

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION)

Notification

New Delhi dated the 17th November, 2015

S.O.____ (E).- The following draft of certain rules to replace the Trade Marks Rules, 2002 which the Central Government proposes to do in exercise of the powers conferred by section 157 of the Trade Marks Act, 1999 (47 of 1999), is hereby published, as required by sub-section (4) of the said section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration after the expiry of a period of thirty days from the date on which the Gazette of India, in which this notification is published, are made available to the public;

Objections or suggestions, if any, may be sent to the Additional Secretary to the Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi-110 011 or a copy can be mailed at sahni.palka@nic.in.

Any objections or suggestions received from any person with respect to the said draft rules before the expiry of the aforesaid period will be considered by the Central Government;

Draft Rules

PART I
CHAPTER I
PRELIMINARY

1. **Short title and commencement.** — (1) These rules may be called the Trade Marks Rules, 2015.
(2) They shall come into force on the date of their final publication in the Official Gazette.
2. **Definitions.** — (1) In these rules, unless the context otherwise requires, —
 - (a) "Act" means the Trade Marks Act, 1999 (47 of 1999);

- (b) "agent" means a person authorised to act under section 145 of the Act;
- (c) "application for registration of a trade mark" includes the trade mark for goods or services contained in it;
- (d) "appropriate office of the Trade Marks Registry" means the relevant office of the Trade Marks Registry as specified in rule 4;
- (e) "Authenticated" means authentication of any electronic record by means of "digital signature" as defined in the Information Technology Act, 2000;
- (f) "class fee" means the fee prescribed for the filing of an application for registration of a trade mark in a particular class;
- (g) "convention country" means a country or group of countries or union of countries or Inter-Governmental organisations of countries declared as such under sub-section (1) of section 154;
- (h) "convention application" means an application for registration of a trade mark made by virtue of Section 154;
- (i) "divisional application" means an application containing a request for the division of an application made under sub-section 2 of section 18 for the registration of a Trademark;
- (j) "divisional fee" means fee prescribed against entry number 62 in the First Schedule;
- (k) "Form" means a form set forth in either the Second or the Third Schedule;
- (l) "graphical representation" means the representation of a trade mark for goods or services represented or capable of being represented in paper form and includes representation in digitized form;
- (m) "Journal" means the Trade Marks Journal made available at official website of Controller General of Patents, Designs and Trade Marks;
- (n) "notified date" means the date on which these rules come into force;
- (o) "old law" means the Trade and Merchandise Marks Act, 1958 and rules made there under existing immediately before the commencement of the Act;
- (p) "opposition" includes an opposition to the registration of a trade mark or a collective mark or a certification trade mark, as the case may be;
- (q) "principal place of business in India" means the relevant place in India as specified in rule 3;
- (r) "publish" means publish in the Trade Marks Journal or to make available on the official web site of Controller General of Patents, Designs and Trademarks;
- (s) "registered trade mark agent" means a trade marks agent whose name is actually on the register of Trade Marks agents maintained under rule 145;
- (t) "renewal" means and includes renewal of registration of a trade mark, certification trade mark or collective mark, as the case may be;
- (u) "schedule" means a Schedule to the rules;
- (v) "section" means a section of the Act;
- (w) "specification" means the designation of goods or services in respect of which a trade mark or a registered user of a trade mark is registered or proposed to be registered;
- (x) All other words and expressions used but not defined in these rules but defined in the Act or in the Geographical Indications of Goods (Registration and Protection) Act, 1999 (48 of 1999), the Copyright Act, 1957 (14 of 1957) shall have the meanings assigned to them in those Acts.

(2) In these rules, except as otherwise indicated, a reference to a section is a reference to that section in the Act, a reference to a rule is a reference to that rule in these rules, a reference to a Schedule is a reference to that Schedule to these rules and a reference to a Form is a reference to that Form contained in the Second Schedule or the Third Schedule, as the case may be, to these rules.

3. **Principal place of business in India.**— "Principal place of business in India" means—

- (i) where a person carries on business in the goods or services concerned in a trade mark —
 - (a) if the business is carried on in India at only one place, that place;
 - (b) if the business is carried on in India at more places than one, the place mentioned by him as the principal place of business in India;
- (ii) where a person is not carrying on a business in the goods or services concerned in a trade mark—
 - (a) if he is carrying on any other business in India at only one place, that place;
 - (b) if he is carrying on any other business in India at more places than one, the place mentioned by him as the principal place of business in India; and
 - (iii) where a person does not carry on any business in India but has a place of residence in India, then such place of residence in India.

4. Appropriate office of the Trade Marks Registry.— The appropriate office of the Trade Marks Registry for the purposes of making an application for registration of a trade mark under section 18 or for giving notice of opposition under section 21 or for making an application for removal of a trade mark under section 47 or cancelling or varying the registration of a trade mark under section 57 or for any other proceedings under the Act and the rules shall be —

a) in relation to a trade mark on the Register of Trade Marks at the notified date, the office of the Trade Marks Registry within whose territorial limits—

(i) the principal place of business in India of the registered proprietor of the trade mark as entered in the register at such date is situate;

(ii) where there is no entry in the register as to the principal place of business in India of the registered proprietor, the place mentioned in the address for service in India as entered in the register at such date is situate;

(iii) in the case of jointly registered proprietors, the principal place of business in India of the proprietor whose name is entered first in the register as having such place of business in India at such date is situate;

(iv) where none of the jointly registered proprietors is shown in the register as having a principal place of business in India, the place mentioned in the address for service in India of the joint proprietors as entered in the register at such date, is situate;

(v) if no principal place of business in India of the registered proprietor of the mark or in the case of joint registration, of any of the joint proprietors of the mark, is entered in the register, and the register does not contain any address for service in India, the place of the office of the Trade Marks Registry where the application for registration of the trade mark was made, is situate, and

b) in relation to a trade mark for which an application for registration is pending at the notified date or is made on or after the notified date, the office of the Trade Marks Registry within whose territorial limits—

(i) the principal place of business in India of the applicant as disclosed in the application or, in the case of joint applicants, the principal place of business in India of the applicant whose name is first mentioned in the application, as having such place of business is situate;

(ii) where neither the applicant nor any of the joint applicants, as the case may be, has a principal place of business in India, the place mentioned in the address for service in India as specified in the application is situate.

5. Jurisdiction of appropriate office not altered by change in the principal place of business or address for service.— No change in the principal place of business in India or in the address for service in India, as the case may be,—

a) of a registered proprietor or of any of the jointly registered proprietors in relation to any trade mark on the register at the notified date, made or effected subsequent to that date; or

b) of an applicant for registration or of any of the joint applicants for registration in relation to any trade mark for which an application for registration is either pending at the notified date or is made on or after that date, made or effected subsequent to that date or to the date of filing of such application, as the case may be, shall affect the jurisdiction of the appropriate office of the Trade Marks Registry.

6. Entry of the appropriate office in the Register. — In respect of every trade mark on the register at the notified date or registered thereafter the Registrar shall cause to be entered in the register, the appropriate office of the trade marks registry and the Registrar may, at any time, correct any error in the entry so made.

7. Transfer of pending applications and proceedings to appropriate offices of the trade marks registry. — Every application and proceeding pending before the Registrar at the notified date in relation to a trade mark shall be deemed to have been transferred to the appropriate office of the trade marks registry.

8. Leaving of documents, etc. — All applications, notices, statements or other documents or any fees authorised or required by the Act or the rules to be made, served, left or sent or paid at or to the trade marks registry in relation to a trade mark on the Register of Trade Marks on the notified date or for which an application for registration is pending on, or is made on or after the notified date, shall be made, served, left or sent or paid to the appropriate office of the trade marks registry:

Provided that the Registrar may, by notification in the journal, permit the filing of certain forms or documents, other than the application for the registration of a trademark in any other office of the Trade Marks Registry.

9. Issue of notices etc. — Any notice or communication relating to an application, matter or proceeding under the Act or the rules may be issued by the Head of Office or any officer authorised by the Registrar.

10. Fees. — (1) The fees to be paid in respect of applications, oppositions, registration, renewal, expedited examination or reports or any other matters under the Act and the rules shall be those specified in the First Schedule, hereinafter referred to as the prescribed fees.

(2) Where in respect of any matter, a fee is required to be paid under the rules, the form or the application or the request of the petition thereof, it shall be accompanied by the prescribed fee.

(3) Fees may be paid in cash or sent by money order addressed to the Registrar or by a bank draft issued or by a Banker's cheque drawn on a scheduled bank at the place where the appropriate office of the Trade Marks Registry is situated and if sent through post, shall be deemed to have been paid at the time when the money order or the properly addressed bank draft or Banker's cheque is received in the office.

(4) Bank drafts and Banker's Cheque shall be crossed and made payable to the Registrar at the appropriate office of the Trade Marks Registry and they shall be drawn on a scheduled bank at the place where the appropriate office of the Trade Marks Registry is situated.

(5) Where a fee is payable in respect of filing of a document and where the document is filed without fee or with insufficient fee, such document shall be deemed not to have been filed for the purposes of any proceedings under these rules.

(6) The Registrar may, after informing the public in the Journal or through public notice on official website, make available electronic fee transfer facilities, subject to guidelines and instructions as may be specified on that behalf.

11. Forms. — (1) The Forms set forth in the Second and the Third Schedules shall be used in all cases to which they are applicable and may be modified as directed by the Registrar to meet other cases.

(2) Any Form, when filed at the Trade Marks Registry, shall be accompanied by the prescribed fee.

(3) A requirement under this rule to use a Form as set forth in the Schedules is satisfied by the use of a replica of that Form and contains the information required by the Form as set forth and complies with any direction as to the use of such a Form.

(4) The Registrar may after informing the public in the Journal or through public notice on official website specify such Forms as are required to be submitted in electronic mode. Thereafter, such Forms shall be completed in such manner as may be specified so as to permit an automated input of the content into a computer by character recognition or scanning.

