, other than a certificate of registration under item 19	\$80.00	—
25A* Recordal of change of address	\$40.00	TM—No. 15

For advertising according to advertisement rates.

For the purpose of these fees (except as specially provided above) every mark of a series under section 26 shall be deemed to be a mark separately registered.

* Act No. 3 of 1994 inserted items 24 and 25.

LN 197/1997 also inserted items 24 and 25. These latter items were re-numbered as 24A and 25A.

SECOND SCHEDULE

(Rule 4).
[197/1997].

FORMS

(Rule 10).

FORM TM—No. 1

TRADE MARKS ACT

AUTHORISATION OF AGENT

For Office use only

Reference number of person making the appointment*:

1. Appointment

The undersigned hereby appoints as his representative the person identified in item 3, below.

2. Name of the person making the appointment†

3. Representative

3.1 Name:

3.2 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):

(with the area code) (with the area code)

* The reference number allotted by the person making the appointment to this authorisation of agent may be indicated in this space.

† If the person making the appointment is the applicant (or one of the applicants), the name to be indicated is that of that applicant, as indicated in the application(s) to which this authorisation relates. If the said person is the holder (or one of the holders), the name to be indicated is that of that holder, as recorded in the Register of Marks. If the said persons or an interested person other than an applicant or holder, the name to be indicated is the full name of that person or the name customarily used by that person.

4. Application(s) and/or Registration(s) Concerned

This authorisation of agent concerns:

- 4.1 all existing and future applications and/or registrations of the person making the appointment, subject to any exception indicated on an additional sheet.
- 4.2 the following application(s) and/or registration(s):
- 4.2.1 the application(s) concerning the following mark(s)*:
- 4.2.2 the application(s) having the following application number(s)† as well as any registration(s) resulting therefrom:
- 4.2.3 the registration(s) having the following registration number(s):
- 4.2.4 If the spaces under 4.2.1, or 4.2.2 or 4.2.3 are not sufficient, check this box and provide the information on an additional sheet.

* Complete this item if the authorisation of agent is filed with the Office together with the application(s).

† Where the application number of an application has not yet been issued or is not known to the applicant or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office; or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or his representative, the application was received by the Office and an identification number given to the application by the applicant or his representative.

5. Scope of the Authorisation of Agent

5.1 Check this box if the representative has the right to act as representative for all purposes, including, where the person making the appointment is an applicant or a holder, the following purposes:

5.1.1 withdrawal of the application(s)

5.1.2 surrender of the registration(s)

5.2 Check this box if the representative does not have the right to act as representative for all purposes and indicate here or on an additional sheet purposes excluded from the powers of the representative:

6. Signature

6.1 Name of the natural person who signs:

6.2 Date of signature:

6.3 Signature:

7. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

FORM TM—No. 2

TRADE MARKS ACT
APPLICATION FOR THE REGISTRATION
OF A TRADE MARK

For Office use only

Reference number of applicant:*
Reference number of representative:*

1. Request for Registration

Registration of the mark reproduced in the present application is hereby requested
in Part† of the Register.

* The reference number allotted by the applicant and/or the reference number allotted by the
representative to the present application may be indicated in this space.

† Write here "A" or "B" according to registration desired.

2. Applicant(s)

2.1 If the applicant is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

2.2 If the applicant is a legal entity, the entity's full official designation:

2.3 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

2.4 State of nationality:

State of establishment:†

2.5 Where the applicant is a legal entity, indicate

the legal nature of the legal entity:

the State, and, where applicable, the territorial unit within that State, under the law of the legal entity is organised:

2.6 Check this box if there is more than one applicant: in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 2.1 or 2.2, 2.3, 2.4 and 2.5.‡

* The name to be indicated under (a) and (b) are either the full name of the applicant or the names customarily used by the applicant.

† "Establishment" means a real and effective industrial or commercial establishment.

‡ Where several applicants are listed on the additional sheet with different addresses and there is no representative, the address for correspondence must be underlined on the additional sheet.

3. Representative

3.1 The applicant is not represented.3.2 The applicant is represented.

3.2.1 Identification of the representative

3.2.1.1 Name:

3.2.1.2 Address (including postal code and country)

Telephone number(s):	Telefacsimile number(s):
(with the area code)	(with the area code)

3.2.2 The authorisation of agent is already in the possession of the Office. Serial number:*3.2.3 The authorisation of agent is attached.3.2.4 The authorisation of agent will be furnished at a later date.3.2.5 No authorisation of agent is needed.

4. Address for Service†

* To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the applicant or the representative.

† An address for service must be indicated in the space available under the title of item 4 where the applicant does not have or, if there is more than one applicant, where none of the applicants has a domicile or a real and effective industrial or commercial establishment in Trinidad and Tobago, except where a representative is indicated in item 3.

5. Claiming of Priority

The applicant hereby claims the following priority:

5.1 Country (Office) of first filing:*

5.2 Date of first filing:

5.3 Application number of first filing (if available):

5.4 The certified copy of the application the priority of which is claimed†

5.4.1 is attached.

5.4.2 will be furnished within three months from the filing date of the present application.

5.5 The translation of the certified copy.

5.5.1 is attached.

5.5.2 will be furnished within three months from the filing date of the present application.

5.6 Check this box if there is more than one filing whose priority is claimed; in that case, list them on an additional sheet and indicate, in respect of each of them, the information referred to in items 5.1, 5.2, 5.3, 5.4 and 5.5 and the goods and/or services mentioned in each of them.

* Where the application, the priority of which is claimed, was filed with an Office other than a national Office e.g., OAPI, the Benelux Trademark Office and the Office for Harmonisation in the Internal Market (trade marks and designs), the name of that Office has to be indicated instead of the name of a country. Otherwise, not the name of the Office but the name of the country must be indicated.

† “Certified copy” means a copy of the application the priority of which is claimed, certified as being in conformity with the original by the Office which received such application.

FORM TM—No. 2, Page 5

6. Registration(s) in the Country (Office) of Origin*

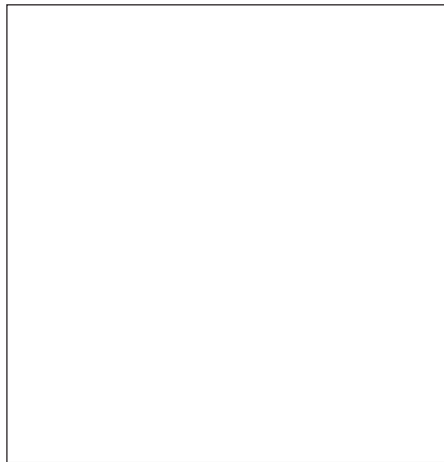
- The certificate(s) of registration in the country (Office) or origin is (are) attached.

7. Protection Resulting From Display in an Exhibition

- Check this box if the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition. In that case, give the details on an additional sheet.

8. Reproduction of the Mark

(8 cm x 8 cm)



* To be filled in where the applicant wishes to furnish evidence under Article 6 *quinquies* A(1) of the Paris Convention when filing the application.

FORM TM—No. 2, Page 6

- 8.1 The applicant wishes that the Office register and publish the mark in the standard characters used by it.*
- 8.2 Colour is claimed as a distinctive feature of the mark.
- 8.2.1 Name(s) of the colour(s) claimed:
- 8.2.2 Principal parts of the mark which are in that (those) colour(s):
- 8.3 The mark is three-dimensional.
- †different views of the mark are attached.
- 8.4 ‡Reproduction(s) of the mark in black and white is (are) attached.
- 8.5 ‡Reproduction(s) of the mark in colour is (are) attached.

9. Transliteration of the Mark

The mark or part of the mark is transliterated as follows:

10. Translation of the Mark

The mark or part of the mark is translated as follows:

* Such a wish cannot be expressed in respect of marks which contain or consist of figurative elements. If, in the opinion of the Office, they do contain such elements, the Office will ignore the wish of the applicant and will register and publish the mark as appearing in the square.

† If several different views of the mark are not included in the square provided in item 8 but are attached, check this box and indicate the number of those different views.

‡ Indicate the number of reproduction in black and white and/or colour.

11. Goods and/or Services

Names of the goods and/or services:*

- Check this box if the space above is not sufficient; in that case, give the names of the goods and/or services on an additional sheet.

