

TRADE MARKS.

8 OF 1910.⁽¹⁾

TO PROVIDE FOR THE REGISTRATION OF TRADE MARKS.

C. A. KING-HARMAN.]

[July 11, 1910.]

1. This Law may be cited as the Trade Marks Registration Law, Short title. 1910.

PART 1.

DEFINITIONS.

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

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

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

A “ registrable trade mark ” shall mean a trade mark which is capable of registration under the provisions of this Law.

“ The register ” shall mean the register of trade marks kept under the provisions of this Law.

A “ registered trade mark ” shall mean a trade mark which is actually upon the register.

“ Prescribed ” shall mean, in relation to proceedings before the Court, prescribed by Rules of Court, and in other cases, prescribed by this Law or the Rules thereunder.

“ The Court ” shall mean the Supreme Court of Cyprus.

REGISTER OF TRADE MARKS.

3. There shall be kept for the purposes of this Law at the Office of the Chief Collector of Customs at Nicosia, or by such other officer or at such other place as the High Commissioner may at any time

Register of
Trade Marks.

⁽¹⁾ As amended by 17 of 1920.

direct, a book called the Register of Trade Marks, wherein shall be entered all registered trade marks with the names and addresses of their proprietors, notifications of assignments and transmissions, disclaimers, conditions, limitations, and such other matters relating to such trade marks as may from time to time be prescribed. The register shall be kept under the control and management of the Chief Collector of Customs, or of such other officer appointed as hereinafter mentioned, who is in this Law referred to as the Registrar.

Trust not to be entered in register.

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

Inspection of and extract from register.

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

REGISTRABLE TRADE MARKS.

Trade mark must be for particular goods.

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

Registrable trade marks.

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

- (1.) The name of a company, individual, or firm represented in a special or particular manner;
- (2.) The signature of the applicant for registration or some predecessor in his business;
- (3.) An invented word or invented words;
- (4.) A word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname;
- (5.) Any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in the above paragraphs (1.), (2.), (3.) and (4.), shall not be registrable under the provisions of this paragraph, except upon evidence of its distinctiveness.

As amended by 17, 1920, 8.

Provided always that any special or distinctive word or words, letter, numeral, or combination of letters or numerals used in Cyprus as a trade mark by the applicant or his predecessors in business before the first day of January one thousand eight hundred

and ninety-eight, which has continued to be used (either in its original form or with additions or alterations not substantially affecting the identity of the same) down to the date of the application for registration shall be registrable as a trade mark under this Law.

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

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

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

Coloured
trade marks.

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

Restriction on
registration.

REGISTRATION OF TRADE MARKS.

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

Application
for registra-
tion.

(2.) Subject to the provisions of this Law, the Registrar may refuse such application, or may accept it absolutely or subject to conditions, amendments, or modifications, or to such limitations, if any, as to mode or place of user or otherwise as he may think right to impose.

As amended
by 17, 1920,
13.

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

see *Goodfield v*
McGee
1910 1 Ch. 118

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

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

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

Advertise
ment of
application.

11. When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions and limitations, the Registrar shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the prescribed manner. Such advertisement shall set forth all conditions and limitations subject to which the application has been accepted. Provided that an application under the provisions of sub-section (5.) of section 7 of this Law may be advertised by the Registrar on receipt of such application and before acceptance.

Opposition to
registration.

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

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

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

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

(5.) The decision of the Registrar shall be subject to appeal to the Court.

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

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

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

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

(10.) The Registrar shall have power in proceedings under this section 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.

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

Disclaimers.

13. If a trade mark contains parts not separately registered by the proprietor as trade marks, or if it contains matter common to the trade or otherwise of a non-distinctive character, the Registrar or the Court, in deciding whether such trade mark shall be entered or shall remain upon the register, may require as a condition of its being upon the register, that the proprietor shall disclaim any right to the exclusive use of any part or parts of such trade mark, or of all or any portion of such matter, to the exclusive use of which they hold him not to be entitled, or that he shall make such other disclaimer as they may consider needful for the purpose of defining his rights under such registration: Provided always that no disclaimer upon the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

Date of registration.

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

Certificate of registration.

15. On the registration of a trade mark the Registrar shall under his hand and seal issue to the applicant a certificate in the prescribed form of the registration of such trade mark.

