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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / ~~B.P. No.~~	3013	Press. / Mis.
Dated	29.5.1877	197 .

Not to be folded or roughly handled

Archives 1—10,006—19-4-79.

No. 1 (Judicial), dated India Office, London, the 11th January 1877.

From—Her Majesty's Secretary of State for India,

To—The Government of India.

With reference to my despatch of the 30th November, No. 49 of 1876, forwarding, for the information of Your Excellency in Council and for distribution among the Local Governments and Administrations, 100 copies of the amended Rules which have been issued under the Trade Marks Registration Acts of 1875 and 1876, I now transmit copy of a letter dated 30th November from Mr. Reader Lack, the Registrar of the Trade Marks Registry Office, drawing attention to two points in connection with the new Rules.

Dated 30th November 1876.

From—H. Reader Lack, Esq., Registrar of the Trade Marks Registry Office,

To—Sir Louis Mallet, c.b., Under Secy. of State for India.

I am directed by the Commissioners of Patents to acknowledge the receipt of your letter of the 29th instant, and to send herewith, in accordance with the wish of the Marquis of Salisbury, 100 copies of the amended Rules under the Trade Marks Registration Acts and of the notice as to registration of trade marks for cotton goods.

In transmitting these documents I am directed to draw attention to Rule 5, under which foreigners resident in India are admitted to registration in this country upon the same terms as British subjects. It may also be useful to point out that prior registration in the Presidency, Province, or Native State in which an Indian trade mark owner is resident is not necessary before registration in this country.

1877

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE, AGRICULTURE, AND COMMERCE.

GENERAL.

From

H. M.'S SECY. OF STATE FOR INDIA.

No. 1.

Dated the 11*th January* 1877.

SUBJECT.

WITH reference to his despatch No. 49, dated the 30th November last, transmits copy of a letter from Mr. Reader Lack, the Registrar of the Trade Marks Registry Office, drawing attention to two points in connection with the new amended Rules issued under the Trade Marks Registration Acts of 1875 and 1876.

Govt. Central Branch Press, Simla, No. 84, R., A. & C.—25-4-77.—200.

NOTICE AS TO REGISTRATION OF TRADE MARKS FOR COTTON GOODS.

As numerous marks used in the cotton trade at the date of the passing of the Trade Marks Registration Acts (38 & 39 Vict. c. 91., and 39 & 40 Vict. c. 33.), are, by reason of their common usage, excluded from the scope of that Act, the following rules have been made for the guidance of persons desirous of registering trade marks for cotton goods:—

"57. For the purpose of facilitating the granting of trade marks in respect of cotton goods in Classes 23, 24, and 25, there shall be established by the Commissioners of Patents, and subject to their control, an office at Manchester for the exhibition of all devices, marks, headings, labels, tickets, letters, words, or figures, or combinations of letters, words, or figures, used in the cotton trade, and in these rules included under the expression 'cotton marks.'

Establishment of office for exhibition of cotton trade marks at Manchester.

"58. Every person who at the date of the passing of the Act (August 13, 1875), used any cotton mark shall, on or before the first day of December one thousand eight hundred and seventy-six, send to the Manchester office three representations of such cotton mark, in such form and with such a description as may be from time to time required by the Commissioners of Patents.

Representations of cotton marks to be sent to Manchester office on or before December 1st, 1876.

"59. A committee of persons versed in the usages of the cotton trade shall be appointed by the Commissioners of Patents, consisting of such number of persons as may from time to time be determined by them, and it shall be the duty of such committee, on or before a time to be named by the Commissioners of Patents, to divide the cotton marks, representations of which have been so sent in to the Manchester office, into two classes, the first class consisting of such of the said cotton marks as are, in the opinion of the committee, trade marks within the meaning of the Act, and the second class consisting of such of the said cotton marks as are not, in the opinion of the committee, trade marks within the meaning of the Act.

Committee of experts to be appointed and to divide cotton marks into two classes.

"60. The said committee shall form a list of the cotton marks sent to the Manchester office in each of the aforesaid classes, and shall transmit such lists to the Commissioners of Patents, accompanied by two representations of each of the marks specified in the second class in such list.

Committee to form list of marks sent in to Manchester office.

"The third representation of each of the marks in the second class in such list shall be retained for reference in the Manchester office.

"61. The Commissioners of Patents may from time to time add to the aforesaid list any cotton marks as they may think just, and such addition shall be deemed to be part of the original list.

Marks may be added to list.

"62. Any proprietor of a cotton mark not specified in the second class in such list may apply to be registered as proprietor of such cotton mark in manner and subject to the conditions in which he may apply to be registered as proprietor of any other trade mark, but it shall not be lawful for the Registrar to register any person as proprietor of any cotton mark in the second class of the aforesaid list except in pursuance of an order of the Court.

Any person claiming to be the proprietor of a cotton mark in Class 1 may apply to be registered.

"63. A cotton mark shall not be registered except in manner and subject to the conditions prescribed by these rules with respect to the registry of cotton marks."

Cotton mark not to be registered except in manner herein prescribed.

An office, as provided by Rule 57, will be opened at 48, Royal Exchange, Manchester, on the 24th of October 1876.

The following gentlemen have been appointed by the Commissioners of Patents to form the Committee of Experts under Rule 59:—

Edmund Ashworth, Esq., President of the Chamber of Commerce, Manchester.
John Cheetham, Esq., Vice-President of the Chamber of Commerce, Manchester.
B. Davies, Esq.
S. A. Fulda, Esq.
P. Goldschmidt, Esq.
A. J. Hunter, Esq.
H. J. Leppoc, Esq.
G. Lord, Esq.
E. Crompton Potter, Esq.
E. Reiss, Esq.
H. M. Steinthal, Esq.
E. H. Sykes, Esq.

Mr. Joseph Fry has been appointed by the Commissioners of Patents as keeper of the Manchester office.

Each representation required to be furnished by Rule 58 should be attached to a separate half-sheet of foolscap paper, on which should be written,—*a*, the name and address of the ap cant; *b*, the number of the class in which registration is desired; and *c*, the length of time the mark has been in use. If it be desired to register a mark in more than one class, three representations in each class must be furnished. No fee will be required, nor will any formal declaration or statement be necessary.

In the case of a combined stamp the applicant should state whether it is desired to protect the whole combination or only a part of it; in which case a line should be drawn round the part which it is desired to protect.

Representations of marks considered by the owners as private should be marked with the letter "P."

When application has been already made to the Principal Registry in London, the Registrar's number must be quoted in the Manchester application.

Owners of marks placed upon the second class specified in Rule 59, although not entitled to registration except by an order of the Court, may obtain from the Registrar a certificate of refusal to register, as provided by section 2 of 39 & 40 Vict. c. 33.

It is intended that all marks for cotton goods made in the piece should be claimed in Class 24.

These regulations do not apply in the case of marks not used prior to the 13th of August 1875. Application to register such marks must be made in the usual way to the Trade Marks Registry in London.

H. READER LACK,
Registrar.

Trade Marks Registry Office,
Quality Court,
Chancery Lane,
London, W. C.

November 21st, 1876.

Rev. 2/2045/77

Mis P. 29-5-77 m. 3013

Government Central Press.—No. 47 H. D. (3168 G.)—5-4-77.—102.

3

No. 49 (Judicial), dated India Office, London, the 30th November 1876.

From—Her Majesty's Secretary of State for India,

To—The Government of India.

I HEREWITH forward for the information of Your Excellency in Council, and for distribution among the Local Governments and Administrations, one hundred copies of the amended rules which have been issued under the "Trade Marks Registration" Acts of 1875 and 1876.

1877

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE, AGRICULTURE, AND COMMERCE.

GENERAL.

Pol. Pro. 29-3-77 Nos. 603 & 604

Pol. 23/3/77 C3

FROM

H. M.'S SECY. OF STATE FOR INDIA.

No. 49.

Dated the 30th November 1876.

SUBJECT.

FORWARDS for distribution 100 copies of the amended rules issued under the "Trade Marks Registration" Acts of 1875 and 1876.

Govt. Central Branch Press, Simla, No. 83, R., A. & C.—27-4-77—200.

No.

FROM

C. J. LYALL, ESQ.,

Under Secretary to the Government of India,

TO

Department of Revenue, Agriculture and Commerce.

General.

SIMLA, *the* *April* 1877.

SIR,

I AM directed to forward for

and such publication as may seem necessary, a copy of the undermentioned papers, *viz.*—

A pamphlet* entitled "Rules under the Trade Marks Registration Act, 1875, and the Trade Marks Registration Amendment Act, 1876."

* With spare copies.