12. Size, etc of documents.— (1) Subject to any other directions that may be given by the Registrar, all applications, notices, statements or other documents except trademarks, authorised or required by the Act or the rules to be made, served, left or sent, at or to the Trade Marks Registry or with or to the Registrar shall be typewritten or computer printout in Hindi or in English in legible characters with deep permanent ink upon strong paper of A-4 or legal size on one side only, and shall have on the left hand thereof a margin of not less than four centimeters.

(2) Duplicate documents including copies of trademarks shall be filed at the Trade Marks Registry if at any time required by the Registrar.

(3) The Registrar may after informing the public in the Journal alter the size, of all applications, notices, statements or other document and forms required under the rules to make it compatible in electronic mode.

(4) The Registrar may, after informing the public in the Journal, permit the filing of applications, statements, notices or other documents by electronic mode subject to such guidelines and instructions as he may specify in the Journal.

13. Signing of documents.— (1) A document purporting to be signed by a partnership firm shall be signed by at least one of the partners stating that he signs on behalf of the firm and a document purporting to be signed by a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate. The capacity in which an individual signs a document on behalf of a partnership or a body corporate shall be stated below his signature.

(2) Signatures to any documents shall be accompanied by the name of the signatory in Hindi or in capitals letters if signed in English.

(3) In case of online filing of the document, the expression 'Signing' includes digital signature.

14. Service of documents.— (1) All applications, notices, statements, papers having representations affixed thereto, or other documents authorised or required by the Act or the rules to be made, served, left or sent, at or to the Trade Marks Registry or with or to the Registrar or any other person may be delivered by hand or sent through the post by a prepaid letter or may be submitted electronically in the manner specified by the Registrar.

(2) An application or any document so sent shall be deemed to have been made, served, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post.

(3) In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

(4) After the filing of an application in the Trade Marks Registry, any person while making any correspondence relating thereto shall furnish the following particulars, namely:—

- (a) the application number or numbers, if any;
- (b) the date and place of filing;
- (c) the appropriate class or classes, as the case may be, in relation to which the application is filed;
- (d) an address for communication; and
- (e) the concerned agent's code, if any, and the concerned Proprietor's code, if allotted.

(5) The Registrar may, after informing the public in the Journal or through public notice on official website accept applications, statements, notices or other documents online through the gateway provided for this purpose, or in case of documents not requiring the payment of a fee, through designated e-mail for the purpose.

15. Particulars of address etc. of applicants and other persons.— (1) Names and addresses of the applicants and other persons shall be given in full, together with their nationality, calling and such other particulars as may be necessary for identification.

(2) In the case of a firm, the full name and nationality of every partner thereof shall be stated.

(3) In the case of an application from a convention country and persons having no principal place of business in India, their addresses in their home country shall be given in addition to their address for service in India.

(4) In the case of a body corporate or firm, the country of incorporation or the nature of registration, if any, as the case may be, shall be given.

16. Statement of principal place of business in India in the application.— (1) Every application for registration of a trade mark shall state the principal place of business in India, if any, of the applicant or in the case of joint applicants, of such of the joint applicants, a principal place of business in India and the same shall be the address of the applicants.

(2) Subject to the provisions of rules 17, 18 and 20, any written communication addressed to an applicant, or in the case of joint applicants to a joint applicant, in connection with the registration of a trade mark, at the address of his principal place of business in India given by him in the application shall be deemed to be properly addressed.

17. Address for service.— (1) An address for service in India shall be given—

(a) by every applicant for registration of a trade mark who has no principal place of business in India;

(b) in the case of joint applicants for registration of a trade mark, if none of them has a principal place of business in India;

(c) by the proprietor of a trade mark who had his principal place of business in India at the date of making the application for registration but has subsequently ceased to have such place;

(d) by every applicant in any proceeding under the Act or the rules and every person filing a notice of opposition, who does not have a principal place of business in India.

(e) by every person granted leave to intervene under rule 101.

(2) Any written communication addressed to a person as aforesaid at an address for service in India given by him shall be deemed to be properly addressed.

(3) Unless an address for service in India as required in sub-rule (1) is given, the Registrar shall be under no obligation to send any notice that may be required by the Act or the rules and no subsequent order or decision in the proceedings shall be called in question on the ground of any lack or non-service of notice.

18. Address for service in application and opposition proceedings.— An applicant for registration of a trade mark or an opponent filing a notice of opposition may notwithstanding that he has a principal place of business in India, if he so desires, may specifically request in writing, the Registrar with an address in India to which communications in relation to the application or opposition proceedings only may be sent. Such address of the applicant or the opponent shall be deemed, unless subsequently cancelled, to be the actual address of the applicant or the opponent, as the case may be, and all communications and documents in relation to the application or notice of opposition may be served by leaving them at, or sending them by post to such address of the applicant or the opponent, as the case may be.

19. Service of Documents by the Registrar.— (1) All communications and documents in relation to application or opposition matter or registered trademark may be served by the Registrar

by leaving them at, or sending them by post to the address of the party concerned or by e-mail communication.

(2) Any communication or document so sent shall be deemed to have been served, at the time when the letter containing the same would be delivered in the ordinary course of post or at the time of sending the e-mail.

(3) To prove such service, it shall be sufficient to prove that the letter was properly addressed and put into the post or the e-mail communication was sent to the e-mail-id provided by the party concerned.

20. Agency.— (1) The authorisation of an agent for the purpose of section 145 shall be executed in Form TM-M.

(2) In the case of such authorisation, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so authorising him; all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all appearances before Registrar relating thereto may be made by or through such agent.

(3) In any particular case, the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(4) In case of withdrawal by the agent from the proceedings or from doing any act for which he has been authorised, in respect of an application or opposition wherein no principle place of business in India is mentioned, the applicant or opponent shall, within a period of two months from the date of such withdrawal, provide an address for service in India. If he fails to provide address for service in India within such period, he shall be deemed to have abandoned the application or opposition, as the case may be.

(5) In case of revocation of authorisation by the applicant or opponent in respect of an application or opposition wherein no principle place of business in India is mentioned, the applicant or opponent, as the case may be, shall provide the address for service in India within a period of two months from the revocation. If he fails to provide address for service in India within such period, he shall be deemed to have abandoned the application or opposition, as the case may be.

21. Classification of goods and service.— (1) Classification of goods and service for the purpose of registration of trade mark, the goods and services shall be classified as per current edition of "the International Classification of goods and services (NICE classification)" published by the World Intellectual Property Organization (WIPO).

(2) The Registrar shall publish a class wise and an alphabetical index of such goods and services, including goods and services of Indian origin.

22. Preliminary advice by Registrar as to distinctiveness.— An application for preliminary advice by the Registrar under sub-section (1) of Section 133 shall be made in Form TM-M in respect of any goods or services comprised as published by the Registrar under sub-rule (2) of rule 21, along with the fees specified in entry number 45 of the First Schedule and accompanied by one representation of the trade mark.

23. Request to Registrar for Search.— (1) Any person may request the Registrar, in Form TM-C to cause a search to be made and for issue of certificate under sub-section (1) of section 45 of Copyright Act, 1957 (14 of 1957) to the effect that no trade mark identical with or deceptively similar to such artistic work, as sought to be registered as copyright under the Copyright Act, 1957 (14 of 1957) has been registered as a trade mark under the Trade Marks Act, 1999 (47 of 1999) in the name of, or that no application has been made under that Act for such re-registration by any person other than the applicant. The certificate shall ordinarily be issued within thirty working days of the date of request:

Provided, however, the Registrar may call for a statement of requirements from the applicant and if the requirements are not complied within two months from the date of such calling of the statement, the request on Form TM-C shall be treated as abandoned.

(2) The Registrar may cancel the certificate issued under sub-rule (1) after giving notice and stating the grounds on which the Registrar proposes to cancel the certificate and after providing reasonable opportunity of being heard.

(3) Subject to proviso to sub-rule (1) or sub-rule (2), the Registrar shall ordinarily within seven working days issue an expedited search certificate under sub-section (1) of section 45 of the Copyright Act, 1957 (14 of 1957) on a request received in Form TM-C on payment of five times of the ordinary fee for such search.

(4) Before abandoning the request in Form TM-C, as the case may be, for non-compliance of the statement of requirements when called for, the Registrar shall offer an opportunity of being heard in the matter.

CHAPTER II

PROCEDURE FOR REGISTRATION OF TRADE MARKS APPLICATION

24. Form and signing of application.— (1) An application for the registration of a trade mark in respect of specification of goods or services shall be signed by the applicant or his agent and shall be submitted in Form TM-A in duplicate; alternatively the application may also be filed online, in form TM-A through the gateway provided for this purpose.

(2) An application for the registration of a trade mark, for goods or services shall—

(a) explain with sufficient precision, a description by words, of the trade mark, if necessary, to determine the right of the applicant;

(b) be able to depict the graphical representation of the trade mark;

(c) be considered as a three dimensional trade mark only if the application contains a statement to that effect;

(d) be considered as a trade mark consisting of a combination of colours only if the application contains a statement to that effect.

(3) An amendment to divide an application under proviso to section 22 shall be made in Form TM-M.

(4) An application, not being a series trade mark shall be in respect of one trade mark only, for as many class or classes of goods or services as may be made.

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

Provided that while making an application for registration of a trade marks, the names of goods and services stated in the application shall, as far as may be, correspond to those given in the classification of the goods and services published by the registrar under sub-rule (2) of rule 21.

(6) Where an applicant files a single application for more classes than one and the Registrar determines that the goods or services applied for falls in class or classes in addition to those applied for, the applicant shall restrict the specification of goods or services to the class or classes already applied for.

25. Application under convention arrangement. – (1) Where a right to priority is claimed by reason of an application for registration of a trade mark duly filed in a convention country under section 154, a certificate by the Registrar or competent authority of that Trade Marks Office shall be submitted with the application for registration of trademark and it shall include the particulars of the mark, the country or countries and the date or dates of filing of application and such other relevant particulars as may be required by the Registrar.