Non-completion of registration.

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

IDENTICAL TRADE MARKS.

Identical marks.

17. Except by order of the Court or in the case of trade marks in use in Cyprus before the first day of January, one thousand eight hundred and ninety-eight, no trade mark shall be registered in respect of any goods or description of goods which is identical with one belonging to a different proprietor which is already on

the register with respect to such goods or description of goods, or so nearly resembling such a trade mark as to be calculated to deceive.

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

Rival claims to identical marks.

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

Concurrent user.

ASSIGNMENT.

20. A trade mark when registered shall be assigned and transmitted only in connection with the goodwill of the business concerned in the goods for which it has been registered and shall be determinable with that goodwill. But nothing in this section contained shall be deemed to affect the right of the proprietor of a registered trade mark to assign the right to use the same in any British possession or protectorate or foreign country in connection with any goods for which it is registered together with the goodwill of the business therein in such goods, and the assignment of such right to use the same shall constitute the assignee a proprietor of a separate trade mark for the purpose of section 19 of this Law subject to such conditions and limitations as may be imposed under that section.

Assignment and transmission of trade marks.

21. In any case where from any cause, whether by reason of dissolution of partnership or otherwise, a person ceases to carry on business, and the goodwill of such person does not pass to one successor but is divided, the Registrar may (subject to the provisions of this Law as to associated trade marks), on the application of the parties interested, permit an apportionment of the registered trade marks of the person among the persons in fact

Apportionment of marks on dissolution of partnership.

continuing the business, subject to such conditions and modifications, if any, and to such limitations, if any, as to mode or place of user, as he may think necessary in the public interest. Any decision of the Registrar under this section shall be subject to appeal to the Court.

ASSOCIATED TRADE MARKS.

Associated
trade marks.

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

Combined
trade marks.

23. If the proprietor of a trade mark claims to be entitled to the exclusive use of any portion of such trade mark separately he may apply to register the same as separate trade marks. Each such separate trade mark must satisfy all the conditions and shall have all the incidents of an independent trade mark, except that when registered it and the trade mark of which it forms a part shall be deemed to be associated trade marks and shall be entered on the register as such, but the user of the whole trade mark shall for the purposes of this Law be deemed to be also a user of such registered trade marks belonging to the same proprietor as it contains.

Series of
trade marks.

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

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

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

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

Assignment
and user of
associated
trade marks.

RENEWAL OF REGISTRATION.

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

Duration of
registration.

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

Renewal of
registration.

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

Procedure on
expiry of
period of
registration.

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

Status of
unrenewed
trade mark.

CORRECTION AND RECTIFICATION OF THE REGISTER.

Correction of register.

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

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

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

Registration of assignments, etc. 17, 1920, 12.

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

(2.) Except in cases of appeals under this section and applications made under section 33 of this Law a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-section (1.) aforesaid shall not be admitted in evidence in any Court in proof of the title to a trade mark unless the Court otherwise directs.

Alteration of registered trade mark.

32. The registered proprietor of any trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter such trade mark in any manner not substantially affecting the identity of the same, and the Registrar may refuse such leave or may grant the same on such terms and subject to such limitations as to mode or place of user as he may think fit, but any such refusal or conditional permission shall be subject to appeal to the Court. If leave be granted, the trade mark as altered shall be advertised in the prescribed manner.

33.⁽¹⁾ Subject to the provisions of this Law—Rectification
of register.

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

34.⁽¹⁾ A registered trade mark may, on the application to the Court of any person aggrieved, be taken off the register in respect of any of the goods for which it is registered, on the ground that it was registered by the proprietor or a predecessor in title without any *bonâ fide* intention to use the same in connection with such goods, and there has in fact been no *bonâ fide* user of the same in connection therewith, or on the ground that there has been no *bonâ fide* user of such trade mark in connection with such goods during the five years immediately preceding the application, unless in either case such non-user is shown to be due to special circumstances in the trade, and not to any intention not to use or to abandon such trade mark in respect of such goods.

Non-user of
trade mark.

EFFECT OF REGISTRATION.

35. Subject to the provisions of this Law:—Powers of
registered
proprietor

- (1.) The person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from such register to be vested in any other person, have power to assign the same, and to give effectual receipts for any consideration for such assignment;
- (2.) Any equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

⁽¹⁾ See s. 67, *infra*.