12. Declaration Concerning Intention to Use or Actual Use: Evidence of Actual Use

12.1 Check this box if a declaration is attached.

12.2 Check this box if evidence of actual use is attached.

* Where the goods and/or services belong to more than one class of the Nice Classification, they must be grouped according to the classes of that Classification. The number of each class must be indicated and the goods and/or services belonging to the same class must be grouped following the indication of the number of that class. Each group of goods or services must be presented in the order of the classes of the Nice Classification. Where all the goods or services belong to one class of the Nice Classification, the number of that class must be indicated.

13. Signature

13.1 Name of the natural person who signs:

13.2 Check the appropriate box according to whether the signature is given of the:

13.2.1 applicant.

13.2.2 representative.

13.3 Date of signature:

13.4 Signature:

14. Fee(s)

14.1 Amount(s) of the fee(s) paid in connection with the present application:

14.2 Method of payment:

15. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

TRADE
MARKS
\$15

(Rule 30).
FORM TM—No. 3

TRADE MARKS ACT

REQUEST FOR STATEMENT
OF GROUNDS OF DECISION

(a) Insert words
and number
identifying the
matter or
proceeding.

IN THE MATTER OF (a)
the Controller is hereby requested to state in writing the grounds of his decision, dated
the day of 20....., after the hearing on the
..... day of, 20....., and the materials used
by him in arriving at the decision.

Dated this day of, 20.....

(b) Signature.

(b)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

If the Controller has made any requirement to which the Applicant does not object,
the Applicant shall comply therewith before the Controller issues the grounds of his
decision. [See Rule 30]

FORM TM—No. 4

(Rules 17, 33).

TRADE
MARKS
Fee: \$75

TRADE MARKS ACT

APPLICATION FOR REGISTRATION OF CERTIFICATION
TRADE MARK UNDER SECTION 50

(To be accompanied by two unstamped duplicates)

One representation to be fixed within this space, and six others to be supplied.

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

Application is hereby made for Registration in Part A of the Register of the accompanying Certification Trade Mark in Class, in respect of

(a) in the name of (b) whose address is

(c)

Dated this day of, 20.....

(d)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

(a) Here specify the goods. Only goods included in one and the same class should be specified. A separate application Form is required for each class.
(b) Here insert the full name, description and nationality of the applicant. If the applicant is a body corporate, the kind and country of incorporation should be stated.
(c) Here insert the full address of the applicant.
(d) Signature.

TRADE MARKS \$20

(Rules 40, 52). FORM TM—No. 5

TRADE MARKS ACT

NOTICE OF OPPOSITION TO APPLICATION FOR REGISTRATION OF A TRADE MARK

(To be accompanied by an unstamped duplicate)

IN THE MATTER OF an Application No. by of

(a) Here state full name and address.

(a) I (or We) hereby give notice of my (or our) intention to oppose the Registration of the Trade Mark advertised under the above number for Class in the dated the day of, 20...., No, page

The grounds of opposition are as follows:—

.....

(b) If registration is opposed on the ground that the mark resembles marks already on the Register, the numbers of those marks and of the daily newspaper or periodical in which they have been advertised are to be set out. The numbers of any marks in the Collection of Refused Cotton Marks that are relied on should also be given.

(b)

Address for Service in Trinidad and Tobago in these proceedings:—

.....

Dated this day of, 20.....

(c) Signature.

(c)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 6

(Rule 42).

TRADE
MARKS
\$20

TRADE MARKS ACT

FORM OF COUNTER-STATEMENT

(To be accompanied by an unstamped duplicate)

IN THE MATTER OF an Opposition No.

to Application No.

I, (or We,) the applicant(s) for
Registration of the above Trade Mark, hereby give notice that the following are the
grounds on which I (or we) rely as supporting my (or our) application:

.....
.....
.....

I (or We) admit the following allegations in the notice of Opposition:

.....
.....
.....

Address for service in Trinidad and Tobago in these proceedings:

.....
.....

Dated thisday of, 20.....

(a) (a) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

TRADE MARKS \$50

(Rule 48). FORM TM—No. 7

TRADE MARKS ACT

NOTICE TO THE CONTROLLER OF ATTENDANCE AT HEARING

(a) Here insert name and address.

I (or We) (a) of hereby give notice that the Hearing of the arguments in the Case of:

(b) Strike out words here that are not applicable, so as to state one of the cases (1) to (5) only.

- (b) (1) Opposition No. to Application for registration of a Trade Mark No.
(2) Application that the entry in the Register in respect of Trade Mark No. may be removed.
(3) may be amended by alteration of or addition to the Trade Mark,
(4) may be amended by a conversion of the specification of goods,
(5) may be amended otherwise than by any change in the mark or of the specification on conversion,

which, by the Controller's Notice to me (or us) dated the day of, 20..... is fixed for a.m. or p.m. at the Intellectual Property Office on the day of 20....., will be attended by me (or us) or by some person on my (or our) behalf.

Dated this day of, 20.....

(c) Signature.

(c)

(d) Address.

(d)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 8

(Deleted by LN 197/1997)

FORM TM—No. 9

TRADE MARKS ACT

REQUEST FOR THE RENEWAL OF A REGISTRATION

For Office use only

Reference number of holder:*

Reference number of representative:*

1. Indication that a Renewal is Sought

The renewal of the registration identified in the present request is hereby requested.

2. Registration Concerned

2.1 Registration number:

2.2 Filing date of the application which resulted in the registration:

Registration date:

* The reference number allotted by the holder and/or the reference number allotted by the representative to the present request for renewal may be indicated in this space.

3. Holder(s)

3.1. If the holder is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

3.2 If the holder is a legal entity, the entity's full official designation:

3.3 Address (including postal code and country):

Telephone number(s):
(with the area code)Telefacsimile number(s):
(with the area code)3.4 Check this box if there is more than one holder; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

* The names to be indicated under (a) and (b) are those which are recorded in respect of the registration to which the present request relates.

4. Representative of the Holder

4.1 Name:

4.2 Address (including postal code and country):

Telephone number(s):
(with the area code)

Telefacsimile number(s):
(with the area code)

4.3 Serial number of the authorisation of agent:*

5. Address for Service of the Holder:

* To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder or the representative.

6. Goods and Services*

- 6.1 Renewal is requested for all the goods and/or services covered by the registration.
- 6.2 Renewal is only requested for the following goods and/or services covered by the registration:†
- 6.3 Renewal is requested for all the goods and/or services covered by the registration except the following:‡
- 6.4 Check this box if the above space is insufficient and use an additional sheet.

* Check only one of boxes 6.1, 6.2 or 6.3.

† The list of the goods and/or services for which renewal is requested must be presented in the same way as it appears in the registration (grouping according to the classes of the Nice Classification, starting with an indication of the number of the relevant class and, where the goods or services belong to more than one class, presentation in the order of the classes of that Classification).

‡ The goods and/or services for which renewal is not requested must, where they belong to more than one class of the Nice Classification, be grouped according to the classes of that Classification, starting with an indication of the number of the relevant class and presented in the order of the classes of the said Classification.

7. Person, other than the Holder or the Representative of the Holder, who Files the Present Request for Renewal.

IMPORTANT: A person other than the holder or the representative of the holder may file a request for renewal only where the Contracting Party concerned allows it. Consequently, the present item cannot be completed if the Contracting Party whose Office is the Office identified on the first page of the present request for renewal does not allow a request for renewal to be filed by a person other than the holder or the representative of the holder.

- Check this box if the present request for renewal is filed by a person other than the holder or the representative of the holder.

7.1 If the person is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

7.2 If the person is a legal entity, the entity's full official designation:

7.3 Address (including postal code and country):

Telephone number(s):
(with the area code)

Telefacsimile number(s):
(with the area code)

136

Chap. 82:81*Trade Marks***[Subsidiary]***Trade Marks Rules*

FORM TM—No. 9, Page 6

8. Signature

8.1 Name of the natural person who signs:

8.2 Check the appropriate box according to whether the signature is given by the

8.2.1 holder.8.2.2 representative of the holder.8.2.3 person referred to in item 7.

