

## TRADE MARKS.

8 OF 1910.<sup>(1)</sup>

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):— Definitions.

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

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

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

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(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.