Rights of proprietor of trade mark.

36. Subject to the provisions of section 38 of this Law and to any limitations and conditions entered upon the register, the registration of a person as proprietor of a trade mark shall, if valid, give to such person the exclusive right to the use of such trade mark upon or in connection with the goods in respect of which it is registered and shall give to such person the right to bring an action against any infringer thereof for an injunction to restrain such infringement and to recover from such infringer such damages as such person so bringing such action can prove to have been occasioned to him by reason of such infringement and for the destruction of all such infringing trade marks: Provided always that where two or more persons are registered proprietors of the same (or substantially the same) trade mark in respect of the same goods no rights of exclusive user of such trade mark shall (except so far as their respective rights shall have been defined by the Court) be acquired by any one of such persons as against any other by the registration thereof, but each of such persons shall otherwise have the same rights as if he were the sole registered proprietor thereof.

Registration to be *primâ facie* evidence of validity.

37. In all legal proceedings relating to a registered trade mark (including applications under section 33 of this Law) the fact that a person is registered as proprietor of such trade mark shall be *primâ facie* evidence of the validity of the original registration of such trade mark and of all subsequent assignments and transmissions of the same.

Registration to be conclusive after seven years.

38. In all legal proceedings relating to a registered trade mark (including applications under section 33 of this Law) the registration of such trade mark shall after the expiration of seven years from the date of such registration be taken to be valid in all respects unless such registration was obtained by fraud, or unless the trade mark offends against the provisions of section 9 of this Law.

Provided that nothing in this Law shall entitle the proprietor of a registered trade mark to interfere with or restrain the user by any person of a similar trade mark upon or in connection with goods upon or in connection with which such person has, by himself or his predecessors in business, continuously used such trade mark from a date anterior to the user or registration whichever is the earlier of the first-mentioned trade mark by the proprietor thereof or his predecessors in business, or to object (on such user being proved) to such person being put upon the register for such similar trade mark in respect of such goods under the provisions of section 19 of this Law.

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

Unregistered trade mark.

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

Actions for infringement, etc.

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

User of name, address, or description of goods.

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

"Passing-off" action.

LEGAL PROCEEDINGS.

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

Certificate of validity.

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

Registrar to have notice of proceeding for rectification.

COSTS.

Costs of proceedings before the Court.

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

EVIDENCE.

Mode of giving evidence.

46. In any proceeding under this Law before the Registrar the evidence shall be given by affidavit in the absence of directions to the contrary, but, in any case in which he shall think it right so to do, the Registrar may (with the consent of the parties) take evidence *viva voce* in lieu of or in addition to evidence by affidavit. Any such affidavit may in the case of appeal be used before the Court.

In case any part of the evidence is taken *viva voce* the Registrar shall in respect of requiring the attendance of witnesses and taking evidence on oath have the same powers in all respects as a Court of Magisterial Jurisdiction.

Sealed copies to be evidence.

47. Printed or written copies or extracts of or from the register, purporting to be certified by and under the hand and seal of the Registrar shall be admitted in evidence in all Courts in Cyprus and in all proceedings, without further proof or production of the originals.

Certificate of Registrar to be evidence.

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

POWERS AND DUTIES OF REGISTRAR OF TRADE MARKS.

Exercise of discretionary power by Registrar.

49. Where any discretionary or other power is given to the Registrar by this Law or rules made thereunder he shall not exercise that power adversely to the applicant for registration or the registered proprietor of the trade mark in question without (if duly required so to do within the prescribed time) giving such applicant or registered proprietor an opportunity of being heard.

Appeal from Registrar.

50. Except where expressly given by the provisions of this Law or rules made thereunder there shall be no appeal from a decision of the Registrar but the Court, in dealing with any question of the rectification of the register (including all applications under

the provisions of section 33 of this Law), shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made.

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

Recognition of agents.

52. The Registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Law apply to the King's Advocate for directions in the matter.

Registrar may take directions of King's Advocate.

53. The Registrar shall on the first day of April in every year issue a report respecting the execution by him of this Law.

Annual report of Registrar.

54.—(1.) Subject to the provisions of this Law the Registrar may with the consent and approval of the High Commissioner in Council from time to time make such rules, prescribe such forms, and generally do such things as he thinks expedient—

Power of Registrar with approval of High Commissioner in Council to make rules.