A "Notice† as to registration of Trade Marks for Cotton Goods," dated the 21st November 1876, signed by the Registrar of the Trade Marks Registry Office.

† With spare copies.

Vide *Gazette of India*, dated the 10th February 1877, Part I., pages 73 to 88.
Ditto, dated the 3rd March 1877, Part I., page 115.
Supplement to the *Gazette of India*, dated the 31st March 1877, pages 769 and 770.

These papers have already appeared in the *Gazette of India*.

Copies of the despatches from the Secretary of State noted in the margin, under cover of which the abovementioned papers were received, are also forwarded.

No. 49 (Judicial), dated the 30th November 1876.
No. 1 (Judicial), dated the 11th January 1877, with enclosure.

I have the honour to be,

SIR,

Your most obedient Servant,

C. J. LYALL,

Under Secretary to the Government of India.

1877

GOVERNMENT OF IND.

DEPARTMENT OF REVENUE, AGRICULTURE, AND COMMERCE.

GENERAL.

To

Rec'd 29-5-77

No.

Dated Simla, the *April* 1877.

SUBJECT.

RULES under the Trade Marks Registration Acts.

Govt. Central Branch Press, Simla, No. 82, B., A., & C.—27-4-77.—200.

TRADE MARKS.

RULES

UNDER THE TRADE MARKS REGISTRATION ACT, 1875, AND THE TRADE MARKS REGISTRATION AMENDMENT ACT, 1876.

SUPPLIED FOR THE PUBLIC SERVICE

LONDON:
PRINTED FOR HER MAJESTY'S STATIONERY OFFICE;
AND SOLD BY
KNIGHT & Co., 90, FLEET STREET; STEVENS & SONS, 119, CHANCERY LANE;
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ALEX. THOM, 87 & 88, ABBEY STREET, DUBLIN; and A. & C. BLACK, EDINBURGH.

1876.

Price One Shilling.

Worth letter &
enclosures

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TRADE MARKS.

RULES.

WHEREAS by the Trade Marks Registration Act, 1875, the Lord Chancellor is authorised from time to time, with the assent of the Treasury as to fees, to make general rules as to the registry of trade marks, and other matters connected therewith, and also when made to alter, annul, or vary such rules, as is in the said Act mentioned:

Now, therefore, I, the Right Honourable Hugh MacCalmont Baron Cairns, of Garmoyle in the county of Antrim, Lord High Chancellor of Great Britain, in pursuance of the said Act, and of all other powers enabling me in this behalf, do hereby, without prejudice to any proceedings that may have been taken under any former rules as to the registry of trade marks before made by me, annul all such rules, and do hereby make the following Rules:—

Preliminary.

Classification of goods in schedule.

1. For the purposes of these Rules goods are classified in the manner appearing in the first schedule hereto.

Fees.

2. The fees to be charged in pursuance of these Rules are the fees specified in the second schedule hereto.

Determination of doubt as to classes.

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

Registration of different trade marks, or trade marks in different classes.

4. A trade mark or trade marks may be registered in pursuance of the same application by the same person in respect of all or any goods, subject to the payment of the additional fees specified in the second schedule in respect of the registration of different trade marks or the extension of the same trade marks to goods in different classes.

Application for Registry.

Proceedings on application.

5. A person, whether a British subject or an alien, desiring to register a trade mark shall apply to the registrar by sending to him a statement accompanied by such declaration as is herein-after mentioned and the prescribed fee.

Contents of statement on application.

6. The statement shall contain the following particulars:—

A. The name and address and calling of the applicant: and

B. The description of the trade mark to be registered: and

C. The class or classes of goods (being some one or more of the classes mentioned in the first schedule): and

D. In the case of a trade mark used before the passing of this Act, a description of the goods in respect of which it has been used and the length of time during which it has been so used.

Requisites of statement.

7. The above statement must bear a date and be signed by the applicant. Subject to any other directions that may be given by the registrar, the statement sent to the registrar shall be upon foolscap paper of a size of 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.

Nature and size of representation of trade mark.

8. Subject to any other directions that may be given by the registrar, a description of a trade mark shall be given in writing, and shall be accompanied, when practicable, by a drawing or other representation, of a durable nature, in duplicate, not less than three inches square, on foolscap paper of the size aforesaid, or by pasting or otherwise fastening on such paper a specimen of the trade mark.

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

The registrar may, if dissatisfied with the representation of a trade mark, require a fresh representation either before he proceeds with the application or before he registers the trade mark.

The registrar may also, in exceptional cases, deposit in the Patent Museum a specimen or copy of a trade mark which cannot conveniently be placed on his register, and may refer thereto in his register in such manner as he thinks advisable.

Declaration to accompany application.

9. The declaration must be on foolscap paper of the above-mentioned size, and must verify the statement, and declare that, to the best of the applicant's knowledge and belief, he is lawfully entitled to use the trade mark, and must be made and subscribed as herein-after mentioned.

Application by company.

10. Where an application for the registry of a trade mark is made by or on behalf of a corporate body of persons, the statement and declaration shall be made by the secretary or other principal officer of the body of persons; and the registrar may require such proof as he thinks fit that the application made is duly authorised by such body of persons.

Application by firm.

11. Where an application for the registry of a trade mark is made by or on behalf of any firm or partnership, the statement and declaration may be made by any one member of such firm or partnership, or by any person duly authorised by such firm or partnership; and the registrar may require such proof as he thinks fit that the application made is duly authorised by such firm or partnership.

Acknowledgment of application by registrar.

12. On receipt of the application the registrar shall send to the applicant an acknowledgment thereof.

Advertisement of Application and Notice of Opposition.

Advertisement of application.

13. As soon as may be after the receipt of an application made as provided by these Rules, the registrar shall require the applicant to insert an advertisement of the application in the official paper, during such time, and in such form, and generally in such manner as the registrar may think desirable, and distinguishing whether the mark has or has not been used before the thirteenth day of August one thousand eight hundred and seventy-five.

Definition of official paper.

14. The official paper for the purposes of these Rules shall be some paper published under the direction of the Commissioners of Patents, or such other paper as such Commissioners, or any one of them, may from time to time direct.

Means of advertising trade mark to be supplied to official paper.

15. For the purposes of such advertisement the applicant may be required to furnish the printer of the official paper with a wood-block or electrotype of the trade mark, of such dimensions as may from time to time be directed by the registrar, or with such other information or means of advertising the trade mark as may be allowed by the registrar.

Notice and proceedings for opposition.

16. A notice of opposition may be given by sending to the registrar, together with the prescribed fee, a written notice in duplicate, on foolscap paper of such size as aforesaid, stating the grounds of the opposition. The registrar shall acknowledge the receipt of such notice of opposition, and shall send one copy of such notice to the applicant.

Within three weeks after the receipt of such notice, or such further time as the registrar may allow, the applicant may send to the registrar, on foolscap paper of such size as aforesaid, a counter-statement in duplicate of the grounds on which he relies for his application, and if he does not do so shall be deemed to have withdrawn his application.

If the applicant sends such counter-statement the registrar shall require the person who gave notice of opposition to give security, in such manner and to such amount as the registrar may require, for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made, or such further time as the registrar may allow, the opposition shall be deemed to be withdrawn.

If the person who gave notice of opposition duly gives such security as aforesaid, the registrar shall send him one copy of the counter-statement sent by the applicant, and thereupon the case shall be deemed to stand for the determination of the court.

Registration of Trade Marks.

Time of registration of trade mark.

17. On the expiration of three months from the date of the first appearance of the advertisement in the official paper, the registrar may, if he is satisfied that the applicant is entitled to registration, register the trade mark in respect of the description of goods for which he may be entitled to be registered, and the applicant as the proprietor thereof, on payment of the prescribed fee.

Duty of registrar in case of disputed claim.

18. Where each of several persons claims to be registered as proprietor of the same or a nearly identical trade mark, in respect of the same goods or goods belonging to the same class, the registrar shall use his discretion as to registering all or any of such trade marks, either unconditionally or on the condition of the introduction of such variations (if any) or otherwise as he thinks fit, or the registrar may, if in any case he thinks it expedient, submit or require the claimants to submit their rights to the court.

Prohibition of registration of identical trade marks.

19. Where a trade mark has been already registered in respect of any goods or description of goods belonging to one particular class, a trade mark identical with such trade mark, or so nearly resembling the same as to be calculated to deceive, shall not, without leave of the court, be registered in the name of another person as proprietor thereof with respect to any goods in that class.

Entries to be made in register.

20. Upon registering any trade mark the registrar shall enter in the register the date on which the statement relating to the application for registry was received by the registrar (which day shall be deemed to be the date of the registry) and such other particulars as he may think necessary, including the name and address of the proprietor.