(2) Unless such certificate has been filed at the time of the filing of the application for registration, there shall be filed, within two months of the filing of such application certifying or verifying to the satisfaction of the Registrar, the date of the filing of the application, the country or countries, the representation of the mark, and the goods or services covered by the application.

(3) The application shall include a statement indicating the filing date in the convention application, the name of the convention country where it was filed, the serial number, if any, and a statement indicating that priority is claimed:

Provided that where the applicant files more priority claims than one under section 154 in respect of the same trade mark, the Registrar shall take the date of the earlier application in a convention country, as the priority date:

Provided further that such priority date shall not be allowed for the goods and services not covered in the convention application:

Provided further that only a single priority shall be claimed in respect of all the goods or services mentioned in the application for registration of a trademark filed under sub-rule (1) of rule 24.

26. Statement of user in applications.— (1) An application to register a trade mark shall, unless the trade mark is proposed to be used, contain a statement of the period during which, and the person by whom it has been used in respect of all the goods or services mentioned in the application.

(2) In case, the use of the trade mark is claimed prior to the date of application, the applicant shall file an affidavit testifying to such use along with supporting documents.

27. Representation of mark.— (1) Every application for the registration of a trade mark, and where additional copies of the application are required, every such copy, shall contain a clear and legible representation of the mark of size not exceeding 8 cm x 8 cm.

(2) Where an application contains a statement to the effect that the applicant wishes to claim combination of colours as a distinctive feature of the mark, the application shall be accompanied with reproduction of the mark in that combination of colours.

(3) Where the application contains a statement to the effect that the trade mark is a three dimensional mark, the reproduction of the mark shall consist of a two dimensional graphic or photographic reproduction as follows, namely:—

(i) the reproduction furnished shall consist of three different view of the trade mark;

(ii) where, the Registrar considers that the reproduction of the mark furnished by the applicant does not sufficiently show the particulars of the three dimensional mark, he may call upon the applicant to furnish within two months, up to five further different views of the mark and a description by words of the mark;

(iii) where the Registrar considers the different views or description of the mark referred to in clause (ii), still do not sufficiently show the particulars of the three dimensional mark, he may call upon the applicant to furnish a specimen of the trade mark.

(4) (i) Where an application for the registration of a trade mark consists of shape of goods or its packaging, the reproduction furnished shall consist of at least five different views of the trade mark and a description by word of the mark.

(ii) If the Registrar considers the different views or description of the mark referred to in clause (i) do not sufficiently show the particulars of the shape of goods or its packaging, he may call upon the applicant to furnish a specimen of the goods or packaging, as the case may be.

(5) Where an application for the registration of a trade mark consists of a sound as a trade mark, the reproduction of the same shall be submitted in the MP3 format not exceeding thirty seconds' length recorded on a medium which allows for easy and clearly audible replaying accompanied with a graphical representation of its notations.

(6) If the Registrar is not satisfied with any representation of a mark, he may at any time require another representation satisfactory to him to be substituted before proceedings with the application.

28. Series Trade Marks. — (1) Where an application is made for the registration of trademarks as a series under sub-section (3) of section 15, copies of representation of each trade mark of the series shall accompany the application in the manner set forth in rule 27. The Registrar shall, if satisfied that the marks constitute a series, proceed further with the applications.

(2) At any time before the publication of the application in the Journal, the applicant applying under sub-rule (1) may request in Form TM-M, for the division of the application into separate application or applications, as the case may be, in respect of one or more marks in that series and the Registrar shall, if he is satisfied that the division requested conforms with sub-section (3) of section 15, divide the application or applications accordingly on payment of divisional fees.

29. Transliteration and translation.— Where a trade mark contains a word or words in scripts other than Hindi or English, the applicant shall provide in the application, a precise transliteration and translation of each such word in English or in Hindi and state the language to which the word belongs.

30. Names and representations of living persons or persons recently dead.— Where the name or representation of any person appears on a trademark, the applicant shall, if the Registrar so requires, furnish him with the consent in writing of such person in case he is living or, in case his death took place within twenty years prior to the date of the application for registration of the trade mark, of his legal representative, as the case may be, to the use of the name or representation and in default of such consent the Registrar may refuse to proceed with the application for registration of the trade mark.

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

(2) Where the name or description of any goods or services appear on a trade mark, which name or description in use varies, the Registrar may permit the registration of the trade mark for those and other goods or services on the applicant giving an undertaking that the name or description will be varied when the trade mark is used upon goods or services covered by the specification other than the named or described goods or services. The undertaking so given shall be included in the advertisement of the application in the Journal under section 20.

32. Deficiencies. — Subject to sub-rule (2) of rule 10, where an application for registration of a trade mark does not satisfy the requirement of any of the provisions of the Act or rules, the Registrar shall send notice thereof to the applicant to remedy the deficiencies and if within one month of the date of the notice, the applicant fails to remedy any deficiency so notified to him, the application shall be treated as abandoned.

33. Acknowledgement of the Application. — Every application for the registration of a trade mark in respect of any goods or services shall on receipt, be acknowledged by the Registrar. The acknowledgement shall be by way of return of duplicate of the application filed by the applicant, with the official number of the application duly entered thereon.

34. Examination, Objection to acceptance, hearing.— (1) The Registrar shall cause the application to be examined as per provisions of the Act, wherein a search shall also be conducted amongst the earlier trademarks, registered or applied for registration, for the purpose of ascertaining whether there are on record in respect of the same goods or services or similar goods or services any mark identical with or deceptively similar to the trademark applied for. The Registrar may cause the re-examination of the application including re-search of earlier marks at any time before the acceptance of the application but shall not be bound to do so.

(2) If, on consideration of the application for registration of a trade mark and any evidence of use or of distinctiveness or of any other matter which the applicant may or may be required to furnish, the Registrar has any objection to the acceptance of the application or proposes to accept it subject to such conditions, amendments, modifications or limitations as he may think fit to impose under sub-section (4) of section 18, the Registrar shall communicate such objection or proposal in writing to the applicant in the form of an examination report.

(3) If, on consideration of the application for registration of a trade mark and any evidence of use or of distinctiveness or of any other matter which the applicant may or may be required to furnish, the Registrar accepts the application for registration absolutely, he shall communicate such acceptance to the applicant and cause the application to be advertised as accepted under sub-section (1) of section 20.

(4) If, within one month from the date of receipt of the examination report, the applicant fails to respond to the communication or apply for hearing, the Registrar may treat the application as abandoned.

(5) In case the response to the examination report is received within the aforesaid time, the same shall be duly considered and if the Registrar accepts the application for registration, he shall communicate such acceptance to the applicant and cause the application to be advertised as accepted under sub-section (1) of section 20.

(6) If the response to the examination report is not satisfactory or where the applicant has requested for hearing, the registrar shall provide an opportunity of hearing to the applicant and the same shall be conducted as per rule 118.

(7) In case the applicant fails to appear at the scheduled date of hearing and no reply to the office objection has been submitted by the applicant, the Registrar may treat the application as abandoned.

(8) Where the applicant has submitted his reply to the examination report within the aforesaid period or has appeared in the hearing and made his submissions, the Registrar shall pass an appropriate order.

35. Expedited Processing of Application- The applicant may, after the receipt of the official number of the application, request for expedited processing of application made for the registration of a trade mark in Form TM - M on payment of five times of the application fee specified in First Schedule. Such application shall be examined expeditiously and ordinarily within three months from the date of submission of the application. Thereafter, the following proceedings viz. the consideration of response to the examination report, scheduling of show cause hearing, if required, the publication of the application and the opposition thereto, if any, till final disposal of the application shall also be dealt with expeditiously. Modalities for expedited processing of trademark application shall be determined by the Registrar.

36. Notice of withdrawal of application for registration.— A notice of withdrawal of an application for the registration of a trade mark under sub-section (2) of section 133, for the purpose of obtaining repayment of any fee paid on the filing of the application, shall be given in writing within one month from the date of the receipt of communication mentioned in sub-rule (2) of rule 34.

37. Decision of Registrar.— (1) The decision of the Registrar under rules 34, 35 or rule 39, shall be communicated to the applicant in writing and if the applicant intends to appeal from such decision, he may within thirty days from the date of such communication apply in Form TM-M to the Registrar requiring him to state in writing the grounds of, and the materials used by him in arriving at, his decision.

(2) In a case where the Registrar makes any requirements to which the applicant does not object the applicant shall comply therewith before the Registrar issues a statement in writing under sub-rule (1).

(3) The date when the statement in writing under sub-rule (1) is received by the applicant, shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

38. Correction and amendment of application.— An applicant for registration of a trade mark may, whether before or after acceptance of his application but before the registration of the mark, apply in Form TM-M accompanied by the prescribed fee for the correction of any error in or in connection with his application or any amendment of his application:

Provided, however, no such amendment shall be permitted which shall have the effect of substantially altering the trade mark applied for or substitute a new specification of goods or services not included in the application as filed.

39. Withdrawal of acceptance by the Registrar.— (1) If, after the acceptance of an application but before the registration of the trade mark, the Registrar has any objection to the acceptance of the application on the ground that it was accepted in error, or that the mark ought not to have been accepted in the circumstances of the case, or proposes that the mark should be registered only subject to conditions, limitations, divisions or to conditions additional to or different from the conditions, or limitations, subject to which the application has been accepted, the Registrar shall communicate such objection in writing to the applicant.

(2) Unless within thirty days from the date of receipt of the communication mentioned in sub-rule (1), the applicant amends his application to comply with the requirements of the Registrar or applies for a hearing, the acceptance of the application shall be deemed to be withdrawn by the Registrar, and the application shall proceed as if it had not been accepted.

(3) Where the applicant intimates the Registrar within the period mentioned in sub-rule (2) that he desires to be heard, the Registrar shall give notice to the applicant of a date when he will hear him. Such appointment shall be for a date at least fifteen days after the date of the notice, unless the applicant consents to a shorter notice. The applicant may state that he does not desire to be heard and submit such submissions, as he may consider desirable.