- (a.) For regulating the practice under this Law;
- (b.) For classifying goods for the purposes of registration of trade marks;
- (c.) For making or requiring duplicates of trade marks and other documents;
- (d.) For securing and regulating the publishing and selling or distributing in such manner as the Registrar think fit, of copies of trade marks and other documents;
- (e.) Generally, for regulating the business of the office in relation to trade marks and all things by this Law placed under the direction or control of the Registrar.

(2.) Any rules made in pursuance of this section shall be published in the *Cyprus Gazette*.

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

FEEES.

55. There shall be paid in respect of applications and registration and other matters under this Law such fees as may be prescribed by the Registrar with the consent and approval of the High Commissioner in Council.

Fees.

SPECIAL TRADE MARKS.

Standard-
ization, etc.,
trade marks.

56. Where any association or person undertakes to certify the origin, material, mode of manufacture, quality, accuracy or other characteristic of any goods by mark used upon or in connection with such goods, the Registrar if and so long as he is satisfied that such association or person is competent to certify as aforesaid, may, if he shall judge it to be to the public advantage, permit such association or person to register such mark as a trade mark in respect of such goods, whether or not such association or person be a trading association or trader or possessed of a goodwill in connection with such certifying. When so registered such trade mark shall be deemed in all respects to be a registered trade mark and such association or person to be the proprietor thereof, save that such trade mark shall be transmissible or assignable only by permission of the Registrar.

OFFENCES.

Falsification
of entries in
register.

57. If any person makes or causes to be made a false entry in the register kept under this Law or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be liable for every offence on summary conviction to a fine not exceeding fifty pounds and in default of payment thereof to imprisonment for a period not exceeding six months.

Penalty on
falsely repre-
senting a
trade mark as
registered.

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

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

REPEAL; SAVINGS.

Repeal and
savings.

59. The Ottoman Trade Marks Law dated 24 Jemaziul-Akhir 1288 (tenth day of September one thousand eight hundred and seventy-one) and all subsequent amendments thereto which were in force in Cyprus on and including the 30th day of July, 1878, are hereby repealed: Provided that nothing in this Law shall be

construed to affect the validity in Cyprus of any trade mark duly registered under the provisions of the said Law between the 9th day of September, 1871, and the 30th day of July, 1878, and any such trade mark may upon proof of such registration produced to the satisfaction of the Registrar be registered as a trade mark under the provisions of this Law without payment of any fee or fees in connection with such registration.

PART 2.

REGISTRATION OF CERTAIN TRADE MARKS NOT REGISTRABLE UNDER THE FOREGOING PROVISIONS OF THIS LAW.

60.—(1.) The register shall be divided into two parts to be called respectively Part A. and Part B.

Division of register into two parts.
17, 1920, 2.

(2.) Part A. of the register shall comprise all trade marks entered in the register of trade marks prior to the 11th of May, 1921, and all trade marks which on and after that date may be registered under the provisions of Part 1 of this Law.

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

61.—(1.) Where any mark has for not less than two years been *bonâ fide* used in Cyprus upon or in connection with any goods (whether for sale in Cyprus or exportation abroad), for the purpose of indicating that they are the goods of the proprietor of the mark by virtue of manufacture, selection, certification, dealing with or offering for sale, the person claiming to be the proprietor of the mark may apply in writing to the Registrar in the prescribed manner to have the mark entered as his registered trade mark in Part B. of the register in respect of such goods.

Registration of trade marks in Part B.
17, 1920, 3.

(2.) The Registrar shall consider every such application for registration of a trade mark in Part B. of the register, and if it appears to him, after such search, if any, as he may deem necessary, that the application is inconsistent with the provisions

of section 9 or section 17 of this Law, or if he is not satisfied that the mark has been so used as aforesaid, or that it is capable of distinguishing the goods of the applicant, he may refuse the application, or may accept it subject to conditions, amendments or modifications as to the goods or classes of goods in respect of which the mark is to be registered, or to such limitations, if any, as to mode or place of user or otherwise as he may think right to impose, and in any other case he shall accept the application.

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

(4.) Any such refusal or conditional acceptance shall be subject to appeal to the Court, and, if the ground for refusal is insufficiency of evidence as to user, such refusal shall be without prejudice to any application for registration of the trade mark under the provisions of Part 1 of this Law.