Notice of registration.

21. The registrar shall send notice to the applicant of the registration of his trade mark, together with a reference, where practicable, to the advertisement of such trade mark in the official paper.

Trust not to be entered in register.

22. There shall not be entered in the register, or be receivable by the registrar, any notice of any trust, expressed, implied, or constructive.

Registration of subsequent Proprietors.

Registration of assignee or transmittee.

23. The person to whom any registered trade mark has been assigned or transmitted may apply to be registered as proprietor thereof.

Production of assignment, &c. by assignee.

24. Where the trade mark has been assigned the person claiming as assignee to be registered shall send to the registrar, with his application, an assignment by deed executed both by the assignor and assignee, or a certified copy of such assignment, and a declaration verifying the fact of such assignment having been made.

Right of transmittee or his assignee.

25. Where a trade mark has been transmitted by the death of the registered proprietor, the legal personal representative of such proprietor shall be recognised as having the title to the mark.

Where the trade mark has been transmitted by marriage, bankruptcy, or otherwise by operation of law, the person applying as the transmittee to be registered shall send to the registrar, together with his application, a statement of the manner in which such trade mark has been transmitted, and a declaration verifying such statement.

Any transmittee may assign his interest in the mark, notwithstanding that he has not been registered as proprietor thereof.

Evidence to be produced on transmission.

26. Where the person applying to be registered claims as the transmittee of any registered proprietor, or as the assignee of a transmittee, there shall be produced to the registrar the following evidence :—

(1.) If the business concerned in the goods with respect to which the trade mark is registered is carried on in England or Ireland, then

A. If such transmission has taken place by the death of any person, there shall be produced the probate of the will of such deceased person, or the letters of administration to his estate, or an official extract therefrom; and

B. If such transmission has taken place by the marriage of the female proprietor, there shall be produced a certified copy of the register of such marriage, or other legal evidence of the celebration thereof, and a declaration of the identity of such female proprietor; and

C. If such transmission has taken place by the bankruptcy of the registered proprietor, or otherwise by operation of law, there shall be produced to the registrar such evidence as may, for the time being, be receivable as proof of the title of the applicant; and

(2.) Where the said business is not carried on in England or Ireland,—

There shall be produced similar evidence to that hereinbefore prescribed, or such evidence as would be received as sufficient evidence in the courts of justice of the country or place at which the proprietor carries on business.

Declaration by assignee and transmittee.

27. Every declaration made by an assignee or transmittee shall state his name and address, and that he is entitled to the goodwill of the business concerned in the goods with respect to which the trade mark is registered, or to some part of such goodwill.

Assignee, &c. of joint owners.

28. Where two or more persons are registered as joint proprietors of the same registered trade mark, those proprietors, or the survivors or survivor of them, or their or his assignee or transmittee, shall alone be recognised by the registrar as having any title to the mark.

Registration of joint owners as separate owners of separate trade marks.

29. Where divers persons claim to be severally entitled to the goodwill of a business concerned in the goods with respect to which a trade mark has been registered, such persons, or any of them, may, if they all consent thereto, and on the production of the proper evidence, and on payment of the prescribed fee, be registered separately as separate proprietors of such trade mark.

If all of such persons so entitled do not so consent, the registrar shall not, without leave of the court, register any of them as separate proprietors of such trade mark.

Continuance of a Trade Mark on the Register.

Removal of trade mark after fourteen years unless fee paid.

30. At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a trade mark, the registrar shall send a notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the registrar, before the expiration of such fourteen years (naming the date at which the same will expire), the prescribed fee, and if such fee be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice send a second notice to the same effect, and if such fee be not paid before the expiration of such fourteen years the registrar may, after the end of three months from the expiration of such fourteen years, remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

Payment of additional fee after expiration of fourteen years.

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

Power of Commissioners to restore trade mark.

32. Where after the said three months a trade mark has been removed from the register for non-payment of the prescribed fee,

the Commissioners of Patents, or one of them, may, if they are satisfied that it is just so to do, restore such trade mark to the register on payment of the prescribed additional fee and compliance with such conditions as they may think just.

Trade mark like one removed not to be registered for five years.

33. Where a trade mark has been removed from the register for non-payment of the fee or otherwise, such trade mark shall nevertheless for five years after the date of such removal be deemed for the purpose of section six of the Act, and not for any other purpose, to be a trade mark which is already registered.

Removal of trade mark where no business in goods.

34. The court may, on the application of any person aggrieved, remove any trade mark from the register on the ground, after the expiration of five years from the date of the registry thereof, that the registered proprietor is not engaged in any business concerned in the goods within the same class as the goods with respect to which a trade mark is registered.

Alteration and Rectification of Register.

Alteration of non-essential parts of trade mark.

35. The registered proprietor of any registered trade mark may, by leave of the court, alter such trade mark, so that he do not alter any one or more of the particulars in such mark which are declared by section ten of the Act to be the essential particulars of a trade mark, and the registrar shall, on payment of the prescribed fee and compliance with the requisitions of the registrar as to the deposit of representations of the trade mark as altered, alter the register accordingly.

Entry of rectification in register.

36. Where due notice of an order of any court rectifying the register has been given to the registrar, the registrar shall forthwith, upon an official copy of so much of the order as relates to such rectification being left with the registrar, and payment of the prescribed fee, rectify the register in accordance with the order.

Publication of rectification or alteration of register.

37. Whenever the register is rectified or altered in any particular in respect to any trade mark, the registrar shall, if he thinks that such rectification or alteration should be made public, at the expense of any person interested publish, by advertisement or otherwise, and in such manner as he thinks just, the circumstances attending the rectification or alteration of the register.

Notice to registrar of opposition in any matter.

38. Any person may send, with the prescribed fee, notice to the registrar of his desire to oppose the registration of any assignee or transmittee, or any alteration of the register. The registrar shall give to the applicant for such registration or alteration the like notice, and may require security for costs in like manner as in the

case of a notice of opposition to the original registration of a trade mark.

The registrar in such case may, if he think fit, require the parties interested to submit their claims to the court.

Alteration of address, &c. in register.

39. If the registered proprietor of a trade mark send to the registrar, together with the prescribed fee, notice of an alteration in his address, the registrar shall alter the register accordingly.

Inspection of Register.

Inspection and copies of register.

40. On such days and during such hours as the registrar may from time to time determine, not being less than three hours on three separate days in a week, any person may, on paying the prescribed fee, inspect the register of trade marks; and any person may, on paying the prescribed fee, obtain an office copy of any entry in the register.

Certificate by registrar.

41. The registrar when required for the purpose of any legal proceeding or other special purpose to give a certificate as to any entry, matter, or thing which he is authorised by the Act, or any of these rules to make or do, may, on payment of the prescribed fee, give such certificate, and shall specify on the face of it the legal proceeding or other purpose for which such certificate is granted.

Application to the Court.

Definition of court.

42. The court for the purposes of this Act is hereby declared to be the Chancery Division of Her Majesty's High Court of Justice.

Application to court.

43. An application to the court under the Act and these Rules may, subject to rules of court under the Supreme Court of Judicature Act, 1875, be made by motion or by application in chambers, or in such other manner as the court may direct.

Submission to court of conflicting claims.

44. Where the registrar refuses to comply with the claims of any persons until their rights have been determined by the court, the manner in which the rights of such claimants may be submitted by the registrar, or, if the registrar so require, by the claimants, to the court shall, unless the court otherwise order, be by a special case; and such special case shall be filed and proceeded with in like manner as any other special case submitted to the court, or in such other manner as the court may direct.

Settlement of special case.

45. The special case may be agreed to by the parties, or if they differ may be settled by the registrar.

Cutlers' Company.

Time for delivery of old Sheffield marks.

46. The time within which the Cutlers' Company are in pursuance of the Act to deliver to the registrar copies of all Sheffield corporate marks in force at the time of such delivery shall be the first day of March one thousand eight hundred and seventy-six, or such later day as the Lord Chancellor may fix.

Manner of delivery of old Sheffield marks.

47. Subject to any other directions that may be given by the registrar the manner in which such copies are to be delivered shall be the sending to the registrar of copies as herein-after defined of such marks, accompanied by a statement of the names, addresses, and callings of the persons to whom such trade marks have been assigned.

Time for delivery of new Sheffield marks.

48. The time within which the Cutlers' Company are to deliver to the registrar notice of an application to them for assigning any mark or device, with a copy of such mark or device, shall be as soon as practicable after the date at which such Company have determined on the mark or device to be assigned.