(4) The Registrar may, after hearing the applicant, on considering the submissions, if any, of the applicant, pass such orders as he may deem fit.

Advertisement of Application

40. Manner of Advertisement.— (1) Every application for the registration of a trade mark required to be advertised by sub-section (1) of section 20 or to be re-advertised by sub-section (2) of that section shall be advertised in the Journal.

41. Notification of correction or amendment of application.— In the case of an application to which clause (b) of sub-section (2) of section 20 applies, the Registrar may, if he so decides, instead of causing the application to be advertised again, insert in the Journal a notification setting out the number of the application, the class or classes in which it was made, the name and address of the principal place of business in India, if any, of the applicant or where the applicant has no principal place of business in India, his address for service in India, the Journal number in which it was advertised and the correction or amendment made in the application:

Provided that in case of errors in the advertisement in respect of the trademark, specification of goods except trivial spelling mistakes, class, statement of use of the trademark or in any other case as the registrar thinks fit, he shall advertise the trademark again cancelling the earlier advertisement.

42. Request to Registrar for particulars of advertisement of a mark.— Any person may request the Registrar in Form TM-M to be informed of the number, and date of the Journal in which a trade mark which is sought to be registered specified in the Form was advertised and the Registrar shall furnish such particulars to the person making the request.

Opposition to Registration

43. Notice of Opposition.— (1) A notice of opposition to the registration of a trade mark under sub-section (1) of section 21, with such particulars as specified in rule 44, shall be given in duplicate in form TM-O within four months from the date of publication of the Trade Mark Journal in which the application for registration of the trade mark was advertised or re-advertised.

(2) Where a notice of opposition has been filed in respect of a single application for the registration of a trade mark for different classes of goods and services, it shall bear the fee in respect of each class in relation to which the opposition is filed.

(3) Where an opposition is filed only for a particular class or classes in respect of a single application made under sub-section (2) of section 18, the application for remaining class or classes shall not proceed to registration until a request in Form TM-M for division of the application together with the divisional fee is made by the applicant.

(4) Where in respect of a single application for the registration of a trade mark no notice of opposition is filed in a class or classes, the application in respect of such class or classes shall, subject to section 19 and sub-section (1) of section 23, proceed to registration after the division of the application in the class or classes in respect of which an opposition is pending.

(5) A copy of notice of opposition shall be ordinarily served by the Registrar to the applicants within three months of the receipt of the same by the appropriate office:

Provided that where the applicant has already filed the counter statement on the basis of the copy of notice of opposition available on the official web-site, the requirement of service of copy of the notice of opposition to the applicant shall be dispensed with.

44. Requirements of Notice of Opposition.— (1) A notice of opposition shall contain,—

- (a) in respect of an application against which opposition is entered—
 - (i) the application number against which opposition is entered;
 - (ii) an indication of the goods or services listed in the trade mark application against which opposition is entered; and
 - (iii) the name of the applicant for the trade mark.
- (b) in respect of the earlier mark or the earlier right on which the opposition is based,—
 - (i) where the opposition is based on an earlier mark, a statement to that effect and an indication of the status of earlier mark;
 - (ii) where available, the application number or registration number and the filing date, including the priority date of the earlier mark;
 - (iii) where the opposition is based on an earlier mark which is alleged to be a well-known trade mark within the meaning of sub-section 2 of section 11, an indication to that effect and an indication of the country or countries in which the earlier mark is recognised to be well known;
 - (iv) where the opposition is based on an earlier trade mark having a reputation within the meaning of paragraph (b) of sub-clause (2) of section 11 of the Act, an indication to that effect and an indication of whether the earlier mark is registered or applied for;
 - (v) a representation of the mark of the opponent and where appropriate, a description of the mark or earlier right; and
 - (vi) Where the goods or services in respect of which earlier mark has been registered or applied for or in respect of which the earlier mark is well known within the meaning of sub-section (2) of section 11 or has a reputation within the meaning of that section, the opponent shall when indicating all the goods or services for which the earlier mark is protected, also indicate those goods or services on which the opposition is based.
- (c) in respect of the opposing party—
 - (i) where the opposition is entered by the proprietor of the earlier mark or of the earlier right, his name and address and an indication that he is the proprietor of such mark or right;

(ii) where opposition is entered by a licensee not being a registered user, the name of the licensee and his address and an indication that he has been authorised to enter the opposition;

(iii) where the opposition is entered by the successor in title to the registered proprietor of a trade mark who has not yet been registered as new proprietor, an indication to that effect, the name and address of the opposing party and an indication of the date on which the application for registration of the new proprietor was received by the appropriate office or, where this information is not available, was sent to the appropriate office; and

(iv) where the opposing party has no place of business in India, the name of the opponents and his address for service in India.

(d) The grounds on which the opposition is based.

(2) A notice of opposition shall be verified at the foot by the opponent or by his duly authorised agent.

(3) The person verifying shall state specifically by reference to the numbered paragraphs of the notice of opposition, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

45. Counterstatement.— (1) The counterstatement required by sub-section (2) of section 21 shall be sent in triplicate on Form TM-O within two months from the receipt by the applicant of the copy of the notice of opposition from the Registrar and shall set out what facts, if any, alleged in the notice of opposition, are admitted by the applicant. A copy of the counterstatement shall be ordinarily served by the Registrar to the opponent within two months from the date of receipt of the same.

(2) The counterstatement shall be verified in the manner as provided in sub-rules (2), (3) and (4) of rule 44.

46. Evidence in support of opposition.— (1) Within two months from service of a copy of the counterstatement or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request allow, the opponent shall either leave with the Registrar, such evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar and to the applicant in writing that he does not desire to adduce evidence in support of his opposition but intends to rely on the facts stated in the notice of opposition. He shall deliver to the applicant copies of any evidence including exhibits, if any, that he leaves with the Registrar under this sub-rule and intimate the Registrar in writing of such delivery.

(2) If an opponent takes no action under sub-rule (1) within the time mentioned therein, he shall be deemed to have abandoned his opposition.

(3) An application for the extension of the period of one month mentioned in sub-rule (1) shall be made in Form TM-M accompanied by the prescribed fee before the expiry of the period of two months mentioned therein.

47. Evidence in support of application.— (1) Within two months or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request allow, on the receipt by the applicant of the copies of affidavits in support of opposition or of the intimation that the opponent does not desire to adduce any evidence in support of his opposition, the applicant shall leave with the Registrar such evidence by way of affidavit as he desires to adduce in support of his application and shall deliver to the opponent copies thereof or shall intimate to the Registrar and the opponent that he does not desire to adduce any evidence but intends to rely on the facts stated in the counterstatement and or on the evidence already left by him in connection with the application in question. In case the applicant adduces any evidence or relies on any evidence already left by him in connection with the application, he shall deliver to

the opponent copies of the same including exhibits, if any, and shall intimate the Registrar in writing of such delivery.

(2) An application for the extension of the period of one month mentioned in sub-rule (1) shall be made in Form TM -M accompanied by the prescribed fee before the expiry of the period of two months mentioned therein.

48. Evidence in reply by opponent.—Within one month from the receipt by the opponent of the copies of the applicant's affidavit or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request in Form TM-M allow, the opponent may leave with the Registrar evidence by affidavit in reply and shall deliver to the applicant copies of the same including exhibits, if any, and shall intimate the Registrar in writing of such delivery.

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

50. Translation of documents.—Where a document is in a language other than Hindi or English and is referred to in the notice of opposition, counterstatement or an affidavit filed in an opposition proceeding, an attested translation thereof in Hindi or English shall be submitted before the registrar and a copy thereof shall be provided to opposite party.

51. Hearing and decision.— (1) Upon completion of the evidence if any, the Registrar shall give notice to the parties of the first date of hearing. Such notice shall be ordinarily given within three months of completion of the evidence. The date of hearing shall be for a date at least one month after the date of the first notice.

(2) If sufficient cause for adjournment is not shown by either of the parties, the Registrar may proceed with the matter forthwith.

(3) If the applicant is not present at the adjourned date of hearing at the time mentioned in the notice, the application may be treated as abandoned.

(4) If the opponent is not present at the adjourned date of hearing at time mentioned in the notice, the opposition may be dismissed for want of prosecution and the application may proceed to registration subject to section 19.

(5) In every case of adjournment, the Registrar shall fix a day for further hearing of the case and shall make such order as to cost occasioned by the adjournment or such higher costs as the Registrar deems fit.

(6) The fact that the agent or advocate on record of a party is engaged in another Court, shall not be a ground for adjournment.

(7) Where illness of legal practitioner or an agent or his inability to conduct the case for any reason is put forward as a ground for adjournment, the Registrar may refuse to grant the adjournment unless he is satisfied that the legal practitioner or an agent, as the case may be, could not have engaged another agent or legal practitioner in time.

(8) The Registrar shall take on record written arguments if submitted by a party to the proceeding.

(9) The decision of the Registrar shall be notified to the parties in writing.

52. Security for costs.—The security for costs which the Registrar may require under sub-section (6) of section 21 may be fixed at any amount which he may consider proper, and such amount may be further enhanced by him at any stage in the opposition proceedings.

Notice of Non-Completion of Registration

53. Procedure for giving notice.—The notice which the Registrar is required by sub-section (3) of section 23 to give to an applicant, shall be sent in Form O-1 to the applicant at the address of his principal place of business in India or if he has no principal place of business in India at the

address for service in India stated in the application but if the applicant has authorised an agent for the purpose of the application, the notice shall be sent to the agent. The notice shall specify twenty one days time from the date thereof or such further time not exceeding one month as the Registrar may allow on a request made in form TM-M for completion of the registration.

Registration

54. Entry in the Register.— (1) Where no notice of opposition to an application advertised or re-advertised in the Journal is filed within the period specified in sub-section (1) of section 21, or where an opposition is filed and it is dismissed, the Registrar shall, subject to the provisions of sub-section (1) of section 23 or section 19, enter the trade mark on the register.