8.3 Date of signature:

8.4 Signature:

9. Fee

9.1 Amount of the fee paid in connection with the present request for renewal:

9.2 Method of Payment:

10. Additional Sheets

 Check this box if additional sheets are enclosed and indicate the total number of such sheets.

FORM TM—No. 10

(Deleted by LN 197/1997)

FORM TM—No. 11

(Deleted by LN 197/1997)

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

FORM TM—No. 12

TRADE MARKS ACT

REQUEST FOR THE RECORDAL OF
A CHANGE IN OWNERSHIP

In respect of registration(s) and/or application(s) for registration of marks

For Office use only

Reference number of holder and/or applicant:*

Reference number of representative:*

1. Request for Recordial

The recordial of the change in ownership indicated in the present request is hereby requested.

2. Registration(s) and/or Application(s) Concerned

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s):†

2.3 If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

* The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

† Where the application number of an application has not yet been issued or is not known to the applicant or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office; or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or his representative, the application was received by the Office and an identification number given to the application by the applicant or his representative.

3. Goods and/or Services Affected by the Change

- 3.1 Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 are affected by the change.
- 3.2 Check this box where item 2 mentions only one application or registration and where only some of the goods and/or services listed in that application or registration are affected by the change and indicate the goods and/or services that should appear in the application or registration of the new owner (in which case the goods and/or services not indicated will remain in the application or registration of the applicant or holder):
- 3.3 Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the change affects less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the change affects all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services are affected by the change, make the indication in the way specified in item 3.2.

4. Basis for the Change in Ownership

4.1 The change in ownership results from a contract. One of the following documents is enclosed:

4.1.1 a copy, certified as being in conformity with the original, of the contract.

4.1.2 an extract, certified as being a true extract, of the contract.

4.1.3 a certificate of transfer.

4.1.4 a transfer document.

4.2 The change in ownership results from a merger.

A copy, certified as being in conformity with the original, of the following document, evidencing the merger, is enclosed:

4.2.1 extract from the Register of Companies.

4.2.2 other document originating from the competent authority.

4.3 The change in ownership does not result from the contract or a merger.

4.3.1 A copy, certified as being in conformity with the original, of a document evidencing the change is enclosed.

5. Holder(s) and/or Applicant(s)

5.1 If the holder and/or applicant is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

5.2 If the holder and/or applicant is a legal entity, the entity's full official designation:

5.3 Address (including postal code and country):

Telephone number(s):
(with the area code)Telefacsimile number(s):
(with the area code)5.4 Check this box if there is more than one holder and/or applicant affected by the change; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in item 5.1 or 5.2 and 5.3.5.5 Check this box if the holder and/or applicant, or one of the holders and/or applicants, has changed names and/or addresses without requesting the recordal of that change, and enclose a document evidencing that the person having transferred the ownership and the holder and/or applicant are the same person.

6. Representative of the Holder and/or Applicant

6.1 Name:

6.2 Address (including postal code and country):

Telephone number(s):
(with the area code)Telefacsimile number(s):
(with the area code)

6.3 Serial number of the authorisation of agent:†

* The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

† To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

7. Address for Service of the Holder and/or Applicant

8. New Owner(s)

8.1 If the new owner is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

8.2 If the new owner is a legal entity, the entity's full official designation:

8.3 Address (including postal code and country):

Telephone number(s):
(with the area code)

Telefacsimile number(s):
(with the area code)

8.4 State of nationality:

State of establishment:†

8.5 Where the new owner is a legal entity, indicate

—the legal nature of the legal entity:

—the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organised:

8.6 Check this box if there is more than one new owner; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 8.1 or 8.2, 8.3, 8.4 and 8.5.‡

* The names to be indicated under (a) and (b) are either the full names of the new owner or the names customarily used by the new owner.

† "Establishment" means a real and effective industrial or commercial establishment.

‡ Where several new owners are listed on the additional sheet with different addresses and there is no representative, the address for correspondence must be underlined on the additional sheet.

9. Representative of the New Owner

9.1 The new owner is not represented.

9.2 The new owner is represented.

9.2.1 Identification of the representative.

9.2.1.1 Name:

9.2.1.2 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

9.2.2 The authorisation of agent is already in the possession of the Office.

Serial number:*

9.2.3 The authorisation of agent is attached.

9.2.4 The authorisation of agent will be furnished at a later date.

9.2.5 No authorisation of agent is needed.

10. Address for Service of the New Owner†

* To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the new owner or the representative.

† An address for service must be indicated in the space available under the title of item 10 where the new owner does not have or, if there is more than one new owner, where none of the new owners has a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 9.

FORM TM—No. 12, Page 7

11. Signature

11.1 Name of the natural person who signs:

11.2 Check the appropriate box according to whether the signature is given by

11.2.1 holder and/or applicant

11.2.2 new owner

11.2.3 representative

11.3 Date of signature:

11.4 Signature:

12. Fee

12.1 Amount of the fee paid in connection with the present request for the recordal of a change in ownership:

12.2 Method of payment:

13. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

FORM TM—No. 13

TRADE MARKS ACT

CERTIFICATE OF TRANSFER

*In respect of registration(s) and/or application(s) for registration of marks***For Office use only**

1. Certification

The undersigned transferor(s) and transferee(s) hereby certify that the ownership of the registration(s) and/or application(s) identified below has been transferred by contract.

2. Registration(s) and/or Application(s) Concerned

The present certificate concerns the transfer of the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s):*

2.3 If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

* Where the application number of an application has not yet been issued or is not known to the transferor or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the transferor or his representative, the application was received by the Office and an identification number given to the application by the transferor or his representative.

3. Goods and/or Services Affected by the Transfer

3.1 Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 have been affected by the transfer.

3.2 Check this box where item 2 mentions only one application or registration and where only some of the goods and/or services listed in that application or registration have been affected by the transfer and indicate the goods and/or services that have been affected by the transfer.

3.3 Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the transfer has affected less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer affected all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services were affected by the transfer, make the indication in the way specified in item 3.2.

4. Transferor(s)

4.1 If the transferor is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

4.2 If the transferor is a legal entity, the entity's full official designation:

4.3 Address (including postal code and country):

Telephone number(s):
(with the area code)Telefacsimile number(s):
(with the area code)4.4 Check this box if there is more than one transferor; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 4.1 or 4.2 and 4.3.

* The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present certificate relates.

5. Transferee(s)

5.1 If the transferee is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

5.2 If the transferee is a legal entity, the entity's full official designation:

5.3 Address (including postal code and country):

Telephone number(s):
(with the area code)

Telefacsimile number(s):
(with the area code)

5.4 Check this box if there is more than one transferee; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 5.1 or 5.2 and 5.3.

* The names to be indicated under (a) and (b) are either the full names of the transferee or the names customarily used by the transferee.

6. Signatures

6.1 Signature(s) of the transferor(s)

6.1.1 Name(s) of the natural person(s) who sign(s):

6.1.2 Date of signature(s):

6.1.3 Signature(s):

6.2 Signature(s) of the transferee(s):

6.2.1 Name(s) of the natural person(s) who sign(s):

6.2.2 Date of signature(s):

6.2.3 Signature(s):

7. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

FORM TM—No. 14

TRADE MARKS ACT

TRANSFER DOCUMENT

*In respect of registration(s) and/or
application(s) for registration of marks*

For Office use only

1. Declaration of Transfer

The undersigned transferor(s) transfers (transfer) to the undersigned transferee(s) the ownership of the registration(s) and/or application(s) identified below.

2. Registration(s) and/or Application(s) Concerned

The present document concerns the transfer of the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s):*

2.3. If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

* Where the application number of an application has not yet been issued or is not known to the transferor or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office; or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the transferor or his representative, the application was received by the Office and an identification number given to the application by the transferor or his representative.

3. Goods and/or Services Affected by the Transfer

- 3.1 Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 are affected by the transfer.
- 3.2 Check this box where item 2 mentions only one application or registration and where only some of a goods and/or services listed in that application or registration are affected by the transfer and indicate the goods and/or services that are affected by the transfer:
- 3.3 Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the transfer affects less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer affects all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services are affected by the transfer, make the indication in the way specified in item 3.2.