Manner of delivery of new Sheffield marks.

49. The manner in which such notice and copy shall be delivered to the registrar shall be the sending to the registrar a notice of the application, accompanied by a statement comprising the like particulars as a statement required to be made by an applicant for the registration of a trade mark by the registrar under the Act, so far as such particulars are known to the Cutlers' Company.

Period between notice to registrar and assignment of new Sheffield marks.

50. The period before the expiration of which such mark or device shall not be assigned by the Cutlers' Company, shall be six weeks from the date of sending the said notice to the registrar.

Time for notice of application to register new trade marks to Cutlers' Company.

51. The time within which notice of an application for the registration under the Act of a trade mark as belonging to any particular goods or class of goods specified in section two of the Cutlers' Company's Act, 1860, together with a copy of the trade mark, is to be delivered to the Cutlers' Company, shall be as soon as practicable after the receipt of the application by the registrar.

Manner of giving notice to Cutlers' Company of application.

52. The manner in which such notice is to be given shall be the sending to the Cutlers' Company a copy of the official journal containing the mark of which notice is required to be given, with a note distinguishing such mark.

Time between notice to Cutlers' Company and registration of trade mark.

53. The period from the giving of such notice, before the expiration of which the trade mark is not to be registered, shall be six weeks from the date of sending such notice to the Cutlers Company.

Time for notice of assignment of mark or registration of mark.

54. The time within which notice of the assignment of any trade mark or device, or the registration of any trade mark, is to be given to the registrar or to the Cutlers' Company (as the case may be) shall be fourteen days after such assignment or registration.

Manner of giving notice of assignment or registration of mark.

55. The manner in which such notice shall be given shall be the sending a notice of such assignment or registration, with sufficient particulars to identify the mark, or device, or trade mark, to the registrar or Cutlers' Company, as the case may be.

Description of copies for purpose of Cutlers' Company.

56. A copy of a trade mark for the purpose of these Rules when sent by the Cutlers' Company shall be a drawing or representation of the trade mark, in duplicate, and, subject to any other directions that may be given by the registrar, shall be of a size of not less than three inches square, and shall be upon foolscap paper of such size as aforesaid.

Cotton Goods.

Establishment of office for exhibition of cotton trade marks at Manchester.

57. For the purpose of facilitating the granting of trade marks in respect of cotton goods in Classes 23, 24, and 25 there shall be established by the Commissioners of Patents, and subject to their control, an office at Manchester for the exhibition of all devices, marks, headings, labels, tickets, letters, words, or figures, or combinations of letters, words, or figures used in the cotton trade, and in these rules included under the expression "cotton marks."

Representations of cotton marks to be sent by owners resident in the United Kingdom on or before January 1, 1877; by owners resident abroad on or before March 1, 1877.

58. Every person who at the date of the passing of the Act used any cotton mark shall, if resident in the United Kingdom, on or before the first day of January one thousand eight hundred and seventy-seven, and if resident elsewhere, on or before the first day of March one thousand eight hundred and seventy-seven, send to the Manchester office three representations of such cotton mark, in such form and with such a description as may be from time to time required by the Commissioners of Patents.

Committee to divide cotton marks into two classes.

[illegible] of Patents, consisting of such number of persons as may from time to time be determined by them; and it shall be the duty of such committee, on or before a time to be named by the Commissioners of Patents, to divide the cotton marks, representations of which have been so sent in to the Manchester office, into two classes, the first class consisting of such of the said cotton marks as are, in the opinion of the committee, trade marks within the meaning of the Act, and the second class consisting of such of the said cotton marks as are not,

in the opinion of the committee, trade marks within the meaning of the Act.

Committee to form list of marks sent in to Manchester office.

60. The said committee shall form a list of the cotton marks sent to the Manchester office in each of the aforesaid classes, and shall transmit such lists to the Commissioners of Patents, accompanied by two representations of each of the marks specified in the second class in such list.

The third representation of each of the marks in the second class in such list shall be retained for reference in the Manchester office.

Marks may be added to list.

61. The Commissioners of Patents may from time to time add to the aforesaid list any cotton marks as they may think just, and such addition shall be deemed to be part of the original list.

Any person claiming to be the proprietor of a cotton mark in Class 1 may apply to be registered.

62. Any proprietor of a cotton mark not specified in the second class in such list may apply to be registered as proprietor of such cotton mark in manner and subject to the conditions in which he may apply to be registered as proprietor of any other trade mark, but it shall not be lawful for the registrar to register any person as proprietor of any cotton mark in the second class of the aforesaid list except in pursuance of an order of the court.

Cotton mark not to be registered except in manner herein prescribed.

63. A cotton mark shall not be registered except in manner and subject to the conditions prescribed by these rules with respect to the registry of cotton marks.

Declaration and Evidence.

Dispensing with declaration, evidence, &c.

64. In any case in which any person is required under this Act to make a declaration on behalf of himself, or of any body corporate, or any evidence is required to be produced to the registrar, the registrar, if satisfied that from any reasonable cause such person is unable to make the declaration, or that such evidence may be dispensed with, may, upon the production of such other declaration or evidence, and subject to such terms as he may think fit, dispense with any such declaration or evidence.

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

65. The declarations required by these rules shall be made and subscribed in the United Kingdom under the authority of the Act of the fifth and sixth years of the reign of King William the Fourth, chapter sixty-two, "to repeal an Act of the present session "of Parliament, intituled 'An Act for the more effectual abolition "'of oaths and affirmations taken and made in various depart-

" ' ments of the State, and to substitute declarations in lieu thereof,
" ' and for the more entire suppression of voluntary and extra-
" ' judicial oaths and affidavits,' and to make other provisions for
" the abolition of unnecessary oaths," and may be made and subscribed before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding.

The declaration, when taken out of the United Kingdom, shall

(*a.*) If made in any part of Her Majesty's dominions be made and subscribed before some court, justice, or officer authorised by law in such part of Her Majesty's dominions to administer an oath for the purpose of a legal proceeding; and,

(*b.*) If made out of Her Majesty's dominions, be made and subscribed before a British consul, vice-consul, or other consular officer.

Notice of seal of officer taking declaration to prove itself.

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

Declaration by infant, lunatic, &c.

67. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by the Act or these rules to be made or done by such incapable person, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of the Act and these Rules be as effectual as if done by the person for whom he is substituted.

Commissioners of Patents.

Registrar subject to Commissioners of Patents.

68. The registrar, in the exercise of his powers, duties, and discretion under the Act and these Rules, shall be subject to the superintendence of the Commissioners of Patents, and shall conform in every case to any instructions, directions, orders, or rules

(general or special) that may be issued, given, or made by such Commissioners, or any one of them; and he shall in all cases of doubt be entitled to refer to the said Commissioners, or any of them, for instructions.

Notices.

Notices to be in writing and served by post.

69. Applications, statements, notices, and documents required by the Act or by these Rules to be served or sent shall be in writing or print, or partly in writing and partly in print, and may be delivered personally, or served and sent by post, and if sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was prepaid and put into the post properly addressed.

Mode of addressing notices.

70. Any application, statement, notice, and document to be served or sent on or to the registrar shall be deemed to be properly addressed if addressed to the registrar of trade marks at his office; and if required to be served on or sent to the proprietor of any trade mark shall be deemed to be properly addressed if addressed to the registered proprietor at his registered address.

Construction of Rules.

71. These Rules shall be construed as if they were part of the Trade Marks Registration Act, 1875, as amended by the Trade Marks Registration Amendment Act, 1876, and the said Trade Marks Registration Act, 1875, amended as aforesaid, is in these Rules referred to as "the Act."

Forms.

72. The forms in the third schedule to these Rules or such other forms as the registrar may direct may be used in all cases to which they are applicable.

August, 1876.

CAIRNS, C.

We the Commissioners of Her Majesty's Treasury do hereby assent to the above Rules so far as they relate to fees.

CRICHTON.
R. WINN.

September, 1876.

Class 7.

Agricultural and horticultural machinery, and parts of such machinery.	Such as— Ploughs. Drilling machines. Reaping machines. Thrashing machines. Churns. Cyder presses. Chaff cutters.

Class 8.

Philosophical instruments, instruments and apparatus for useful purposes, or for teaching.	Such as— Gauges. School desks. Logs.

Class 9.

Musical instruments.

Class 10.

Horological instruments.

Class 11.

Instruments, apparatus, and contrivances for surgical or curative purposes, or in relation to health.	Such as— Bandages. Friction gloves. Lancets.

Class 12.

Cutlery and edge tools.	Such as— Knives. Forks. Scissors. Shears. Files. Saws.

Class 13.