(5.) Every such application shall, if accepted, be advertised in accordance with the provisions of Part 1 of this Law.

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

Application
of certain
provisions of
Part 1.
17, 1920, 4.

62. The provisions of Part 1 of this Law with the exception of those set out in the Schedule to this Law, shall, subject to the provisions of this Part of this Law, apply in respect of trade marks to which this Part of this Law applies as if they were in terms made applicable to this Part of this Law.

Effect of
registration
in Part B.
17, 1920, 5.

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

subject of such user were goods manufactured, selected, certified, dealt with or offered for sale by the proprietor of the trade mark.

64. If any person applies for the registration of a trade mark under Part 1 of this Law in Part A. of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B. of the register under this Part of this Law and deal with the application accordingly.

Power to treat applications for registration in Part A. as applications for registration in Part B. 17, 1920, 6.

PART 3.

PROVISIONS FOR THE PREVENTION OF ABUSES OF TRADE MARKS.

65.—(1.) Where in the case of an article or substance manufactured under any patent in force at or granted after the 27th day of April, 1920, a word trade mark registered under Part 1 or Part 2 of this Law is the name or only practicable name of the article or substance so manufactured, all rights to the exclusive use of such trade mark, whether under the common law or by registration (and notwithstanding the provisions of section 38 of this Law), shall cease upon the expiration or determination of the patent, and thereafter such word shall not be deemed a distinctive mark and may be removed by the Court from the register on the application of any person aggrieved.

Removal from register of word trade marks used as names of articles. 17, 1920. 7.

(2.) No word which is the only practicable name or description of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark, and any such word now or hereafter on the register may, notwithstanding section 38 of this Law, be removed by the Court from the register on the application of any person aggrieved:

Provided that—

- (a) The provisions of this sub-section shall not apply where the mark is used to denote only the proprietor's brand or make of such substance as distinguished from the substance as made by others, and in association with a suitable and practicable name open to the public use; and
- (b) In the case of marks registered before the 27th day of April, 1920, no application under this section for the removal of the mark from the register shall be entertained until after the expiration of four years from the said date.

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

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

PART 4.

GENERAL PROVISIONS.

Appeals.
17, 1920, 9.

66. In any appeal from the decision of the Registrar to the Court under this Law the Court shall have and exercise the same discretionary powers as under this Law are conferred upon the Registrar.

Rectification
of register.
17, 1920, 10.

67.—(1.) Any application for the rectification of the register or the removal of any trade mark from the register in respect of any goods which, under section 33 or section 34 of this Law or under Part 3 of this Law, is to be made to the Court, may, at the option of the applicant, be made in the first instance to the Registrar:

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

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

(3.) In any proceedings for the rectification of the register under section 33 or under Part 3 of this Law the Court or the Registrar shall, in addition to the powers conferred by the said section, have power to direct a trade mark entered in Part A. of the register to be removed to Part B. of the register.

Costs.
17, 1920, 11.

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

SCHEDULE.

17, 1920, 4,

PROVISIONS OF PART 1 OF THIS LAW NOT APPLIED TO PART 2.

No. of Section.	subject-matter.
1	Short title.
7	Registrable trade marks.
10	Application for registration.
12 (9)	Modification of trade mark on appeals.
13	Disclaimers.
22	Associated trade marks.
23	Combined trade marks.
25	Assignment and user of associated trade marks.
29	Status of unrenewed trade marks.
36 (except proviso) ...	Rights of proprietor of trade mark.
38 down to the words “ against the provisions “ of Section 9 of this “ Law.”	Registration to be conclusive after seven years.
39	Unregistered trade mark.
56	Standardization, &c., trade marks.

UNIFORMS.

4 OF 1895.

*repealed by
Criminal
code, 1928*

TO REGULATE AND RESTRICT THE WEARING OF NAVAL AND MILITARY UNIFORMS.

WALTER J. SENDALL.]

[April 16, 1895.

1. It shall be unlawful for any person not serving in Her Majesty's Military Forces to wear without Her Majesty's permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or distinctive marks of any such uniform.

Military uniforms not to be worn without authority.

Provided that this Law shall not prevent any person from wearing any uniform or dress in the course of a stage play performed in