4. Transferor(s)

4.1 If the transferor is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

4.2 If the transferor is a legal entity, the entity's full official designation:

4.3 Address (including postal code and country):

Telephone number(s):
(with the area code)

Telefacsimile number(s):
(with the area code)

4.4 Check this box if there is more than one transferor; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 4.1 or 4.2 and 4.3.

* The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present document relates.

5. Transferee(s)

5.1 If the transferee is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

5.2 If the transferee is a legal entity, the entity's full official designation:

5.3 Address (including postal code and country):

Telephone number(s):
(with the area code)Telefacsimile number(s):
(with the area code)5.4 Check this box if there is more than one transferee; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 5.1 or 5.2 and 5.3.6. Additional Indications [*see* the Annex to this Form (attached)]
(the furnishing of any of those indications is optional for the purposes of recordal of the change in ownership). Check this box if the Annex is used.

* The names to be indicated under (a) and (b) are either the full names of the transferee or the names customarily used by the transferee.

7. Signatures

7.1 Signature(s) of the transferor(s)

7.1.1 Name(s) of the natural person(s) who sign(s):

7.1.2 Date of signature(s):

7.1.3 Signature(s):

7.2 Signature(s) of the transferee(s)

7.2.1 Name(s) of the natural person(s) who sign(s):

7.2.2 Date of signature(s):

7.2.3 Signature(s):

8. Additional Sheets, Attachments and Annex

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

Check this box if an Annex is enclosed and indicate the number of the pages of the Annex and the number of any additional sheets to the Annex:

ANNEX TO FORM TM—No. 14, Page 1

Additional Indications Relating
to a Transfer Document (Item 6)

A. Transfer of Goodwill or Business

- (a) Check this box where the transfer is made with the relevant goodwill or the business in respect of all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 of the transfer document.
- (b) Check this box where item 2 of the transfer document mentions only one application or registration and where the transfer is made with the relevant goodwill or the business in respect of only some of the goods and/or services listed in that application or registration and indicate the goods and/or services in respect of which the transfer is made with the relevant goodwill or the business:
- (c) Check this box where item 2 of the transfer document mentions more than one application or registration and if in respect of at least one of them the transfer is made with the relevant goodwill or the business in respect of less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer is made with the relevant goodwill or the business in respect of all the goods and/or services or only some of them. In respect of any application or registration where the transfer is made with the relevant goodwill or the business in respect of only some of the goods and/or services, make the indication in the way specified in item (b).

B. Transfer of Rights Resulting from Use

The rights, arising from the use of the mark, are transferred in respect of

- (a) all registration(s) and/or application(s)
- (b) only the following registration(s) and/or application(s)

C. Transfer of the Right to Sue

- The transferee shall have the right to sue for past infringements.

D. Consideration.

- (a) The transfer is effected in consideration for money received.
- (b) The transfer is effected in consideration for money received and other good and valuable consideration.
- (c) The transferor hereby acknowledges receipt of the above-mentioned consideration

E. Effective Date of the Transfer

- (a) The transfer is effective as of the date of signature of the present transfer document.
- (b) The transfer is effective as of the following date:

FORM TM—No. 15

TRADE MARKS ACT

**REQUEST FOR THE RECORDAL OR CHANGE(S) IN
NAME(S) OR ADDRESS(ES)***In respect of registration(s) and/or application(s) for registration of mark(s)***For Office use only**

Reference number of holder and/or applicant:*

Reference number of representative:*

1. Request for Recordal

The recordal of the change(s) indicated in the present request is hereby requested.

2. Registration(s) and/or Application(s) Concerned

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):*

2.2 Application number(s):†

2.3 If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

* The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

† Where the application number of an application has not yet been issued or is not known to the applicant or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the office; or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or his representative, the application was received by the Office and an identification number given to the application by the applicant or his representative.

FORM TM—No. 15, Page 2

3. Holder(s) and/or Applicant(s)

3.1 If the holder and/or applicant is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

3.2 If the holder and/or applicant is a legal entity, the entity's full official designation:

3.3 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

3.4 Check this box if there is more than one holder and/or applicant; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

4. Representative

4.1 Name:

4.2 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

4.3 Serial number of the authorisation of agent:†

5. Address for Service

* The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

† To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

158

Chap. 82:81*Trade Marks***[Subsidiary]***Trade Marks Rules*

FORM TM—No. 15, Page 3

6. Indication of the Change(s)

6.1 Data to be changed:

Data as changed:*

- 6.2 Check this box if the above space is insufficient; in that case, indicate on an additional sheet the data to be changed with the data as changed.

7. Signature

7.1 Name of the natural person who signs:

7.2 Check the appropriate box according to whether the signature is given by the

7.2.1 holder and/or applicant7.2.2 representative

7.3 Date of signature:

7.4 Signature:

* Indicate the name(s) and/or address(es) as changed.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

8. Fee

8.1 Amount of the fee paid in connection with the present request for the recordal of change(s):

8.2 Method of payment:

9. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

TRADE MARKS \$30

(Rule 55). FORM TM—No. 16

TRADE MARKS ACT

APPLICATION TO THE CONTROLLER UNDER SECTION 32(5) AND RULE 55 TO DISSOLVE THE ASSOCIATION BETWEEN A REGISTERED TRADE MARK AND (AN) OTHER REGISTERED TRADE MARK(S)

To be accompanied by a Statement of Case

IN THE MATTER OF a Trade Mark

No. registered in Class

I (or We) being the Registered Proprietor(s) of the above-numbered Trade Mark, hereby apply that the association of this Trade Mark with the following Trade Mark(s) registered in my (our) name:—

No. registered in Class

No. registered in Class may be dissolved and the Register amended accordingly.

The grounds for this application are set forth in the accompanying Statement of Case.

Dated this day of, 20.....

(a) Signature. (a)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 17

TRADE MARKS ACT

REQUEST FOR THE CORRECTION OF MISTAKE(S)

In registration(s) and/or application(s) for registration of marks

For Office use only

Reference number of holder and/or applicant:*

Reference number of representative:*

1. Request for Correction

The correction(s) identified in the present request is (are) hereby requested.

2. Registration(s) and/or Application(s) Concerned

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s):†

2.3 If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

* The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

† Where the application number of an application has not yet been issued or is not known to the applicant or his representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office; or (ii) a copy of the application; or (iii) a reproduction of the mark, accompanied by an indication of the date on which to the best knowledge of the applicant or his representative, the application was received by the Office and an identification number given to the application by the applicant or his representative.

3. Holder(s) and/or Applicant(s)

3.1 If the holder and/or applicant is a natural person, the person's

(a) family or principal name:*

(b) given or secondary name(s):*

3.2 If the holder and/or applicant is a legal entity, the entity's full official designation:

3.3 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

3.4 Check this box if there is more than one holder and/or applicant: in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

4. Representative

4.1. Name:

4.2 Address (including postal code and country):

Telephone number(s): Telefacsimile number(s):
(with the area code) (with the area code)

4.3 Serial number of the authorisation of agent:†

* The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

† To be left blank if the authorisation of agent has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

FORM TM—No. 17, Page 3

5. Address for Service

6. Indication of Mistake(s) and Correction(s)

6.1 Data to be corrected:

Data as corrected:

6.2 Check this box if the above space is insufficient; in that case, indicate on an additional sheet the data to be corrected with the data as corrected.

7. Signature

7.1 Name of the natural person who signs:

7.2 Check the appropriate box according to whether the signature is given, by the

7.2.1 holder and/or applicant.

7.2.2 representative.

7.3 Date of signature:

7.4 Signature:

8. Fee

8.1 Amount of the fee paid in connection with the present request for correction:

8.2 Method of payment:

9. Additional Sheets and Attachments

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments.

FORM TM—No. 18

(Deleted by LN 197/1997)

FORM TM—No. 19

(Rule 75).

TRADE
MARKS
\$15

TRADE MARKS ACT

APPLICATION BY REGISTERED PROPRIETOR OF
TRADE MARK FOR THE CANCELLATION OF ENTRY
THEREOF IN REGISTER

(Paragraph (c) of section 48(1)(c) and rules 75 and 76)

IN THE MATTER OF Trade Mark No.

Class

Name of Registered Proprietor

.....