Metal goods not included in other classes.

Class 14.

Goods of precious metals (including aluminium, nickel, Britannia metal, &c.), and jewellery, and imitations of such goods and jewellery.	Such as— Plate. Clock cases and pencil cases of such metals. Sheffield and other plated goods. Gilt and ormolu work.

Class 15.

Glass.	Such as— Window and plate glass. Painted glass. Glass mosaic. Glass for optical purposes.

Class 16.

Porcelain and earthenware.	Such as— China. Stoneware. Terra-cotta. Statuary porcelain. Tiles. Bricks.

Class 17.

Manufactures from mineral and other substances for building or decoration.	Such as— Cement. Plaster. Imitation marble.

Class 18.

Engineering, architectural, and building contrivances.	Such as— Diving apparatus. Warming apparatus. Ventilating apparatus. Filtering apparatus. Lighting contrivances. Drainage contrivances. Electric and pneumatic bells.

Class 19.

Arms, ammunition, and stores not included in Class 20.	Such as— Cannon. Small-arms. Fowling-pieces. Swords. Shot and other projectiles. Camp equipage. Equipments.

Class 20.

Explosive substances.	Such as— Gunpowder. Gun cotton. Dynamite. Fog-signals. Percussion caps. Fireworks. Cartridges.

Class 21.

Naval architectural contrivances and naval equipments not included in classes 19 and 20.	Such as— Boats. Anchors. Chain cables. Rigging.

Class 22.

Carriages.	Such as— Railway carriages. Waggons. Railway trucks. Velocipedes. Bath chairs.

Class 23.

Cotton yarn and thread.

Class 24.

Cotton piece goods of all kinds.

Class 25.

Cotton goods not included in Classes 23, 24, or 38.

Class 26.

Linen and hemp yarn and thread.

Class 27.

Linen and hemp piece goods.

Class 28.

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

Class 29.

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

Class 30.

Silk, spun, thrown, or sewing.

Class 31.

Silk piece goods.

Class 32.

Other silk goods not included in classes 30 and 31.

Class 33.

Yarns of wool, worsted, or hair.

Class 34.

Cloths and stuffs of wool, worsted, or hair.

Class 35.

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

Class 36.	
Carpets, floor-cloth, and oil-cloth.	Such as— Drugget. Mats and matting. Rugs.
Class 37.	
Leather, and skins unwrought and wrought.	Such as— Saddlery. Harness. Whips. Portmanteaus. Furs.
Class 38.	
Articles of clothing.	Such as— Hats of all kinds. Caps and bonnets. Hosiery. Gloves. Boots and shoes. Other ready-made clothing.
Class 39.	
Paper (except paper hangings), stationery, printing, and book-binding.	Such as— Envelopes. Sealing wax. Pens (except gold pens). Ink. Playing cards. Blotting cases. Copying presses.
Class 40.	
Goods manufactured from india-rubber and gutta-percha not included in other classes.	
Class 41.	
Furniture and upholstery.	Such as— Paper hangings. Papier-mâché. Mirrors. Mattresses.

Class 42.	
Substances used as food, or as ingredients in food.	Such as— Cereals. Pulses. Olive oil. Hops. Malt. Dried fruits. Tea. Sago. Salt. Sugar. Preserved meats. Confectionery. Oil cakes. Pickles. Vinegar. Beer clarifiers.
Class 43	
Fermented liquors and spirits.	Such as— Beer. Cyder. Wine. Whisky. Liqueurs.
Class 44.	
Mineral and aërated waters, natural and artificial, including ginger beer.	
Class 45.	
Tobacco, whether manufactured or unmanufactured:	
Class 46.	
Seeds for agricultural and horticultural purposes.	
Class 47.	
Candles, common soap, detergents, illuminating, heating, or lubricating oils, matches, and starch, blue, and other preparations for laundry purposes.	Such as— Washing powders. Benzine collas.

Class 48.	
Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).	
Class 49.	
Games of all kinds.	Such as—
Archery.	Billiard tables.
Fishing tackle.	Roller skates.
Toys.	Fishing nets and lines.
Class 50.	
Miscellaneous, including—	Such as—
(1.) Goods manufactured from ivory, bone, wood, not included in other classes.	Coopers' wares.
(2.) Goods manufactured from straw or grass, not included in other classes.	
(3.) Goods manufactured from animal and vegetable substances, not included in other classes.	
(4.) Tobacco pipes.	
(5.) Umbrellas, walking sticks, brushes, and combs.	
(6.) Furniture cream, plate powder.	
(7.) Tarpaulins, tents, rick-cloths, rope, twine.	
(8.) Buttons of all kinds, other than of precious metal or imitations thereof.	
(9.) Packing and hose of all kinds.	
(10.) Goods not included in the foregoing classes.	

GENERAL NOTE.

Any wares made of mixed materials (for example, of both cotton and silk) shall be included in such one of the classes appropriated to those materials as the registrar may decide.

SECOND SCHEDULE.

FEES.

The following fees shall be payable to the registrar on or for the following occasions or purposes :—

	£	s.	d.
1. On application to register one trade mark for one or more articles included in one class - -	1	0	0
2. On application to register more than one trade mark for one or more articles included in one class, for each additional trade mark after the first - - - - - -	0	10	0
3. On application to register a trade mark in respect of goods in different classes, for every class after the first to which such trade mark is extended, an additional fee of - - - - -	0	2	0
4. For registration of one trade mark - - -	1	0	0
5. Where the same person is registered at the same time for more than one trade mark, for registration of each additional mark after the first -	0	10	0
6. Where the same person is registered at the same time for the same trade mark in respect of goods in different classes, for the registration of one mark in each class after the first an additional fee of - - - - -	0	2	0
7. For entering notice of opposition - - -	2	0	0
8. For registering subsequent proprietor - -	1	0	0
9. For altering address on the register - -	0	5	0
10. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged - - - - - -	0	10	0
11. For continuance of mark at expiration of fourteen years - - - - - -	2	0	0
12. Additional fee where fee is paid within three months after expiration of fourteen years - - -	1	0	0

	£	s.	d.
13. Additional fee for restoration of trade mark when removed for non-payment of fee	2	0	0
14. For certificate	1	0	0
15. For inspecting register, for every quarter of an hour	0	1	0
16. For office copy of documents, 2*d.* per folio, but never less than	0	1	0
17. Settling a special case by registrar	2	0	0

Note.

If a copy of a trade mark is required for any purpose, such copy shall be supplied by or at the expense of the applicant.

THIRD SCHEDULE.

Form A.

Form of Statement on Application for Registration of one Trade Mark.

I,* [*John Jones, of Moon Street, in the town of Birmingham, pharmaceutical chymist,*] apply to be registered as proprietor of a trade mark† [*being a goat's head and neck with a gold collar attached thereto*], and which is represented in the paper annexed hereto.

I desire that the said trade mark may be registered in respect of the description of goods following, contained in [*Class I., that is to say,*‡ *acids, including pigments, mineral dyes*].

I have used the said trade mark in respect of the said goods for [*ten*] years before the 13th of August 1875.§

‖ The ____ day of _____ 187 .

(Signed) *John Jones.*¶

* *Here insert name, address, and calling of the applicant.*

† *Here insert in writing description of trade mark.*

‡ *Here insert description of the goods, and the class or classes under which the applicant desires to have them registered.*

§ *This paragraph may be omitted if the trade mark was not used before the 13th of August 1875.*

‖ *Here insert date.*

¶ *Here insert signature.*

Form B.

Form of Statement on Application for Registration of more than one Trade Mark.

I,* [*John Jones, of Moon Street, in the town of Birmingham, pharmaceutical chymist,*] apply to be registered as proprietor of the following trade marks, numbered from "1" to .

The trade marks are described as follows; that is to say,

No. 1 is†

and is represented on paper 1 annexed hereto.

No. 2 is†

and is represented on paper 2 annexed hereto [*and so forth*].

I desire that the said trade marks may be registered in [respect of the descriptions of goods following; that is to say,

As to No. 1, in respect of the following goods contained in class ‡

As to No. 2, in respect of the following goods contained in class ‡ [*and so forth*].

§I have used the trade marks numbered [*respectively*] and in respect of the goods for which I desire them to be registered for years before the 13th of August 1875.

‖ The ____ day of _____ 187 .

(Signed) *John Jones.*¶

* *Here insert name, address, and calling of the applicant.*

† *Here insert in writing description of trade mark.*

‡ *Here insert description of the goods and the class or classes under which the applicant desires to have them registered.*

§ *This paragraph may be omitted if the trade marks were not used before the 13th of August 1875.*

‖ *Here insert date.*

¶ *Here insert signature.*

Form C.