(2) The entry of a trade mark in the register shall specify the date of filing of application, the actual date of the registration, the goods or services and the class or classes in respect of which it is registered, and all particulars required by sub-section (1) of section 6 including—

(a) the address of the principal place of business in India, if any, of the proprietor of the trade mark or in the case of a jointly owned trade mark, of such of the joint proprietors of the trade mark as have a principal place of business in India;

(b) where the proprietor of the trade mark has no place of business in India, his address for service in India as entered in the application for registration together with his address in his home country;

(c) in the case of a jointly owned trade mark, where none of the joint proprietors has a principal place of business in India, the address for service in India as given in the application together with the address of each of the joint proprietors in his home country;

(d) the particulars of the trade, business, profession, occupation or other description of the proprietor or, in the case of a jointly owned trade mark, of the joint proprietors of the trade mark as entered in the application for registration;

(e) particulars affecting the scope of the registration or the rights conferred by the registration;

(f) the convention application date (if any), to be accorded pursuant to an application from applicants of a convention country made under section 154;

(g) where the mark is a collective or certification mark, that fact;

(h) where the mark is registered pursuant to sub-section 4 of section 11 with the consent of the proprietor of an earlier trade mark or other earlier right, that fact; and

(i) the appropriate office of the Trade Marks Registry in relation to the trade mark.

(3) The Registrar may from time to time, in consultation with computer experts, formulate guidelines for keeping official records in electronic form.

55. Associated marks.— (1) Where a trade mark is registered as associated with any other marks, the Registrar shall note in the register in connection with the first mentioned mark the registration numbers of the marks with which it is associated and shall also note in the register in connection with each of the associated marks, the registration number of the first mentioned mark as being a mark associated therewith.

(2) An application under sub-section (5) of section 16 to dissolve the association as respects any of the trade marks registered as associated Trade Marks shall be made in Form TM-P and shall include statement of the grounds of the application.

56. Death of applicant before registration.— In case of death of any applicant for the registration of a trade mark after the date of his application and before the trade mark has been entered in the register, the Registrar may, on request on form TM-M and on proof of the applicant's death and on proof of the transmission of the interest of the deceased person, substitute in the application, the name of successor(s) in interest in place of the name of such deceased applicant, and the application may proceed thereafter as so amended.

57. Certificate of registration.— (1) The certificate of registration to be issued by the Registrar under sub-section 2 of section 23 shall be on Form O-2 and shall include the trademark. It shall bear the seal of the trade marks registry.

(2) The certificate of registration referred to in sub-rule (1) shall not be used in legal proceedings or for obtaining registration abroad.

(3) The Registrar may issue duplicate or further copies of the certificate of registration on request by the registered proprietor in Form TM-M accompanied by the prescribed fee:

Provided that, no such duplicate or copy of certification of registration shall be issued where such request is received after the expiry of time limit for renewal of registration and restoration of registered trademark.

CHAPTER III

RENEWAL OF REGISTRATION AND RESTORATION

58. Renewal of registration.— (1) An application for the renewal of the registration of a trade mark shall be made on Form TM-R and may be made at any time not more than six months before the expiration of the last registration of the trade mark.

(2) Such application for renewal may be filed by the person who is the proprietor of the registered trade mark or his agent.

(3) If the proprietor, as set forth in the application for renewal is not the same person or the same legal entity as the registered proprietor, continuity of title from the registered proprietor in whose name the last renewal was effected to the present owner shall be shown in the first instance by way of affidavit along with supporting chain of documents.

(4) The Registrar may accept an application for renewal from the managing trustee, executors, administrators and the like, when supported by court order or other evidence of authority to act on behalf of the present proprietor.

59. Notice before removal of trade mark from register.— (1) At a date not less than one month and not more than three months before the expiration of the last registration of a trade mark, if no application in Form TM-R for renewal of the registration together with the prescribed fee has been received, the Registrar shall notify the registered proprietor or in the case of a jointly registered trade mark each of the joint registered proprietors and each registered user, if any, in writing in Form O-3 of the approaching expiration at the address of their respective principal places of business in India as entered in the register or where such registered proprietor or registered user has no principal place of business in India at his address for service in India entered in the Register.

(2) Where, in the case of a mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the mark is registered at any time within six months before the date on which renewal is due, the registration may be renewed by the payment of the renewal fee within six months after the actual date of registration and where the renewal fee is not paid within that period, the Registrar shall subject to rule 61, remove the mark from the register.

(3) Where, in the case of a mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the mark is registered after the date of renewal, the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to rule 61, remove the mark from the register.

(4) The renewal of registration of a collective mark or a certification trade mark shall be in Form TM-R along with the prescribed fee specified in the First Schedule.

60. Advertisement of removal of trade mark from the register.— If at the expiration of last registration of a trade mark, the renewal fees has not been paid, the Registrar may remove the trade mark from the register and advertise the fact forthwith in the Journal:

Provided that the Registrar shall not remove the trade mark from the register if an application for payment of surcharge is made under proviso to sub-section(3) of section 25 in Form TM-R within six months from the completion of the last registration of the trade mark.

61. Restoration and renewal of registration.— An application for the restoration of a trade mark to the register and renewal of its registration under sub-section (4) of section 25, shall be made in Form TM-R after six months and within one year from the expiration of the last registration of the trade mark accompanied by the prescribed fee. The Registrar shall, while considering the request for such restoration and renewal have regard to the interest of other affected persons.

62. Notice and advertisement of renewal and restoration.— Upon the renewal or restoration and renewal of registration, a notice to that effect shall be sent to the registered proprietor and every registered user and the renewal or restoration and renewal shall be advertised in the Journal.

CHAPTER IV

SPECIAL PROVISIONS RELATING TO PROTECTION OF TRADEMARKS THROUGH THE INTERNATIONAL REGISTRATION UNDER MADRID PROTOCOL

63. Definitions.— (1) For the purpose of this Chapter, unless the context otherwise requires,—

(a) 'Article' means article referred to in Madrid Protocol;

(b) "electronic form" shall have the meaning as is assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(2) Words and expressions used in these rules, in the context of international application or international registration under Chapter IVA of the Act, but not defined shall have the same meaning and respectively assigned to them in the Madrid Protocol or the Common Regulations.

64. Language.— An International Application or any communication relating thereto for transmission to International Bureau or any advice by way of notification of extension of protection to India resulting from the international registration shall be in English.

65. Issue of notices or communications etc. and response thereto.— Any notice or communication relating to both an international application under section 36D and international registration where India has been designated, under section 36E, shall be issued by the Registrar only in electronic form, and any response thereto shall also be received likewise.

66. International application in respect of which India is the country of origin.— International application originating from India, or any communication relating thereto in accordance with the Common Regulations shall be filed electronically through the Trade Marks International Application System.

67. Verification and Certification of international application in respect of which India is the country of origin.— (1) Where an international application is filed under section 36D for transmission to the International Bureau, the Registrar shall certify the contents of the application in Form MM2(E) as provided by International Bureau subject to the payment of fees as specified in Entry Number 79 of the First Schedule.

(2) Where the international application complies with the requirements, the Registrar shall so certify in the international application indicating also the date on which the said international application was received; and shall forward the same to the International Bureau within two months from the date of receipt of the said application.

(3) Where the international application does not meet the requirements, the Registrar shall not forward it to the International Bureau, and shall require the applicant by notice to comply with the requirement as specified therein, and shall forward the International Application only after such compliance within the period specified in the notice.

68. Handling fee.— A handling fee as specified in First Schedule shall be payable to the Registrar for certification and transmittal of international application to the International Bureau and such fee shall be paid in Indian rupees electronically along with the application.

69. Manner of keeping the record of international registrations where India has been designated.— (1) On receipt of advice from the International Bureau about an international registration designating India and notification about the extension of protection resulting from such international registration, the Registrar shall enter all the particulars thereof electronically in a record called the 'Record of Particulars of International Registration'. Any change in the particulars as and when received from the International Bureau shall be entered in the said record.

(2) Any entry made in such record shall, to the extent that it applies to India as a designated contracting party, have the same effect as if it had been recorded by the Registrar in the Register of Trade Marks.

70. Examination of application under section 36E.— (1) The advice referred to in rule 69 shall be examined ordinarily within two months from the date of receipt of such advice.

(2) Where, the Registrar finds that the mark which is the subject of an international registration designating India, cannot be protected, he shall, before the expiry of refusal period applicable under article 5 of the Madrid Protocol, notify to the International Bureau a provisional refusal of protection.

(3) Where there are no grounds for refusal to grant protection, the Registrar shall advertise the particulars concerning international registration under section 20 of the Act in a separate part of the Trade Marks Journal ordinarily within a period of six months from the date of receipt of advice.

(4) Where an opposition is filed under section 21 of the Act, the Registrar shall, notify that fact to the International Bureau as a provisional refusal based on the opposition in accordance with the Protocol and Common Regulation.

(5) The international registration, on receipt of an opposition thereto, shall be processed in accordance with the provisions contained in rules 43 to 52 of the Trade Marks Rules, 2015.

(6) Where the procedure mentioned under sub-rules (1) to (5) have been completed with and the Registrar has decided to confirm such refusal of protection of the mark for all the goods or services for which the protection has been requested, the Registrar shall send to the International Bureau a statement to that effect.

(7) Where, the provisional refusal has been either totally or partially withdrawn, the Registrar shall send to the International Bureau (a) a statement to the effect that the provisional refusal is withdrawn and the protection of the mark is granted for all the goods or services for which the protection has been requested; or (b) a statement indicating conditions or limitations subject to which, and the goods or services in respect of which the protection is granted.

(8) Where there is no ground to refuse protection, the Registrar shall notify the International Bureau to the effect that protection is granted to the mark in India.

(9) Where there is further decision affecting the protection of mark in India, the Registrar shall send further statement to the International Bureau to that effect.

71. Invalidation of protection.— Where the protection resulting from an international registration has ceased to have effect, or varied, in India, as a result of legal proceedings under the Act, the Registrar shall notify the International Bureau accordingly.