Trade or business address

Description

Application is hereby made by

of (a)..... [or by

a member of the Firm of

of (a).....

on behalf of my said Firm]

.....

that the entry in the Register of Trade Marks of the Trade Mark No.

in Class may be cancelled.

Dated this day of, 20.....

(b) (b) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

Note—Rule 75 requires that an application on Form TM—No. 19 shall be signed by the
Registered Proprietor of the Trade Mark, or other person entitled under that Rule,
unless in exceptional circumstances the Controller otherwise allows.

TRADE MARKS \$15

(Rule 75). FORM TM—No. 20

TRADE MARKS ACT

APPLICATION BY REGISTERED PROPRIETOR OF TRADE MARK TO THE CONTROLLER TO STRIKE OUT GOODS FROM THOSE FOR WHICH THE TRADE MARK IS REGISTERED

[Paragraph (d) of section 48(1)(d) and rules 75 and 76]

IN THE MATTER OF Trade Mark No.

Registered in Class

Name of Registered Proprietor

.....

Trade or business address

Description

Application is hereby made by

(a) Here insert the trade or business address and description of the applicant(s) or his (their) firm.

of (a)..... [or by

a member of the Firm of

of (a).....

on behalf of my said Firm]

.....

(b) Here designate the goods to be struck out.

for the striking out of (b)

from the goods for which the Trade Mark No.

is registered in Class

Dated this day of, 20.....

(c) Signature.

(c)

To the Controller, Intellectual Property Office, Port-of-Spain.

Note—Rule 75 requires that an application on Form TM—No. 20 shall be signed by the Registered Proprietor of the Trade Mark, or other person entitled under that rule, unless in exceptional circumstances the Controller otherwise allows.

(Rules 75,77).

FORM TM—No. 21

TRADE
MARKS
\$10

TRADE MARKS ACT

**REQUEST BY REGISTERED PROPRIETOR OF A
TRADE MARK THAT A DISCLAIMER OR
MEMORANDUM RELATING THERETO
MAY BE REGISTERED**

Request is hereby made by (a)
of for the
addition to the entry in the Register in connection with Trade Mark No.
in Class of the following
namely—
.....
.....
.....
.....

(a) Here insert
the name, trade,
or business
address and
description of
the Registered
Proprietor.

Dated this day of, 20.....

(b)

(b) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

<p>TRADE MARKS</p> <p>Fee: 11 or 11a</p>
--

(Rule 79).
FORM TM—No. 22

TRADE MARKS ACT

APPLICATION BY REGISTERED PROPRIETOR UNDER SECTION 49 FOR AN ADDITION TO OR ALTERATION OF A REGISTERED TRADE MARK. (RULES 79 AND 82)

IN THE MATTER OF the Trade Mark

No. in Class

(a) Here insert name, trade, or business address and description.

Application is hereby made by (a)

of being the Registered Proprietor(s) of the Registered Trade Mark numbered as above, that the Controller shall add to it or alter it in

(b) Here fill in full particulars.

the following particulars, that is to say—(b)

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

Dated this day of, 20.....

(c) Signature.

(c)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

FORM TM—No. 23

(Rules 72, 74).

TRADE
MARKS
\$50

TRADE MARKS ACT

APPLICATION TO THE CONTROLLER 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. registered in the name of
..... in Class

I (or We) (a)
.....

(a) Here state
full name and
address.

hereby apply that the entry in the Register in respect of the above-mentioned Trade
Mark may be removed (b) rectified in the following manner:

(b) Strike out the
word (or words)
that is (are) not
applicable.

.....
.....

The grounds of my (our) application are as follows:

.....
.....
.....

No action concerning the Trade Mark in question is pending in the Court.
Address for service in Trinidad and Tobago in these proceedings:

.....
.....

Dated this day of, 20.....

(c) (c) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

TRADE MARKS \$50

(Rule 74). FORM TM—No. 24

TRADE MARKS ACT

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

IN THE MATTER OF Trade Mark

No. registered in the name of in Class

(a) Here state full name and address.

I (or We) (a)

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

My (our) interest in the Trade Mark is

Address for service in Trinidad and Tobago in these proceedings:

Dated this day of, 20.....

(b) Signature.

(b)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 25

(Rule 100).

TRADE
MARKS
Fee: 19 or 19a

TRADE MARKS ACT

REQUEST FOR GENERAL CERTIFICATE OF THE
CONTROLLER (INCLUDING CERTIFICATE OF
REGISTRATION OF A TRADE MARK)

(Rule 100).

IN THE MATTER OF* the Trade Mark No., registered as
Class

* ... * These words may be varied to suit other cases.

I (or We)

of

..... hereby request the Controller to furnish me (us) with

(b) his Certificate that (a)

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

(b) a Certificate of registration of the Trade Mark (b) for use in obtaining registration abroad.

(b) Strike out words that are not applicable.

Dated this day of, 20.....

(c)

(c) Signature.

(d)

(d) Address.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

“rule 102.—(1) Where a certificate of registration of a trade mark is desired for use in obtaining registration abroad, the Controller shall include in the certificate a copy of the mark and may require the applicant for the certificate to furnish him with a copy of the mark suitable for the purpose and if the applicant fails to do so, may refuse to issue the certificate.

(2) The Controller may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimers appearing in the Register, but in the last-mentioned case the certificate shall be marked: ‘For use in obtaining registration abroad only’.”.

TRADE MARKS Fee \$75

(Rules 17, 32). FORM TM—No. 26

TRADE MARKS ACT

APPLICATION UNDER SECTION 36 AND RULE 32 FOR REGISTRATION OF AN INVENTED WORD (OR WORDS) IN PART† OF THE REGISTER AS A DEFENSIVE TRADE MARK

† Write distinctly here "A" or "B", according to the registration desired.

[Empty box for registration details]

One representation to be fixed within this space, and * four others to be supplied.

Application is hereby made for Registration in Part† of the Register of the above word(s) as a Defensive Trade Mark in Class in

(a) Here specify the goods. Only goods included in one and the same class should be specified.

respect of (a)
.....
.....

(b) Here insert legibly the full name, description and nationality of the individual, firm, or body corporate making the application. The names of all partners in a firm must be given in full. If the applicant is a body corporate, the kind and country of incorporation should be stated.

in the name of (b)
.....
of (c)

(c) Here insert the full trade or business address of the applicant.

trading as (d)
who is (are) the proprietor(s) of the same Trade Mark registered in Class (e) in respect of under No.

(d) Here insert the trading style (if any).

According to my (our) information and belief, the word(s) is (are) invented. The particulars of the facts on which I (we) rely in support of this application are set forth in the accompanying Statement of Case (f).

(e) Here insert particulars of the Applicant's registration of the Trade Mark.

Dated this day of, 20.....

(f) To be furnished in duplicate. (g) Signature.

(g)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 27

(Deleted by LN 197/1997)

FORM TM—No. 28

(Rule 35).

TRADE MARKS ACT
section 50—Schedule of the Act

**REGULATIONS FOR GOVERNING THE USE OF
CERTIFICATION TRADE MARK NO.**

In Class in respect of (a) (a) Here specify
..... the goods of the
..... registration.

[For Official Use]

Advertised in (b) at page (b) Here insert
on the day of, 20 name of daily
..... newspaper or
..... periodical.

[Date of Application and Registration, 20.....]

TRADE MARKS
Fee: 18a

(Rule 84).
FORM TM—No. 29

TRADE MARKS ACT

REQUEST FOR THE CONSENT OF THE BOARD OF
TRADE TO ALTERATION OF THE DEPOSITED
REGULATIONS FOR USE OF A
CERTIFICATION TRADE MARK

section 50—Schedule of the Act—rule 84

(a) Here state name and address of the proprietor(s) as registered.

Application is hereby made by (a)
.....
.....

who is (are) the Proprietor(s) of the Certification Trade Mark(s)

(b) If the same Regulations apply to more than one registration, the numbers of all registrations should be stated.
(c) Here state the specifications of the respective registrations.

No. (b)* registered in Class* in respect of
(c)*

that the deposited Regulations for governing the use of the Mark may be altered in the manner shown in red in the accompanying copies (d) of the Regulations as proposed to be altered, and for the consent of the Controller to such alteration.

(d) Three copies should be furnished.
(e) Signature.

Dated this day of, 20.....

