



**SUPPLEMENT No. 2**

TO

THE CYPRUS GAZETTE No. 3541 OF 31ST JANUARY, 1951.

LEGISLATION.

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**THE STATUTE LAWS OF CYPRUS**

**No. 2 of 1951.** ✓

*Law came into force on 1/11/51  
Sept 3. 1951*

A LAW TO AMEND THE LAWS RELATING TO TRADE MARKS.

*Cap. 197*

A. B. WRIGHT,  
Governor.

[25th January, 1951.]

**B**E it enacted by His Excellency the Governor and  
Commander-in-Chief of the Colony of Cyprus as  
follows :—

1. This Law may be cited as the Trade Marks Law, 1951.

Short title.

## DEFINITIONS.

Interpretation.

2.—(1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“the appointed day” has the meaning assigned to it by section 61;

“assignment” means assignment by act of the parties concerned;

“the Court” means the Supreme Court of Cyprus;

“limitations” means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold, or otherwise traded in, in any place within Cyprus, or as to use in relation to goods to be exported to any market outside Cyprus;

“mark” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof;

“permitted use” has the meaning assigned to it by subsection (1) of section 29;

“prescribed” means, in relation to proceedings before the Court, prescribed by Rules of Court, and, in other cases, prescribed by this Law or any rules made thereunder;

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

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

“registered user” means a person who is for the time being registered as such under section 29;

“the Registrar” means the Official Receiver and Registrar and includes any other person appointed by the Governor to exercise all or any of the powers and perform all or any of the duties of a Registrar;

“rules” means rules made by the Governor in Council under section 37 or section 38;

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

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

(2) References in this Law to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE  
PROVISIONS.

*The register.*

3.—(1) There shall continue to be kept at the Office of the Registrar for the purposes of this Law the record called the register of trade marks, wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations, and such other matters relating to registered trade marks as may be prescribed.

The register  
of trade  
marks.

(2) The register shall continue to be divided into two parts called respectively Part A and Part B.

(3) The register shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed.

(4) The register shall be kept under the control and management of the Registrar.

*Effect of registration and the action for infringement.*

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

No action  
for infringe-  
ment of  
unregistered  
trade mark.

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

Registration  
to be in  
respect of  
particular  
goods.

6.—(1) Subject to the provisions of this section, and of sections 9 and 10, the registration (whether before or after the commencement of this Law) of a person in Part A of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

Right given  
by registra-  
tion in  
Part A, and  
infringe-  
ment  
thereof.

(a) as being use as a trade mark; or

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

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

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

(a) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods.

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

7.—(1) Except as provided by sub-section (2) of this section, the registration (whether before or after the commencement of this Law) of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and the provisions of section 6 shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have effect in relation to a trade mark registered in Part A of the register.

(2) In any action for infringement of the right to the use of a trade mark given by registration as aforesaid in Part B of the register, otherwise than by an act that is deemed to be an infringement by virtue of section 8, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the Court that the use of which the plaintiff complains is not likely to deceive or cause confusion

Right given  
by registra-  
tion in  
Part B, and  
infringe-  
ment  
thereof.

or to be taken as indicating a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.

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

Infringe-  
ment by  
breach of  
certain  
restrictions.

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

- (a) the application of the trade mark upon the goods after they have suffered alteration in any manner specified in the contract as respects their state or condition, get-up or packing;
- (b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;
- (c) in a case in which the trade mark is upon the goods, and there is also thereon other matter, being matter indicating a connection in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partly, of the trade mark unless that other matter is wholly removed or obliterated;
- (d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;
- (e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

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

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

Saving for  
vested  
rights.

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