Form of Declaration to accompany Statement on Application for Registration of one Trade Mark.

I *A.B.* of
do hereby solemnly and sincerely declare, to the best of my knowledge and belief, as follows:—

(1.) The statement signed by me and dated the day of , and marked with the letter "A," and shown to me at the time of making this declaration is true:

(2.) The description of the trade mark in such statement is a true description of the trade mark for the registration of which I apply:

(3.) I am lawfully entitled to the use of the trade mark of which the said description is a true description.

And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the session of Parliament held in the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "An Act to repeal an Act of the present session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths.'"

Signed *A.B.*
Declared before me

Note.—*The above Form will require to be altered so as to suit an application for the registration of more than one trade mark.*

Form D.

* This Form is to be used when the Declaration is made out of the United Kingdom.

Form of Declaration* to accompany Statement on Application for Registration of one Trade Mark.

I *A.B.* of
do hereby solemnly and sincerely declare, to the best of my knowledge and belief, as follows:

(1.) The statement signed by me, and dated the day of , and marked with the letter "A," and shown to me at the time of making this declaration is true:

(2.) The description of the trade mark in such statement is a true description of the trade mark for the registration of which I apply:

(3.) I am lawfully entitled to the use of the trade mark of which the said description is a true description.

Signed *A.B.*
Declared before me

Note.—*The above Form will require to be altered so as to suit an application for the registration of more than one trade mark.*

Form E.

Form of Assignment of Trade Mark.

Trade mark, class *
Name
Place of business

I† *A.B.* of in the county of being registered proprietor of the trade mark above particularly described, in consideration of pounds paid to me by *E.F.*, carrying on business at in the county of under the firm of *F. & Co.*, hereby assign the said trade mark to the said *E.F.*, together with the goodwill of the business concerned in the goods with respect to which the trade mark is registered.

In witness whereof I have hereunto subscribed my name and affixed my seal, this day of 18 .

(Signed)

Executed by the above-named *A.B.*,
in the presence of
[*insert description and place of residence*].

Executed by the above-named *E.F.*,
in the presence of

* *Here enter number or other means of identifying trade mark in register.*

† *Alter as necessary if there be more than one proprietor.*

Form F.

Declaration by Transmittee applying to be registered as Proprietor.

Trade mark, class , No. *
Name of owner
Firm
Place of business

* *Here enter number or other means of identifying trade mark in register.*

* *Alter accordingly, if more than one person makes the declaration.*

† *Alter according to circumstances.*

(1.) I, * the undersigned *A.B.* of in the county of , ‡ carrying on business at in the county of , declare as follows:

I declare that *A.B.*, the registered proprietor of the trade mark above described † [died at in the county of , having first made his will, dated the day of whereby he appointed me executor and I proved [*or* confirmed] his said will on the day of in the Court of], *or* [died at in the county of on the day of , intestate, and letters of administration of his estate and effects were [confirmation as executor of the said was] on the day of duly granted to me by the Court of]:

Or,

‡ *Alter according to circumstances.*

I declare, that [the estate of] *C.D.*, the registered proprietor of the trade mark above described, was, on the day of duly‡ [adjudged a bankrupt] [sequestrated], and that I was on the day of appointed trustee of the [sequestrated] estate of the said *C.D.*, and I am by law entitled to be registered as proprietor of the said trade mark in place of the said *C.D.*:

Or,

§ *Alter according to circumstances.*

I declare, that on the day of I intermarried with and am now the husband of *C.D.*, the registered proprietor of the trade mark above described; and § I declare that on such marriage the interest of the said *C.D.* in the said trade mark and in the goodwill of the business concerned in the goods with respect to which the trade mark is registered became by law vested in me, and that I am entitled to be registered as owner of the said trade mark in place of the said *C.D.*, and I declare that *C.D.* is the person referred to in the annexed certificate.

‖ *If the declarant is entitled only to some share in the goodwill, the share must be specified.*

(2.) I am lawfully entitled to the goodwill‖ of the business concerned in the goods with respect to which the trade mark so transmitted to me is registered.

And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the session of Parliament held in the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "An Act to repeal an Act of the present session of Parliament,

"intituled 'An Act for the more effectual abolition of Oaths and
"'Affirmations taken and made in various departments of the
"'State, and to substitute Declarations in lieu thereof, and for the
"'more entire suppression of voluntary and extra-judicial oaths
"'and affidavits, and to make other provisions for the abolition of
"'unnecessary oaths.'"

(Signed)

Dated at the
day of 18 .

Made and subscribed by the above-named
A.B. in the presence of me,

(Signed)

APPENDIX I.

Instructions to Persons applying for the Registration of Trade Marks.

Forms of Application will be found at page 25 of the Rules under the Trade Marks Registration Acts. The Applicant should carefully read over Rules 3, 4, 5, 6, 7, 9, 10, and 11, relating to Application for Registry, and attend to the notes attached to the forms in the third schedule to the Rules.

All applications must be made in the English language.

The attention of Applicants is called to the following points:

The Declaration.

1. Declarations made *in the United Kingdom* are made under the authority of the Act 5 & 6 Will. IV. cap. 62. (*vide* Rule 65), and should conclude in the form set out in that Act,—"And I make this Declaration conscientiously "believing the same to be true, and by virtue of the provisions of an Act "made and passed in the session of Parliament held in the fifth and sixth "years of the reign of His late Majesty King William the Fourth, inti-"tuled 'An Act to repeal an Act of the present session of Parliament, "'intituled "An Act for the more effectual abolition of Oaths and Affirma-"'tions taken and made in various departments of the State, and to "'substitute Declarations in lieu thereof, and for the more entire suppression "'of voluntary and extra-judicial oaths and affidavits, and to make other "'provisions for the abolition of unnecessary oaths."'"

2. The Declaration must be made before a Justice of the Peace or before a Commissioner for administering oaths (*vide* Rule 65). If made before a Commissioner it should bear a 2*s.* 6*d.* Inland Revenue impressed stamp.

3. Declarations made *out of the United Kingdom* are not made under the authority of the Act 5 & 6 Will. IV. cap. 62., and should not conclude with the statutory termination above quoted, but should be made strictly in accordance with Form D. of the third schedule of the Rules; such Declarations do not require an Inland Revenue stamp.

4. Declarations made out of Her Majesty's dominions may, in cases where it is impracticable to make them before a British consular officer, be subscribed before a mayor, whose signature or official seal must, however, be certified by a British consular officer, or by the Consul of the nation in London.

5. The Declaration, and the Statement on Application, should bear the ordinary signature of the person or persons by whom made. The trading name under which the business is carried on must also be stated in every case.

6. If the Application is made by a partner, secretary, or manager of a firm or corporate body, the Declaration and Statement should be made as "on behalf of" such firm or body, and the capacity in which the person signing the documents is acting should be stated.

7. In filling up the first paragraph of the Declaration the day of the month and the year should be stated.

The Statement on Application.

Form A. or B.

1. The Statement should be certified as an exhibit to the Declaration by the authority before whom the latter document is declared.

2. It should give an accurate description of the Mark, specifying any words, &c. forming a conspicuous part of the Mark. It should also specify *separately for each class* the description or descriptions of Goods in respect of which the Mark is applied for.

3. Ornamental or coloured groundwork, such as plaids or checks, &c., cannot be claimed as part of a mark unless it is included within the mark by some border or lines which should be referred to in the statement.

4. Where part of a label or mark consists of words or figures which vary with the different goods or qualities of goods to which the mark is applied, these variable parts should not be set out in the description of the mark, but should be referred to in general terms as "printed matter" or "other words referring to the goods to which the mark is applied," in which case these parts may appear in the representations in one variety, or the applicant may leave these parts of the mark or label blank, describing the blank spaces as "to be filled according to the quality or description of the goods with printed matter," or as "to be filled with other words, &c.," as above.

5. Attention should further be paid to the following points:—

Applications for the Registry of Trade Marks in Class 7 should only be made in respect of the larger kinds of agricultural and horticultural implements and machines; for all the smaller descriptions of metal implements, such as gardening, draining, excavating, and mining tools, other than with a cutting edge, application should be made in Class 13.

Marks for the under-mentioned goods should be claimed in Class 50:

Bags, sacks, tarpaulins, rick-cloths, tents, brattice cloth.
Brushes (except artists' brushes) and combs.
Buttons of all kinds, other than of precious metals or imitations thereof.
Cordage, rope, twine.
Coopers' wares.
Flasks.
Fuel (patent and artificial).
Furniture cream, plate powder, polishing paste.
Grindstones, oilstones, hones, emery.
Hose.
Packing.