(e)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

* Additional numbers and Specifications may be given in a signed Schedule on the back of the Form.

FORM TM—No. 30

(Rule 83).

TRADE
MARKS
\$50

TRADE MARKS ACT
section 50—Schedule of the Act—rule 83

APPLICATION TO THE BOARD OF TRADE FOR AN
ORDER EXPUNGING OR VARYING AN
ENTRY IN THE REGISTER RELATING TO A
CERTIFICATION TRADE MARK OR VARYING THE
DEPOSITED REGULATIONS

[To be accompanied by an unstamped copy and a Statement of Case in duplicate]

IN THE MATTER OF Certification Trade Mark No. registered in the
name of in Class

I (or We) (a)

(a) Here state
full name and
address.

being an aggrieved person(s), hereby apply for an order of the Board of Trade that:

1. (b) The Entry in the Register in respect of the above-mentioned Trade Mark
may be (c) { expunged.
varied in the following manner:

(b) Strike out
either paragraph
that is not
applicable.

.....
.....
.....

(c) Strike out
one of these
lines.

2.(b) The deposited Regulations governing the use of the above-mentioned Trade Mark
may be varied in the following manner:

.....
.....

The grounds of my (our) application are as follows:

.....
.....

Address for service in Trinidad and Tobago in these proceedings:

.....
.....

Dated this day of, 20.....

(d) (d) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

TRADE MARKS
Fee: 7

(Rule 69).
FORM TM—No. 31

TRADE MARKS ACT

APPLICATION FOR THE CERTIFICATE OF THE CONTROLLER UNDER SECTION 29(2) AND RULE 69 WITH REFERENCE TO A PROPOSED ASSIGNMENT OF A REGISTERED TRADE MARK

(To be accompanied by a Statement of Case in duplicate and a copy of the proposed assignment)

IN THE MATTER OF Trade Mark(s) No.(s) registered in the name of in Class(es)

(a) Here insert the name and trade or business address of the Registered Proprietor.

Application is hereby made by (a) of being the Registered Proprietor(s) of the above-numbered registered trade mark(s), for the Controller’s Certificate under section 29(2) with reference to a proposed assignment of the registered trade mark(s).

(b) Here insert the name and trade or business address of the proposed assignee.

No.(s) to (b) of in circumstances that are stated fully in the accompanying Statement of Case.

Dated this day of, 20.....

(c) Signature.

(c)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

FORM TM—No. 32

(Rule 69).

TRADE
MARKS
Fee: 7a

TRADE MARKS ACT

**APPLICATION FOR THE APPROVAL BY THE
CONTROLLER UNDER SECTION 30 AND RULE 69
OF A PROPOSED ASSIGNMENT, OR OF A
TRANSMISSION (SINCE THE COMMENCEMENT OF
THE ACT), OF A TRADE MARK RESULTING IN
EXCLUSIVE RIGHTS IN DIFFERENT PERSONS FOR
DIFFERENT PARTS OF TRINIDAD AND TOBAGO**

*(To be accompanied by a Statement of Case in duplicate and a Copy of the Instrument
proposed for the Assignment or effecting the Transmission)*

IN THE MATTER OF a Trade Mark(s)

*Registered under No(s) in
Class(es)*, the property of

Application is hereby made by
(1)(a) of

the Proprietor of the trade mark(s) shown in the accompanying Statement of Case (b)
[registered in his name] and (b) [used by him] in respect of the following goods:

for the approval by the Controller of a proposed assignment of the trade mark(s) to
(c) of

in respect of the following goods:
to be sold or otherwise traded in in (d)

†[and to (c) of
in respect of the following goods to be
sold or otherwise traded in in (d)] in circumstances that are
stated fully in the accompanying Statement of Case.

(2) (e)
who claims that the trade mark(s) shown in the accompanying Statement of Case was
(were), in respect of the following goods, namely:

and on the (f) day of, 20....., transmitted to
(g) him [to (h) of
..... (who was his predecessor in title)], by or from

(i)
of
by whom the Trade Mark was then used in respect of the following goods, namely
..... all in circumstances that are stated fully in the accompanying Statement
of Case, for the approval by the Controller of the aforesaid transmission.

Dated this day of, 20.....

(j)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

*To be struck out
in the case of
unregistered trade
marks.
Strike out either
paragraph (1) or
paragraph (2).
(a) Insert here the
name and trade or
business address of
the Proprietor.
(b) Strike out either
if not applicable.
(c) Insert here the
names and trade or
business address of
the proposed
assignee or
assignees.
(d) Insert the name
of the place or
places in Trinidad
and Tobago.
†Strike out the
bracketed passage
if not required.
(e) Insert here the
name and trade or
business address of
the person who
claims a
transmission to
him.
(f) Insert here the
date of the
transmission,
which must not
precede the
appointed day.
(g) Strike out the
words that are not
applicable.
(h) Insert here the
name and trade or
business address of
the predecessor in
title, if any.
(i) Insert here the
name and trade or
business address of
the person who
transmitted.
(j) Signature.

TRADE MARKS
Fee: 7b

(Rule 70).
FORM TM—No. 33

TRADE MARKS ACT

APPLICATION TO THE CONTROLLER UNDER SECTION 31(1) AND RULE 70 FOR DIRECTIONS FOR THE ADVERTISEMENT OF AN ASSIGNMENT OF TRADE MARKS OTHERWISE THAN IN CONNECTION WITH THE GOODWILL OF THE BUSINESS

(To be accompanied by an unstamped duplicate)

(a) Here insert the name and trade or business address of the assignee (applicant).

Application is hereby made by (a)..... of for the Controller’s Directions with respect to the advertisement of an assignment to him (them) of the following Trade Marks otherwise than in connection with the goodwill of the business in which they were used at the time of assignment, namely:—

(1) Registered Trade Marks:

Registration Number Class Goods in respect of which the Mark has been used and is assigned

(b) Here insert the name and trade or business address of the proprietor (assignor).

all of which are or were registered in the name of (b) of who is the assignor;

(c) Only those unregistered trade marks passing by the one assignment and used in the same business and for the same goods as those for which one or more of the registered marks are registered may be stated here.

(2) Unregistered Trade Marks (c), all being Marks used in his business at the time of the assignment in respect of the goods stated below, by (b) of who is the assignor:

Representation of Mark Goods in respect of which the Mark has been used and is assigned

The date of the assignment was the day of, 20 The instrument effecting the assignment is sent herewith, together with a copy thereof. It is suggested that advertisement shall be directed as follows, namely, in

† Additional Marks and numbers may be given in a signed Schedule on the back of the Form.

Dated this day of, 20.....

(d) Signature.

(d)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

FORM TM—No. 34

(Rule 70).

TRADE
MARKS
Fee: 7c

TRADE MARKS ACT

**APPLICATION FOR EXTENSION OF TIME IN WHICH
TO APPLY FOR THE CONTROLLER’S DIRECTIONS
FOR THE ADVERTISEMENT OF AN ASSIGNMENT OF
TRADE MARKS OTHERWISE THAN IN
CONNECTION WITH THE GOODWILL OF THE
BUSINESS (SECTION 31(1) AND RULE 70)**

Application is hereby made by (a).....
..... of
..... for
extension of time of (b) month(s) in which to apply for the Controller’s Directions
for the advertisement of an assignment to him (them) of the following Trade Marks
otherwise than in connection with the goodwill of the business in which they were used
at the time of the assignment, namely:—

(a) Here insert
the name and
trade or
business
address of the
assignee
(applicant).
(b) Here insert
“one”, or “two”,
or “three”.

(1) Registered Trade Marks:

<i>Registration Number</i>	<i>Class</i>	<i>Goods in respect of which the Mark has been used and is assigned</i>
†		

all of which are or were registered in the name of (c)
of
who is the assignor:

(c) Here insert
the name and
trade or business
address of the
proprietor
(assignor).

(2) Unregistered Trade Marks, all being Marks used in his business at the time of
assignment and in respect of the goods stated below, by (c)
of who is the assignor:

<i>Representation of Mark</i>	<i>Goods in respect of which the Mark has been used and is assigned</i>
†	

The date of the assignment was the day of, 20

† Additional Marks and numbers may be given in a signed Schedule on the back of
the Form.