72. Effect of cancellation of international registration.— Where an international registration is cancelled at the request of office of origin, the provisions of article 9 *quinquies* of the Protocol shall apply to such international registration in so far as it designates India.

73. **Collective and Certification Marks.**— Where an international registration designating India is in respect of a collective mark or a certification mark, the regulations governing the use of such collective mark or certification mark shall be submitted directly, by the holder of that international registration to the registrar within the period of one month from the date of advice by the International Bureau.

74. **Replacement of national registration.**— Where an international registration is deemed to replace the registration held in India under sub-section (6) of section 36E of the Act, the registrar shall, upon request of the holder of international registration take note of the international registration and make necessary entry in the Register maintained under sub-section (1) of section 6 of the Act. Thereafter, the Registrar shall notify the International Bureau accordingly under rule 21 of the Common Regulations.

75. Subject to provisions of the Act, the provisions of the Madrid Protocol, Common Regulations and Administrative Instructions shall apply in relation to international applications originating from India and international registrations where India has been designated.

CHAPTER V **ASSIGNMENT AND TRANSMISSION**

76. **Application for entry of assignment or transmission.**— An application to register the title of a person who becomes entitled by assignment or transmission to a registered trade mark shall be made in Form TM-P.

77. **Case accompanying application.**— (1) A person applying for registration of his title under rule 76, shall, along with his request on form TM-P, file original document, duly stamped original instrument or deed, as the case may be, purporting to transfer the title in the trade mark and a statement of case in support of his request. If the Registrar so requires, the statement of case shall be verified by an affidavit in Form TM-P and an affidavit from the applicant to the effect that no litigation relating to the proprietorship of the trademark is pending in any court of law or tribunal:

Provided that the Registrar may permit the applicant to submit the duly certified copy of the instrument or deed, in case the applicant justifies that original instrument of deed cannot be submitted.

(2) The Registrar shall dispose of an application made under rule 76 ordinarily within three month from the date of application and intimate the same to the applicant.

(3) After entry of the transfer of title, the registrar shall return the original document, instrument or deed to the applicant applying under rule 76, along with the intimation of recordal and retain duly certified copy of the instrument or deed for records:

Provided that the Registrar shall not return any affidavit filed in support of the request filed under rule 76.

78. **Proof of title.**— The Registrar may call upon any person who applies to be registered as proprietor of a registered trade mark to furnish such proof or additional proof of title as he may require for his satisfaction:

Provided that the registrar may call such proof only where there is a reasonable doubt about the veracity of any statement or any document furnished.

79. **Impounding of Instruments.**— If in the opinion of the Registrar any instrument produced in proof of title of a person is not properly or sufficiently stamped, the Registrar shall impound and deal with it in the manner provided by Chapter IV of the Indian Stamp Act, 1899 (2 of 1899).

80. **Assignments involving transmission of moneys outside India.**— If there is in force any law regulating the transmission of moneys outside India, the Registrar shall not register the title of a person who becomes entitled to a trade mark by an assignment which involves such

transmission except on production of the permission of the authority specified in such law for such transmission.

81. Application for Registrar's direction as to advertisement of an assignment of a trade mark without goodwill of the business.— (1) An application for directions under section 42 shall be made in Form TM-P and shall state the date on which the assignment was made. The application shall give particulars of the registration in the case of a registered trade mark, and in the case of an unregistered mark shall show the mark and give particulars including user of the unregistered trade mark that has been assigned therewith. The Registrar may call for any evidence or further information and if he is satisfied with regard to the various matters he shall issue directions in writing with respect to the advertisement of the assignment.

(2) The Registrar may refuse to consider such an application in a case to which section 41 applies, unless his approval has been obtained under the said section and a reference identifying the Registrar's notification of approval is included in the application.

(3) A request for an extension of the period within which the application mentioned in sub-rule (1) shall be made shall be in Form TM-P

82. Application for entry of assignment without goodwill.— An application under rule 76 relating to an assignment of a trade mark in respect of any goods or services shall state—

(a) whether the trade mark had been or was used in the business in any of those goods or services, and

(b) whether the assignment was made otherwise than in connection with the goodwill of that business,

and if both those circumstances subsisted, then the applicant shall leave at the Trade Marks Registry a copy of the directions to advertise the assignment, obtained upon application under rule 81, and such proof, including copies of advertisements or otherwise, as the Registrar may require, to show that his directions have been fulfilled and if the Registrar is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

83. Separate registration.— Where pursuant to an application under rule 76, and as the result of a division and separation of the goods or services of a registration or a division and separation of places or markets, different persons become registered separately under the same registration number as subsequent proprietors of a trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be a separate registration for all the purposes of the Act.

84. Registrar's certificate or approval as to certain assignment and transmissions.— Any person who desires to obtain the Registrar's certificate under sub-section 2 of section 40 or his notification of approval under section 41 shall send to the Registrar with his application in Form TM-P, a statement of case in duplicate setting out the circumstances and a copy of any instrument or proposed instrument effecting the assignment or transmission. The Registrar may call for any evidence or further information that he may consider necessary and the statement of case shall be amended if required to include all the relevant circumstances and shall, if required, be verified by an affidavit. The Registrar, after hearing (if so required) the applicant and any other person whom the Registrar may consider to be interested in the transfer, shall consider the matter and issue a certificate thereon or a notification in writing of approval or disapproval thereof, as the case may be, to the applicant and shall also inform such other person accordingly. Where a statement of case is amended, three copies thereof in its final form shall be left at the Trade Marks Registry. The Registrar shall seal a copy of the statement of case in its final form to the certificate or notification.

85. Entry in register, of particulars of assignment.— Where the Registrar has allowed the assignment of a trade mark under this Act, there shall be entered in the register the following particulars of assignment, namely:—

(i) the name and address of the assignee;

- (ii) the date of the assignment;
- (iii) where the assignment is in respect of any right in the mark, a description of the right assigned;
- (iv) the basis under which the assignment is made; and
- (v) the date on which the entry is made in the register.

86. Registration of assignment to a company under section 46.— For the purposes of sub-section (4) of section 46, the period within which a company may be registered as the subsequent proprietor of a registered trade mark upon application made under rule 76 shall be six months from the date of advertisement in the Journal of the registration of the trade mark or such further period not exceeding six months as the Registrar may allow on application being made in Form TM-P by the applicant for registration of title or the registered proprietor, as the case may be, at any time before or during the period for which the extension can be allowed.

CHAPTER VI

REGISTERED USER

87. Application for registration as registered user.— (1) An application to the Registrar for the registration under section 49, of a person as a registered user of a registered trade mark, shall be made jointly by that person and the registered proprietor of the trade mark in Form TM-U and shall be accompanied by the following:—

(a) the agreement in writing or a duly authenticated copy thereof, entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the trade mark,

(b) the documents and correspondence, if any mentioned in the agreement referred to in clause (a) entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the trade mark or duly authenticated copies thereof.

(2) There shall be filed along with the application, an affidavit by the registered proprietor or by some person authorised, to the satisfaction of the Registrar, to act on his behalf testifying to the genuineness of the documents accompanying the application and containing:—

(a) the particulars and statements required by clause (b) of sub-section (1) of section 49;

(b) the precise relationship between the registered proprietor and the proposed registered user, if any; for instance, whether their relationship is as principal and subsidiary company or whether there is common control between their business;

(c) a statement as to the goods or services in which the registered proprietor is dealing, together with details as to whether the trade mark which is the subject of the application has been used by him in the course of trade before the date of the application and if so the amount and duration of such user.

(3) The registered proprietor and the proposed registered user shall also produce and file such other documents and furnish such other evidence and information as may be required in that behalf by the Registrar.

(4) No application shall be entertained unless the same has been filed within six months from the date of the agreement referred to in clause (a) of sub-rule (1).

(5) Notwithstanding anything contained in sub-rule (1), where more than one application for registration as registered user is made by the same registered proprietor and the same proposed registered user in respect of Trade Marks covered by the same agreement, the documents mentioned in sub-rule (1) may be filed with any one of the applications and a cross reference to such documents given in the other application or applications.

88. Particulars to be stated in the agreement.— The agreement referred to in clause (a) of sub-rule (1) of rule 87 shall—

(a) set out the particulars specified in sub-clauses (i) to (iv) of clause (b) of sub-section (1) of section 49;

(b) disclose the terms as to royalty and other remuneration payable to the registered proprietor by the proposed registered user for the permitted use of the trade mark;

(c) provide means for bringing the permitted use to an end when the relationship between the parties or the control by the registered proprietor over the permitted use ceases; and

(d) contain a condition that when the registered trade mark is used by the proposed registered user in relation to his goods or services, other than goods or services for export, the mark shall be so described as clearly to indicate that it is being used only by way of permitted use.

89. Consideration by the Registrar.— The Registrar under sub-section (2) of section 49, shall, if satisfied that the application and the accompanying documents comply with the relevant provisions of the Act and the rules, and the matters specified in sub-clause (i) to (iv) of clause (b) of sub-section 1 of section 49, register the proposed registered user in respect of the goods or services as to which he is so satisfied.

90. Hearing before refusing an application or to accept it conditionally.— (1) The Registrar shall give a notice in writing to the applicants where he proposes to accept the application subject to any conditions, restrictions or limitations. The notice shall state the grounds on which the Registrar proposes to issue such orders and shall inform the applicants that they are entitled to be heard.

(2) Unless within one month from the receipt of the notice mentioned in sub-rule (1), the registered proprietor and the proposed registered user apply for a hearing, the Registrar may refuse the application or to accept it conditionally, as the case may be.

(3) If the registered proprietor and the proposed registered user apply for a hearing, the Registrar shall appoint a time for the hearing within two months and shall give them not less than a month's notice of the time so appointed.

(4) After hearing the registered proprietor and the proposed registered user, the Registrar shall decide whether to accept the application or to refuse it or to accept it conditionally.

(5) The Registrar shall, communicate in writing his order on the application to the applicants and to other registered users of the mark, if any.

91. Entry in the register.— (1) Where the Registrar under sub-section (2) of section 49 accepts an application for registration as registered user, he shall register the proposed registered user as registered user.