Representations.

1. The Representations accompanying an Application must be sent in duplicate, each Representation upon a separate half sheet of foolscap paper, and with a margin of not less than one inch and a half on the left-hand side of the page.

2. Representations of a larger size than foolscap may be folded, but all such Representations must be mounted on linen.

3. Representations should be not only of a durable nature but of such a kind as will admit of their being preserved bound together in volumes as records of the property of the Applicants.

4. No Representation or part of a Representation supplied for the purposes of Registration should be in pencil or be merely punched upon paper or stamped or embossed.

5. The two Representations must in all cases be exactly similar.

6. The words "Registered," "Copyright," "Entered at Stationers' Hall," "To counterfeit this is forgery," will not be registered under the Trade Marks Registration Act, 1875, and, therefore, should not appear upon the Representations supplied for the purpose of Registration, nor in the Description of Marks given in the Statement on Application.

7. The engraver's or printer's name should not appear upon the Representations.

Marks not used before the passing of the Trade Marks Registration Act, 1875.

1. The definition of a Trade Mark not used prior to the passing of the Trade Marks Registration Act, 1875, is given in the 10th section of that Act, as follows:—

"A Trade Mark consists of one or more of the following essential particulars; that is to say,

"A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

"A written signature or copy of a written signature of an individual or firm; or

"A distinctive device, mark, heading, label, or ticket;

"and there may be added to any one or more of the said particulars any "letters, words, or figures, or combination of letters, words, or figures.

All Marks, therefore, which it is desired to register, and which were not used prior to the passing of the Act, must consist of one or more of the above essential particulars.

2. The following devices, designs, or words will not be registered as new marks or parts of new marks:

Representations of Her Majesty the Queen, or of any member of the Royal Family, or of Foreign Sovereigns.

Royal or national arms, crests, or mottoes.

Representations of the Royal Crown or of National flags.

Arms of counties, cities, and boroughs within the United Kingdom.

Prize or exhibition medals.

The words "trade mark," "patent," "warranted," "guaranteed."

Words of advertisement, or words indicating the special quality of the goods to which the mark is applied, such as "pure," "genuine," "excellent," "unequalled, &c."

Fees.

Fees will not be received in cash. They may be paid by a Post Office Order payable to the Registrar at the General Post Office, London; or, if they exceed five pounds, may be paid by a cheque drawn to the "Registrar of Trade Marks or Bearer," and crossed "Bank of England."

Each application for the registry of a Trade Mark or Marks must be accompanied by a statement, on foolscap paper, of the following particulars:—

1. Name and address of applicant.

(Example.) *John Jones,*
Moon Street,
Birmingham;
Pharmaceutical Chemist.

2. Account of fees for trade mark or marks required.

(Examples.)	£	s.	d.
One trade mark in class 4	1	0	0
or			
Two trade marks in class 20	1	10	0
or			
One trade mark in four classes	1	6	0

The Post Office Orders or crossed cheques enclosed for payment of fees should be fastened to the form of account of fees.

The Abatement of fees is only allowed when more than one Mark is applied for in pursuance of the *same* Application (*vide* Rule 4).

Applications may be made either on printed forms or altogether in writing, and must be addressed as follows:—

The Registrar,
Trade Marks Registry Office,
Quality Court,
Chancery Lane,
London, W.C.

Printed forms are not supplied by the Registry Office, but may be obtained at law stationers.

Applications may either be delivered by hand or sent prepaid by post, but an application will not be attended to unless it is accompanied by the proper fees specified in Schedule II. of the Rules.

Advertisements in Trade Marks Journal.

1. A Wood-block or Electrotype must be furnished for each Mark in each class, even though the Mark consists only of words.

2. The Wood-blocks or Electrotypes furnished must correspond exactly with the representations accompanying the application, and must afford distinct impressions of the Marks.

3. The Blocks and Electrotypes need not be larger than is required to show the mark in a distinct manner; and provided the Mark is clearly represented, it is not necessary that it should be on a Block two inches square. The largest space available for the representation of any single mark is nine inches broad by eight inches deep.

4. No block should exceed two inches in *breadth* unless a larger size is necessary in order to show the mark distinctly.

5. The Number given by the Registrar should *not* be cut on the Block or Electrotype, but should only be marked upon the side or bottom in such a manner as to secure its identification.

6. A description of the manner in which the Mark is applied should not be cut on the Block.

7. All Blocks should be sent, together with the papers marked "Form 2," to the Office of the Registrar.

8. It would greatly facilitate the compilation of the Trade Marks Journal if each applicant would affix an impression of the mark from the Block, as cut for the Journal, to the Form 2 before forwarding it to the Trade Marks Registry Office.

Notice.

Copies of the Instructions and Rules and of each number of the Journal may be obtained, on payment of a shilling for each copy, of the following publishers:—

Knight and Co., 90, Fleet Street;
Stevens and Sons, 119, Chancery Lane;
E. Stanford, 55, Charing Cross;
Shaw and Sons, Fetter Lane;
Butterworths, 7, Fleet Street;
G. Downing, 8, Quality Court, Chancery Lane;
Trübner and Co., 57 and 59, Ludgate Hill;
Waterlow and Sons, "Limited," 24 and 25, Birchin Lane, 60, 61, and 65, London Wall, and 49, Parliament Street;
J. M. Johnson and Sons, "Limited," 3, Castle Street, Holborn, and 56, Hatton Garden;
Palmer and Howe, 1, 3, and 5, Bond Street, Manchester;
Alex. Thom, 87 and 88, Abbey Street, Dublin; and
A. and C. Black, Edinburgh.

Copies will also be sent by post by any of the above publishers on a prepaid application, containing the name and address of the sender, and accompanied with a Post Office Order for the amount due in respect of the copies required.

Trade Marks Registry Office,
4, Quality Court,
Chancery Lane,
London, W.C.
15th September 1876.

H. READER LACK,
Registrar.

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APPENDIX II.

Registration of Trade Marks.

[38 & 39 VICT. CH. 91.]

An Act to establish a Register of Trade Marks.

[13th August 1875.]

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

Registration of trade marks.

1. A register of trade marks as defined by this Act, and of the proprietors thereof shall be established under the superintendence of the Commissioners of Patents, and from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by this Act until and unless such trade mark is registered in pursuance of this Act.

Characteristics of registered trade mark.

2. A trade mark must be registered as belonging to particular goods, or classes of goods; and when registered shall be assigned and transmitted only in connexion with the goodwill of the business concerned in such particular goods or classes of goods, and shall be determinable with such goodwill, but subject as aforesaid registration of a trade mark shall be deemed to be equivalent to public use of such mark.

Title of first proprietor of a trade mark.

3. The registration of a person as first proprietor of a trade mark shall be primâ facie evidence of his right to the exclusive use of such trade mark, and shall, after the expiration of five years from the date of such registration, be conclusive evidence of his right to the exclusive use of such trade mark, subject to the provisions of this Act as to its connexion with the goodwill of a business.

Title of proprietor claiming by transmitted proprietorship.

4. Every proprietor registered in respect to a trade mark subsequently to the first registered proprietor shall, as respects his title to that trade mark, stand in the same position as if his title were a continuation of the title of the first registered proprietor.

Rectification of register.

5. If the name of any person who is not for the time being entitled to the exclusive use of a trade mark in accordance with this Act, or otherwise in accordance with law, is entered on the register of trade marks as a proprietor of such trade mark, or if the registrar refuses to enter on the register as proprietor of a trade mark the name of any person who is for the time being entitled to the exclusive use of such trade mark in accordance with this Act, or otherwise in accordance with law, or if any mark is registered as a trade mark which is not authorised to be so registered under this Act, any person

aggrieved may apply in the prescribed manner for an order of the court that the register may be rectified; and the court may either refuse such application, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may award damages to the party aggrieved.

Where each of several persons claims to be registered as proprietor of the same trade mark, the registrar may refuse to comply with the claims of any of such persons until their rights have been determined by the court, and the registrar may himself submit or require the claimants to submit in the prescribed manner their rights to the court.

The court may, in any proceeding under this section, decide any question as to whether a mark is or is not such a trade mark as is authorised to be registered under this Act, also any question relating to the right of any person who is party to such proceeding to have his name entered on the register of trade marks, or to have the name of some other person removed from such register, also any other question that it may be necessary or expedient to decide for the rectification of the register.

The court may direct an issue to be tried for the decision of any question of fact which may require to be decided for the purposes of this section.

Whenever any order has been made rectifying the register the court shall by its order direct that due notice of such rectification be given to the registrar.