Dated this day of, 20.....

(d) (d) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

TRADE MARKS \$30

(Rule 80). FORM TM—No. 35

TRADE MARKS ACT

NOTICE OF OPPOSITION TO APPLICATION UNDER SECTION 49 FOR ADDITION TO OR ALTERATION OF A REGISTERED TRADE MARK

(To be accompanied by an unstamped duplicate)

IN THE MATTER OF Trade Mark No. registered in the name of in Class

(a) Here state full name and address.

I (or We) (a) hereby give notice of my (or our) intention to oppose the addition to or alteration of the Trade Mark numbered and registered as above, so that it shall be in the form shown in the application advertised in the Trade Marks Journal of the day of, 20, No., page

The grounds of opposition are as follows:

Address for service in Trinidad and Tobago in these proceedings:

Dated this day of, 20.....

(b) Signature.

(b)

To the Controller, Intellectual Property Office, Port-of-Spain.

(Rule 106).

FORM TM—No. 36

TRADE
MARKS
\$20

TRADE MARKS ACT

**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

Notice is hereby given to the Controller that, by an Order of the Court made on the
..... day of, 20....., it was directed that
.....
.....
.....
.....

An Office Copy of the Order of the Court is enclosed herewith.

Dated this day of, 20.....

*

* To be signed
by the person
interested or his
agent.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

TRADE MARKS
Fee: \$20

(Rule 78).
FORM TM—No. 37

TRADE MARKS ACT

REQUEST TO THE CONTROLLER FOR ENTRY ON THE REGISTER AND ADVERTISEMENT OF A NOTE OF A CERTIFICATE OF VALIDITY BY THE COURT UNDER SECTION 56

IN THE MATTER OF Trade Mark(s) No(s) registered in
..... Class in the name of

(a) Here state the name and address of the Registered Proprietor.

I (or We) (a)
.....
.....

hereby request the Controller to add to the above-numbered entry(ies) of a Trade Mark in the Register, and to advertise in a daily newspaper or other periodical circulating in Trinidad and Tobago, a note that in

(b) Here state the nature of the proceedings, with the names of the parties to them, in which the Certificate was given.

(b)
.....
the Court certified that the validity of the said registration(s) came into question and was decided in favour of the proprietor of the Trade Mark in the terms of the accompanying Office Copy of the certificate of validity.

Dated this day of, 20.....

(c) Signature.

(c)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

FORM TM—No. 38

(Rule 85).

TRADE
MARKS
Fee: 5 or 5a

TRADE MARKS ACT

APPLICATION FOR REGISTRATION OF
REGISTERED USER

[To be accompanied by a Statement of Case giving particulars and stating as required
by section 37(4), verified by a Statutory Declaration made by the Proprietor, or by
some person authorised to act on his behalf and approved by the Controller]

Application is hereby made by (a)

who is (or are) the registered proprietor(s) of Trade Mark(s) No(s)

.....* registered in Class in respect of (b)

..... that (c)

of (d)

..... trading as (e)

who hereby joins in the application, may be registered as a registered user of the above-
numbered registered trade mark(s) in respect of (f)

subject to the following conditions or restrictions:—

(g)

(h) The proposed permitted use is to end on the day of
....., 20 The proposed permitted use is without limit of period.

Dated this day of, 20.....

(i)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

[A request for the entry of an address for service of the registered user may be made on
an unstamped copy of Form TM—No. 27 if it accompanies this Form].

*Additional numbers may be given in a signed Schedule on the back of the Form.
(a) Here insert full name, trade or business address and description of the registered proprietor(s).
(b) Here insert the specification in the Register.
(c) Here insert the full name, description and nationality of the individual, firm, or body corporate, proposed as registered user. The names of all partners in a firm must be given in full. In the case of a body corporate brief particulars of the kind and country of incorporation should be stated.
(d) Here insert the full trade or business address of the proposed registered user.
(e) Here insert trading style (if any).
(f) Here insert designation of goods (which must be comprised within the specification).
(g) Write None if there are no conditions or restrictions.
(h) Strike out the words that are not applicable.
(i) Signature.

L.R.O.

TRADE MARKS
Fee: 5b or 5c

(Rule 87).

FORM TM—No. 39

TRADE MARKS ACT

APPLICATION BY THE REGISTERED PROPRIETOR OF
A TRADE MARK FOR VARIATION OF THE
REGISTRATION OF A REGISTERED USER THEREOF
WITH REGARD TO THE GOODS OR THE
CONDITIONS OR RESTRICTIONS (SECTION 41(1)(A);
RULE 87)

[To be accompanied by a Statement of the Grounds for the application and
the written consent (if given) of the Registered User]

(a) Here insert the full name, description and trade or business address of the registered proprietor.

* Additional numbers may be given in a signed Schedule on the back of the Form.

(b) Here insert the specification in the Register.

(c) Here insert the full name, description and trade or business address of the registered user.

(d) Here insert the goods in respect of which the user is registered.

(e) Here state in terms the manner in which it is requested that the entry should be varied.

(f) Signature.

Application is hereby made by (a)

.....

.....

the proprietor of Trade Mark(s) No(s)*registered in Class

..... in respect of (b)

.....

that the registration of (c)

.....

as a registered user of the above-numbered trade mark(s) in respect of (d)

.....

.....

may be varied in the following manner:(e)

.....

Dated this day of, 20.....

(f)

To the Controller,
Intellectual Property Office,
Port-of-Spain.

(Rule 88).

FORM TM—No. 40

TRADE
MARKS
Fee: 5*d* or 5*e*

TRADE MARKS ACT

**APPLICATION BY THE REGISTERED PROPRIETOR OF
A TRADE MARK OR BY ANY OF THE
REGISTERED USERS OF THE TRADE MARK FOR THE
CANCELLATION OF ENTRY OF A REGISTERED USER
THEREOF (SECTION 41(1)(B); RULE 88)**

(To be accompanied by a Statement of the Grounds for the application)

Application is hereby made by (a) (a) Here insert the full name, description and trade or business address of the applicant or of the applicants.

.....

 being (b) the Registered Proprietor (a Registered User) of Trade Mark(s) No(s).
* registered in Class in respect of (b) Strike out the words that are not applicable.

(c)

 for the cancellation of the entry under the above-mentioned registration(s) of * Additional numbers may be given in a signed Schedule on the back of the Form.

(d)

 as a registered user of the trade mark(s) in respect of (e) (c) Here insert the specification in the Register.

The grounds for this application are set forth in the accompanying statement. (d) Here insert the full name, description and trade or business address of the registered user whose entry is sought to be cancelled.

Dated this day of, 20.....
 (f)

 (e) Here insert goods in respect of which that registered user is entered.

To the Controller,
 Intellectual Property Office,
 Port-of-Spain. (f) Signature(s).

TRADE MARKS
Fee: 5f or 5g

FORM TM—No. 41

(Rule 89).

TRADE MARKS ACT

APPLICATION FOR CANCELLATION OF ENTRY OF A REGISTERED USER OF A TRADE MARK (SECTION 41(1)(C); RULE 89)

(To be accompanied by a Statement of the Grounds for the application)

*Additional numbers may be given in a signed Schedule on the back of the Form.

(a) Here insert the name, trade or business address and description of the registered proprietor as entered in the Register.

(b) Here insert the name and address of the applicant for cancellation.

(c) Here insert the name, trade or business address and description of the registered user as entered in the register.

(d) Here insert the goods in respect of which the registered user is entered.

(e) Here insert one or more of the sub-paragraphs (c) of section 41(1) numbered (i), (ii), (iii).

(f) Signature.

IN THE MATTER OF Trade Mark(s) No(s)* registered in Class in the name of (a)

Application is hereby made by (b) (whose address for service in Trinidad and Tobago in these proceedings is

for the cancellation of the entry under the above-mentioned registration(s) of (c)

as the registered user thereof in respect of (d)

The grounds of this application, particulars of which are given in detail in the accompanying statement of case, are (e)

Dated this day of, 20.....

(f)

To the Controller, Intellectual Property Office, Port-of-Spain.

FORM TM—No. 42

(Rule 90).