(2) The entry of a registered user in the register shall state the date on which the application for registration of registered user was made, which date shall be deemed to be the date of registration as registered user of the person mentioned in the entry. The entry shall also state, in addition to the particulars and statements mentioned in paragraphs (i) to (iv) of sub-clause (b) of clause (1) of section 49, the name, description and principal place of business in India of the registered user and if he does not carry on business in India his address for service in India.

92. Registration not to imply authorisation to transmit money outside India.— The registration as registered user of a trademark shall not be deemed to imply an approval, of the agreement in so far as it relates to the transmission of any money, as consideration for the use of the said trade mark, to any place outside India.

93. Notification of registration as registered user.— A notification in writing of the registration of a registered user shall be sent by the Registrar to the registered proprietor of the trade mark, to the registered user and to every other registered user whose name is entered in relation to the same trade mark and shall also be inserted in the Journal within three months of such entry in the register.

94. Registered proprietor's application to vary entry.— An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under clause (a) of sub-section (1) of section 50 shall be made in Form TM-U and shall be accompanied by a statement of the grounds on which it is made, and where the registered user in question consents, by the written consent of the registered user.

95. Cancellation of registration of registered user.— (1) An application for the cancellation of the registration of a registered user under sub-clause (b) to sub-clause (d) of sub-section (1) of section 50 shall be made on Form TM-U and shall be accompanied by a statement of the grounds on which it is made.

(2) In case of the registration of a registered user for a period, in accordance with paragraph (iv) of sub-clause (b) of sub-section (1) of section 49, the Registrar shall cancel the entry of the registered user at the end of that period. Where some or all the goods or services are omitted from those in respect of which a trade mark is registered, the Registrar shall at the same time omit them from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or omission under this sub-rule to the registered users whose permitted use is affected thereby and to the registered proprietor of the trade mark.

96. Power of the Registrar to call for information with respect to registered user.— The Registrar may at any time, by notice in writing, require the registered proprietor to furnish him information under sub-section (1) of section 51 and take action in accordance with sub-section (2) of that section.

97. Procedure on application to vary entry or cancel registration.— (1) The Registrar shall notify in writing applications under section 50 to the registered proprietor and each registered user (not being the applicant in either case) of the trade mark.

(2) Any person notified under sub-rule (1) who intends to intervene in the proceedings, shall within one month of the receipt of such notification give notice to the Registrar in Form TM-U to the effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon serve or cause to be served copies of such notice and statement on the other parties, namely, the applicant, the registered proprietor, the registered user whose registration is the subject matter of the proceeding in question and any other registered user who intervenes.

(3) In the case of any application made under section 50, the applicant and any person notified under sub-rule (1), may, within such time or times as the Registrar may appoint, leave evidence in support of his case, and the Registrar after giving the parties an opportunity of being heard, may accept or refuse the application or accept it subject to any conditions, amendments, modifications or limitations he may think right to impose and shall inform the parties in writing accordingly.

(4) In the case of an application for varying any registration under paragraph (a) of sub-section (1) of section 50 or cancelling any registration on any of the grounds mentioned in items (i) to (iv) of sub-clause (c) of sub-section (1) of section 50, the Registrar shall consider the application together with any notice in Form TM-U and statement of case filed and shall dispose of the application and also inform the parties in writing accordingly.

98. Registered user's application.— An Application under sub-section (2) of section 58 shall be made in Form TM-P by a registered user of a trade mark or by such person as may satisfy the Registrar that he is entitled to act in the name of a registered user; and the Registrar may require such evidence by affidavit or otherwise as he may think fit as to the circumstances in which the application is made.

CHAPTER VII
RECTIFICATION AND CORRECTION OF REGISTER ALTERATION OR
RECTIFICATION OF REGISTER

99. Application to rectify or remove a trade mark from the register.— An application to the Registrar under section 47, 57, 68 or 77 for the making, expunging or varying of any entry relating to a trade mark or a collective mark or certification trade mark in the register shall be made in triplicate in Form TM-O, as the case may be, and shall be accompanied by a statement in triplicate setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks. Where the application is made by a person who is not the registered proprietor of the trademark in question, the application and the aforesaid statement shall be submitted at the Trade Marks Registry in triplicate. In case there are registered users, such application and statements shall be accompanied by as many copies thereof as there are registered users. A copy each of the application and statement shall be ordinarily transmitted within one month by the Registrar to the registered proprietor and to each of the registered user and to any other person who appears from the register to have an interest in the trade mark. The application shall be verified in the manner prescribed under clause (i) of sub-rule (e) of rule 44 for verification of a notice of opposition.

100. Further procedure.— Within two months from the receipt by a registered proprietor of the copy of the application mentioned in rule 99 or within such further period not exceeding one month in the aggregate, he shall send to the Registrar in Form TM-O a counterstatement in triplicate of the grounds on which the application is contested and if he does so, the Registrar shall serve a copy of the counterstatement on the person making the application within one month of the receipt of the same. In case no counter statement has been filed within the period of three months from the date of receipt of the application mentioned in rule 99, the applicant for rectification shall file evidence in support of his application for rectification under the provisions of sub-rule (1) of rule 46. The provision under rule 47 to 52 shall thereafter apply *mutatis mutandis* to the further proceedings on the application.

101. Intervention by third parties.— Any person, other than the registered proprietor, alleging interest in a registered trade mark in respect of which an application is made under rule 99 may apply in Form TM-O for leave to intervene, stating the nature of his interest, and the Registrar may refuse or grant such leave after hearing (if so required) the parties concerned, upon such conditions and terms including undertakings or conditions as to security for cost as he may deem fit to impose.

102. Rectification of the register by the Registrar of his own motion.— (1) The Notice, which the Registrar is required to issue under sub-section (4) of section 57, shall be sent in writing to the registered proprietor, to each registered user, if any, and to any other person who appears from the register to have any interest in the trade mark, and shall state the grounds on which the Registrar proposes to rectify the register and shall also specify the time, not being less than one month from the date of such notice, within which an application for a hearing shall be made:

Provided no notice shall be sent to the registered proprietor, in case the registered proprietor has requested or agreed in writing for cancellation of the registration; and thereupon Register shall be rectified accordingly.

(2) Unless within the time specified in the notice aforesaid, any person so notified sends to the Registrar a statement in writing setting out fully the facts upon which he relies to meet the grounds stated in the notice or applies for a hearing, he may be treated as not desiring to take part in the proceedings and the Registrar may act accordingly.

(3) If the Registrar decides to rectify the register he shall communicate his decision in writing to the registered proprietor and to each registered user, if any.

Alteration of Address

103. Alteration of address in register.— (1) A registered proprietor or a registered user of a trade mark, the address of whose principal place of business in India or whose address in his home country, as the case may be, is changed so that the entry in the register is rendered incorrect, shall forthwith request the Registrar in Form TM-P to make the appropriate alteration of the address in the register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(2) A registered proprietor or a registered user of a trade mark, whose address for service in India entered in the register is changed, whether by discontinuance of the entered address or otherwise, so that the entry in the register is rendered incorrect, shall forthwith request the Registrar in Form TM-P to make the appropriate alteration of the address in the register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(3) A registered proprietor or a registered user of a trade mark the address of whose principal place of business in India or whose address for service in India is altered by a public authority, so that the changed address designates the same premises as entered in the register, may make the aforesaid request to the Registrar in Form TM-P, and if he does so he shall leave therewith a certificate of the alteration given by the said authority. If the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly but shall not require any fees to be paid on the forms, notwithstanding the provisions of sub-rule (2) of rule 10 or sub-rule (2) of rule 11.

(4) (i) Where a registered proprietor makes a request under sub-rule (1), (2) or (3), he shall serve a copy of the request on the registered user or users, if any, and inform the Registrar accordingly.

(ii) where the request aforesaid is made by a registered user, he shall serve a copy thereof on the registered proprietor and every other registered users, if any, and inform the Registrar that he had done so.

(5) In case of the alteration of the address of a person entered in the register as the address for service in India of more than one registered proprietor or registered user of Trade Marks, the Registrar may, on proof that the said address is the address of the applicant and if satisfied that it is just to do so, accept an application from the person in Form TM-P so as to suit the case, for the appropriate alteration of the entries of his address as the address for service in the several registrations, particulars of which shall be given in the Form and may alter the entries accordingly.

(6) All applications under this rule in Form TM-P shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

Correction of Register

104. Application for correction of register.— Where an application has been made under sub-section (1) of section 58 for the alteration of the register by correction, change, cancellation or striking out of goods or services or for the entry of a memorandum, the Registrar may require the applicant to furnish such evidence by affidavit or otherwise as the Registrar may think fit, as to the circumstances in which the application is made. Such application shall be made in Form TM-P and a copy thereof shall be served by the applicant on the registered user or users, if any, under the registration of the trade mark in question and to any other person who appears from the register to have an interest in the trade mark.

105. Alteration of registered trade mark.— Where a person applies under section 59 for leave to add to or alter his registered trade mark, he shall make the application in writing in Form TM-P and shall furnish two copies of the mark as it will appear when so added to or altered. A

copy of the application and of the trade mark so amended or altered shall be served by the applicant on every registered user, if any.

106. Advertisement before decision and opposition etc.— (1) The Registrar shall consider the application and shall, if it appears to him expedient, advertise the application in the Journal before deciding it.

(2) Within three months from the date of advertisement under sub-rule (1), or within such further period not exceeding one month in the aggregate as the Registrar may allow, any person may give notice of opposition to the application in Form TM-P and may also send therewith a statement of his objections. The notice and the statement, if any, shall be sent in triplicate. In case there are any registered users under the registration of the trade mark in question, such notice and statement shall also be accompanied by as many copies thereof as there are registered users. A copy of each of the notice and statement shall be transmitted forthwith by the Registrar to the registered proprietor and each registered user, if any, and within two months from the receipt by the registered proprietor of such copies he shall send to the Registrar in Form TM-O, a counter statement in triplicate of the grounds on which the opposition is contested. If the registered proprietor sends such a counterstatement, the Registrar shall ordinarily serve a copy thereof on the person giving notice of opposition within one month and the provisions of rules 46 to 52 shall apply *mutatis mutandis* to the further proceedings on the opposition. The Registrar shall not, however, refuse the application merely because the registered proprietor has not filed a counterstatement unless he is satisfied that the delay in filing the counterstatement is willful and is not justified by the circumstance of the case. In case of any doubt any party may apply to the Registrar for directions.