Restrictions on registry of trade marks.

6. The registrar shall not, without the special leave of the court, to be given in the prescribed manner, register in respect of the same goods or classes of goods a trade mark identical with one which is already registered with respect to such goods or classes of goods, and the registrar shall not register with respect to the same goods or classes of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or classes of goods as to be calculated to deceive.

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

Establishment of registry and general rules.

7. Subject as aforesaid, a register office shall be established from and after such time (not being later than the first day of January one thousand eight hundred and seventy-six), in such manner and with such officers, and at such salaries, to be paid out of moneys provided by Parliament, as the Lord Chancellor may, with the consent of the Treasury, direct; and the Lord Chancellor may from time to time, with the assent of the Treasury as to fees, make, and, when made, alter, annul, or vary, such general rules as to the registry of trade marks, and as to notices to be given by advertisement before the registration of trade marks, and as to the classification of goods for the purposes of this Act, and as to the registration of first and subsequent proprietors of trade marks, and as to the fees to be charged for registration, and also for the continuance of a trade mark on the register or otherwise, and as to the removal from the register of any trade mark, as to notices, and as to the persons entitled to inspect the register, and as to any proceedings to be taken to obtain the judgment or leave of the court in any matter in which the judgment or leave of the court is required to be obtained under this Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient.

Any rules made in pursuance of this section shall be laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting, then within ten days from the then next assembling of Parliament, and shall be of the same validity as if they had been enacted by Parliament; provided that if either House of Parliament resolve within one month after such rules have been laid before such House, that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall, after the date of such resolution, cease to be of any force, without prejudice, nevertheless, to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Certificate of registrar to be evidence.

8. The certificate of the registrar as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be evidence of such entry having been made, and of the contents thereof, and of such matters and things having been done or left undone.

Provision as to Cutlers Company and Sheffield corporate marks.

9. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called "the Cutlers Company"), and the marks or devices (in this Act called "Sheffield corporate marks") assigned or to be assigned by the master, wardens, searchers, and assistants of that company, be it enacted as follows:

(1.) Within the prescribed time and in the prescribed manner the Cutlers Company shall at their own expense deliver to the registrar under this Act copies of all Sheffield corporate marks in force at the time of such delivery:

(2.) When any person, after the passing of this Act, applies to the said master, wardens, searchers, and assistants to assign to him any mark or device, notice of such application, with a copy of such mark or device, shall, within the prescribed time and in the prescribed manner, be delivered to the registrar under this Act; and such mark or device shall not be assigned until after the expiration of the prescribed period from the giving of such notice. In like manner, when any person applies for the registration under this Act of a trade mark as belonging to any goods or class of goods specified in section two of the Cutlers Company's Act of 1860, notice of such application, with a copy of such trade mark, shall, within the prescribed time and in the prescribed manner, be delivered to the Cutlers Company; and such trade mark shall not be registered until after the expiration of the prescribed period from the giving of the last-mentioned notice:

(3.) Upon the assigning of any such mark or device, or the registration of any such trade mark as aforesaid, notice of the assignment or registration shall, within the prescribed time and in the prescribed manner, be given to the registrar under this Act, or to the Cutlers Company, as the case may be:

(4.) The registrar under this Act, without the special leave of the court, to be given only in cases where the applicant proves his right, shall not in respect of any goods or classes of goods with respect to which a Sheffield corporate mark shall have been assigned and actually used, and of which notice or a copy or description or notice of the assigning whereof shall have been delivered or given to the registrar as aforesaid, register a trade mark identical with such Sheffield corporate mark, or so nearly resembling the same as to be calculated to deceive:

(5.) The master, wardens, searchers, and assistants of the Cutlers Company shall not assign to any person a mark or device identical with any trade mark registered under this Act, and notice of the registration whereof shall have been given to the Cutlers Company as aforesaid, or so nearly resembling the same as to be calculated to deceive:

(6.) Any person to whom a Sheffield corporate mark legally belongs shall be entitled to have the same mark registered also as a trade mark under this Act, in respect of any particular goods or classes of goods, in the same manner and upon the same terms and conditions in and upon which he might have registered the same if it were not a Sheffield corporate mark:

(7.) Nothing in this Act shall prejudice or affect the rights and privileges of the Cutlers Company, nor, save as is otherwise in this Act expressly provided, shall any of the provisions of this Act apply to or in the case of any Sheffield corporate mark.

Definitions.

10. For the purposes of this Act:

A trade mark consists of one or more of the following essential particulars; that is to say,

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

A written signature or copy of a written signature of an individual or firm; or

A distinctive device, mark, heading, label, or ticket;

and there may be added to any one or more of the said particulars any letters, words, or figures, or combination of letters, words, or figures; also

Any special and distinctive word or words or combination of figures or letters used as a trade mark before the passing of this Act may be registered as such under this Act.

"Prescribed" means prescribed by general rules made in pursuance of this Act; and

Court" means any of Her Majesty's superior courts of law or equity at Westminster, or any court to which the jurisdiction of such courts may be transferred, or any one or more of such courts which may be declared to be the court for the purposes of this Act by such general rules as aforesaid; but the provisions of this Act conferring a special jurisdiction on the court as above defined shall not, excepting so far as such jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in causes, actions, suits, or proceedings relating to trades marks; and if the

Judicial Department

register requires to be rectified in consequence of any proceedings in any such court in Scotland or Ireland, due notice of such requirements shall be given to the registrar, and he shall rectify the register accordingly.

Short title of Act.

11. This Act may be cited for all purposes as the Trade Marks Registration Act, 1875.

Trade Marks Registration Amendment.

[39 & 40 Vict. Ch. 33.]

An Act for the Amendment of the Trade Marks Registration Act, 1875.

[24th July 1876.]

38 & 39 Vict. c. 91.

WHEREAS by the Trade Marks Registration Act, 1875, in this Act referred to as the principal Act, it is provided that from and after the first day of July one thousand eight hundred and seventy-six, a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by the principal Act until and unless such trade mark is registered in pursuance of that Act:

And whereas by reason of the number of trade marks, and especially by reason of the difficulties attending the registration of trade marks in relation to textile fabrics, it has been found impossible to complete the registration of existing trade marks within the time specified by the said section; and it is therefore expedient to prolong the time for the completion of such registration as aforesaid, and otherwise to amend the principal Act:

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

Amendment of s. 1. of the principal Act.

1. There shall be repealed so much of section one of the principal Act as provides that from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any trade mark as defined by that Act until and unless such trade mark is registered in pursuance of that Act, and in place thereof be it enacted that—

From and after the first day of July one thousand eight hundred and seventy-seven, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any trade mark as defined by the principal Act until and unless such trade mark is registered in pursuance of that Act, or until and unless, with respect to any device, mark, name, combination of words, or other matter or thing in use as a trade mark before the passing of the principal Act, registration thereof as a trade mark under the principal Act shall have been refused as herein-after is mentioned.

With letter of enclosure

Saving of marks and devices not capable of being registered under Act.

2. When an application by any person to register as a trade mark a device, mark, name, word, combination of words, or other matter or thing proposed for registration as a trade mark, which has been in use as a trade mark before the passing of the recited Act, has been refused, it shall be the duty of the registrar, on request, and on payment of the prescribed fee, to give to the applicant a certificate of such refusal, and a certificate so granted shall be conclusive evidence of such refusal.

Short title.

3. This Act may be cited for all purposes as the Trade Marks Registration Amendment Act, 1876.

Judicial Department.

LONDON:
Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.
For Her Majesty's Stationery Office.

Rev. No 29-5-77 No 2013

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Rev: 26/5/77

615

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

MEMO. the following letter from the Under Secretary to the Government of India.
to the Chief Secretary to Government, dated 31st April 1877 No 2/338.

Ordered thereon 28th May 1877 No 1312

Ordered that a set of these papers be forwarded to the Chamber of Commerce and the Madras Trades Association.

2. It is observed that the Rules have been republished in the Fort Saint George Gazette under date the 20th February 1877 page 82 of "Rules for Registration of Trade Marks for Cotton goods" which has been published as a Supplement to the Gazette of India dated March 31st 1877, will also now be republished in the Fort St George Gazette.

(True Extract.)

W. H. Laverdière
Assistant Secretary.

To

The Revenue Department.
with letter &
enclosures

No

Revenue Dept

Govt of 1877 Madras.

No 2675

Pro: of Govt Jud: Dept

Dated 28 } May 1877. No. 1210
Recd. 28 }

Nos. Encs

Forwarding letter
from Govt of India on
the subject of Rules
under the Trade Mark
Registration Acts.

No. 3013.
Lodged.

29 May 77