TRADE
MARKS
\$15

TRADE MARKS ACT

**NOTICE TO THE CONTROLLER UNDER SECTION 41(3)
AND RULE 90 OF INTENTION TO INTERVENE IN
PROCEEDINGS FOR THE VARIATION OR
CANCELLATION OF AN ENTRY OF A REGISTERED
USER OF A TRADE MARK**

[To be accompanied by a Statement of the Grounds for intervention]

IN THE MATTER OF Trade Mark No.
registered in Class in the name of (a)
and

(a) Insert here
the name of the
Registered
Proprietor.

IN THE MATTER OF a registration of (b)
thereunder as a Registered User of the Mark.

(b) Insert here
the name and
trade or business
address of the
Registered User.

In reply to the Controller's Notification, dated the day of
20, notice is hereby given of my intention to intervene in the proceedings in the
above matter.

My address for service in Trinidad and Tobago for the purpose of these proceedings is
.....
.....
.....

Dated this day of, 20.....

(c) (c) Signature.

To the Controller,
Intellectual Property Office,
Port-of-Spain.

(Rules 5, 17).
[198/1994
197/1997].

THIRD SCHEDULE**LIST OF CLASSES OF GOODS AND SERVICES**

GOODS

- Class 1* Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
- Class 2* Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.
- Class 3* Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
- Class 4* Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.
- Class 5* Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.
- Class 6* Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.
- Class 7* Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.
- Class 8* Hand tools and implements (hand-operated); cutlery; side arms; razors.
- Class 9* Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2014

- Class 10* Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials.
- Class 11* Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
- Class 12* Vehicles; apparatus for locomotion by land, air or water.
- Class 13* Firearms; ammunition and projectiles; explosives; fireworks.
- Class 14* Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological; and chronometric instruments.
- Class 15* Musical instruments.
- Class 16* Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding materials; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.
- Class 17* Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.
- Class 18* Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- Class 19* Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
- Class 20* Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber; mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Goods—Continued

- Class 21* Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
- Class 22* Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
- Class 23* Yarns and threads, for textile use.
- Class 24* Textiles and textile goods, not included in other classes; bed and table covers.
- Class 25* Clothing, footwear, headgear.
- Class 26* Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
- Class 27* Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).
- Class 28* Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
- Class 29* Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.
- Class 30* Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder, salt, mustard; vinegar, sauces (condiments); spices; ice.
- Class 31* Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.
- Class 32* Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33 Alcoholic beverages, (except beers).

Class 34 Tobacco; smokers' articles; matches.

SERVICES

Class 35 Advertising; business management; business administration; office functions.

Class 36 Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37 Building construction; repair; installation services.

Class 38 Telecommunications.

Class 39 Transport; packaging and storage of goods; travel arrangement.

Class 40 Treatment of materials.

Class 41 Education; providing of training; entertainment; sporting and cultural activities.

Class 42 Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be classified in other classes.

(Section 71A–71F).

FOURTH SCHEDULE
BORDER MEASURE FORMS
TRADE MARKS ACT
(Section 71A)

FORM BM—No. 1.

NOTICE OF OBJECTION TO IMPORTATION

To: the Comptroller of Customs and Excise

I/We*

of

Being the owner/registered user of the trade mark mentioned in the Schedule to this Notice under the Trade Marks Act, Chap. 82:81 and that the owner/registered user of the trade mark objects to the importation into Trinidad and Tobago for sale by anyone other than their authorised agent of any goods made outside of Trinidad and Tobago being goods to which section 71B of the Trade Marks Act, Chap. 82:81 applies.

I hereby give to the Comptroller of Customs and Excise, and its agents for the purposes of section 71A of the Trade Marks Act, Chap. 82:81 security by way of †..... in respect of any, liability or expense that may be incurred by the Comptroller and its agents as a result of seizure under section 71B of the Trade Marks Act, Chap. 82:81 of any goods to which this notice relates.

Date Signature‡

* If a natural person, insert the person’s full name. If a legal entity, insert the legal entity’s full official designation.
† Insert form in which security is given.
‡ If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.

TRADE MARKS ACT

(Section 71A)

FORM BM—No. 2

**REVOCATION OF NOTICE OF OBJECTION
TO IMPORTATION**

To: the Comptroller of Customs and Excise:

RE: Notified trade mark(s)

Pursuant to notice dated

I/We*

of

being the registered owner/registered user named in the above notice hereby
revokes the said notice in relation to the above-mentioned trade mark(s).

Date

Signature[†]

.....

* If a natural person, insert the person's full name. If a legal entity, insert the legal entity's full official designation.

† If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.

194

Chap. 82:81

Trade Marks

[Subsidiary]

Trade Marks Rules

TRADE MARKS ACT

[Section 71C(a)]

FORM BM—No. 3

No.

Date

NOTICE OF SEIZURE OF INFRINGING GOODS

To:

of

(designated owner)

Notice is hereby given that the undermentioned goods have been seized under section 71B of the Trade Marks Act, Chap. 82:81.

The Comptroller of Customs and Excise.

TRADE MARKS ACT
[Section 71C(b)]

FORM BM—No. 4

No.

Date

NOTICE OF SEIZURE OF INFRINGING GOODS

To:
(objector)

Notice is hereby given that the undermentioned goods have been seized under section 71B of the Trade Marks Act, Chap. 82:81.

The designated owner(s) of the goods is /are

.....

.....

of

Take notice that the said goods will be released to the designated owner unless you or one of the objectors bring an action for infringement of the notified trade mark and give notice under section 71C(b) (iii) of the Trade Marks Act, Chap. 82:81 within ten days of this notice or if the period of notice has been extended under section 71F, the extended period.

The Comptroller of Customs and Excise.

TRADE MARKS ACT

[Section 71D(1)]

FORM BM—No. 5

NOTICE OF CONSENT TO GOODS BEING FORFEITED TO THE STATE

To: the Comptroller of Customs and Excise

I/We*

of being the designated owner(s) of goods seized pursuant to notice of the Comptroller of Customs and Excise number dated hereby consent to the goods mentioned in the above notice to be forfeited to the State.

Date

Signature†

.....

* If a natural person, insert the person's full name. If a legal entity, insert the legal entity's full official designation.

† If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.

TRADE MARKS ACT
[Section 71F(1)]

FORM BM—No. 6

**NOTICE OF ACTION FOR INFRINGEMENT
OF NOTIFIED TRADE MARK**

To: the Comptroller of Customs and Excise

RE: Notified trade mark

Pursuant to notice dated

I/We*

ofbeing
the objector(s) in relation to goods seized pursuant to notice of the Comptroller
of Customs and Excise number dated
hereby give notice that action No. has been
commenced on in†with
respect to the infringement of the notified trade mark.

Date Signature‡

.....

* If a natural person insert the person's full name. If a legal entity, insert the legal entity's full official designation.

† Insert the full name of the Court and jurisdiction in which the action has been commenced.

‡ If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.

TRADE MARKS ACT

(Section 71E)

FORM BM—No. 7

NOTICE OF CONSENT TO THE GOODS BEING RELEASED TO THE DESIGNATED OWNER

To: the Comptroller of Customs and Excise

I/We*

ofbeing the objector(s) in relation to goods seized pursuant to notice of the Comptroller of Customs and Excise number dated..... hereby consent to the goods mentioned in the above notice/the goods listed hereunder† to be released to the designated owner.

Date Signature‡

.....

* If a natural person, insert the person’s full name. If a legal entity insert the legal entity’s full official designation.
† If this notice of consent relates to only some of the goods seized and listed in the Notice of the Comptroller list those goods to which this notice of consent applies.
‡ If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.

TRADE MARKS ACT
[Section 71F(1)]

FORM BM—No. 8

**APPLICATION FOR EXTENSION OF TIME
IN WHICH TO BRING ACTION**

To: the Comptroller of Customs and Excise

RE: Notified trade mark

Pursuant to notice of objection to importation dated

I/We*

of
being the objector(s) in relation to goods seized pursuant to notice of the
Comptroller of Customs and Excise number
dated hereby request an extension of time for a period
of days in which to bring that action with respect to the
infringement of the notified trade mark. The reason for this request is as stated
hereunder:

Date Signature†

.....

* If a natural person, insert the person's full name. If a legal entity, insert the legal entity's full official designation.

† If the notice is given by a legal entity, insert also the name and status of the signatory to the legal entity.