(3) If there is no opposition, within the time specified in sub-rule (2), the Registrar shall, after hearing the applicant if he so desires, allow or refuse the application and shall communicate his decision in writing to the applicant.

107. Decision, Advertisement, Notification.— If the Registrar decides to allow the application he shall alter the mark in the register accordingly and insert in the Journal a notification that the mark has been altered along with trademark as altered.

Re-classification of Goods in Respect of Existing Registration

108. Re-classification in respect of existing registration.— (1) On the amendment in international classification of goods and services (NICE Classification), the registered proprietor of a trade mark may apply to the Registrar in Form TM-P for the conversion of the specification of goods and services relating to the trade mark, so as to bring that specification in conformity with the amended classification.

(2) The Registrar may, thereupon, amend the description of goods and services or the classification as the case may be in accordance with international classification of goods and services (NICE Classification).

(3) The amendment in the specification of goods or services or in the classification, if approved shall be advertised in the Journal; thereafter the entry in the register in respect of that registration shall be modified accordingly.

CHAPTER VIII MISCELLANEOUS

109. Refusal or invalidation of registration of a trade mark conflicting with a geographical indication.— A request in Form TM-C, may be made to the Registrar for the refusal or invalidation of a registered trade mark by an interested party along with a statement of case together with an affidavit and which—

(a) contains or consists of a geographical indication with respect to goods or class or classes of goods not originating in the territory of a country, or a region or locality in that territory which such geographical indication indicates, if the use of such geographical indication in the trade mark for such goods, is of such nature as to confuse or mislead the persons as to the true place of origin of such goods or class or classes of goods;

(b) contains or consists of geographical indication identifying goods or class or classes of goods notified under sub-section (2) of section 22 of the Geographical Indications of Goods (Registration and Protection) Act, 1999 (48 of 1999).

110. Single application under sub-section (2) of section 18.— (1) Where an application for the registration of a trade mark for different classes of goods or services is made under sub-section (2) of section 18, the specification of goods or services contained in it shall set out the classes in consecutive numerical order beginning with the lowest number and indicate in each class the goods or services appropriate to that class.

(2) If an item in the specification of goods or services contained in the initial application for registration of a trade mark does not fall in the class specified, the Registrar shall require the applicant to delete that item by filing an application in Form TM-M:

Provided that in case all the goods or services fall in a class other than the class specified, the registrar may permit the correction of class by filing the request on Form TM-M.

(3) Applications filed under sub-section (2) of section 18 when ordered to be advertised shall be published in a separate section of the Journal.

(4) The Registrar shall issue a single certificate of registration in respect of an application made under sub-section (2) of section 18, which has proceeded to registration.

111. Divisional Application.— (1) Where an application is made in Form TM-M under proviso to section 22 for the division of a single pending application, the registrar may, on payment of a divisional fee, divide such application into two or more separate applications.

(2) In case of division of application, the Registrar shall treat each divisional application as a separate application for registration with the same filing date as the initial application.

(3) Any time limit for any action by the applicant in relation to the initial application at the time of division shall be applicable to each new separate application created by division irrespective of the date of the division.

(4) In case of division of application, the Registrar shall assign an additional separate new serial number or numbers, as the case may be, and it shall be cross-referenced with the initial application.

(5) For the removal of doubt, it is clarified that no new registration is effected when a single application is divided. On the contrary, application already filed are merely separated or divided into individual files.

112. Extension of time— (1) An application for extension of time under section 131 (not being a time expressly provided in the Act or prescribed by rule 86 or by sub-rule (4) of rule 87 or a time for the extension of which provision is made in the rules) shall be made in Form TM-M.

(2) Upon an application made under sub-rule (1) the Registrar, if satisfied that the circumstances are such as to justify the extension of the time applied for, may, subject to the provisions of the rules where a maximum time limit is prescribed and subject to such conditions as he may think fit to impose, extend the time and notify the parties accordingly and the extension may be granted though the time for doing the act or taking the proceeding for which it is applied for has already expired.

113. Exercise of discretionary power of Registrar.— The time within which a person entitled under section 128 to an opportunity of being heard shall exercise his option of requiring to be heard shall, save as otherwise expressly provided in the Act or the rules, be one month from the date of a notice which the Registrar shall give to such person before determining the matter with reference to which such person is entitled to be heard. If within that one month such person is

required to be heard, the Registrar shall appoint a date for the hearing and shall give ten day's notice thereof.

114. Notification of decision.— The decision of the Registrar in the exercise of any discretionary power given to him by the Act or the rules shall be notified to the person affected.

115. Amendments and correction of irregularity in procedure.— (1) Any document or drawing or other representation of a trade mark may be amended, and any irregularity in procedure which, in the opinion of the Registrar, may be obviated without detriment to the interests of any person, may be corrected, if the Registrar thinks fit and on such terms as he may direct.

(2) The Registrar may require the amendment of any application or representation of a trade mark or any other document or the addition of any matter thereto in order to bring it in accordance with the formal requirements of the Act.

116. Directions not otherwise prescribed.— Where in the opinion of the Registrar, it is necessary for the proper prosecution or completion of any proceedings under the Act or rules for a person to perform an act, file a document or produce evidence, which is not provided for by the Act or the rules, the Registrar may by notice in writing require the person to perform the Act, file the document or produce the evidence, specified in the notice.

117. Opinion of the Registrar under section 115(4).— (1) Where a matter has been referred to the Registrar for his opinion under proviso to sub-section (4) of section 115 such opinion shall be forwarded under a sealed cover within seven working days of the receipt of such written intimation to the referring authority and the Registrar shall ensure complete confidentiality in the matter so referred.

(2) The opinion under this rule shall be given by the Registrar or an officer specially authorised for this purpose under sub-section (2) of section 3 and the name of the designated officer shall be published in the journal.

Hearings

118. Hearings.— (1) In relation to a trade mark for which an application for registration is made on or after the notified date, the application as well as any proceeding under the Act and the rules shall, in the event of a hearing becoming necessary, be heard at the office of the Trade Marks Registry at which such application was made under sub-section (3) of section 18, or at such place within the territorial jurisdiction of that office as the Registrar may deem proper.

(2) In relation to a trade mark for which an application for registration is pending before the Registrar, at the notified date, the hearing, if any, in respect of such application or any proceeding under the Act and the rules shall be taken at the appropriate office of the Trade Marks Registry or at such place within the territorial jurisdiction of that office as the Registrar may deem proper.

(3) In relation to a trade mark on the register of trade marks at the notified date, the hearing, if any, in respect of any proceeding under the Act and the rules shall take place at the appropriate office of the Trade Marks Registry or at such place within the territorial jurisdiction of that office as the Registrar may deem proper.

(4) Where an officer exercising the powers of the Registrar who has heard any matter under the Act or the rules, has reserved orders therein, is transferred from one office of the Registry to another or reverts to another appointment before passing an order or rendering decision therein, he may, if the Registrar so directs, pass the order or render the decision as if he had continued to be the officer in the office of the Trade Marks Registry where the matter was heard.

Awards of Costs by Registrar

119. Costs in uncontested cases.— Where any opposition duly instituted under the rules is not contested by the applicant, the Registrar in deciding whether costs should be awarded to the

opponent shall consider whether the proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was filed.

120. Exception to rule 119.— Notwithstanding anything in rule 119, costs in respect of fees specified under entries 10 and 11 of the First Schedule and of all stamps used on and affixed to affidavits used in the proceedings shall follow the event.

121. Scale of costs.— Subject to the provisions of rules 119 and 120, in all proceedings before the Registrar, he may, save as otherwise expressly provided by the Act, award such costs, not exceeding the amount admissible thereof under the Sixth Schedule, as he considers reasonable having regard to all the circumstances of the case.

Review of Decisions of the Registrar

122. Application for review of Registrar's decision.— An application to the Registrar for the review of his decision under sub-section (c) of section 127 shall be made in Form TM-M within one month from the date of such decision or within such further period not exceeding one month thereafter as the Registrar may on request allow, and shall be accompanied by a statement setting forth the grounds on which the review is sought. Where the decision in question concerns any other person in addition to the applicant, such application and statement shall be left in triplicate and the Registrar shall forthwith transmit a copy each of the application and statement to the other person concerned. The Registrar may, after giving the parties an opportunity of being heard, reject or grant the application, either unconditionally or subject to any conditions or limitations, as he thinks fit.

Affidavit

123. Form, etc; of Affidavits.— (1) The Affidavits required by the Act and the rules to be filed at the Trade Marks Registry or furnished to the Registrar, unless otherwise provided in the Second Schedule, shall be headed in the matter or matters to which they relate, shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered; and each paragraph shall, as far as practicable, be confined to one subject. Every affidavit shall state the description and the true place of abode of the person making the same and shall bear the name and address of the person filing it and shall state on whose behalf it is filed.

(2) Where two or more persons join in an affidavit, each of them shall depose separately to such facts which are within his personal knowledge and those facts shall be stated in separate paragraphs.

(3) Affidavits shall be taken – (a) in India, before any court or person having authority by law to receive evidence, or before any officer empowered by such court as aforesaid to administer oaths or to take affidavits or before the Notary Public.

(b) In any country or place outside India, before a diplomatic or consular officer, within the meaning of the Diplomatic and Consular Officers (Oaths and Fee) Act, 1948 (41 of 1948), of such country or place or before a notary public or before a Judge or Magistrate, of the country or place.

(4) The person before whom an affidavit is taken shall state the date on which and the place where the same is taken and shall affix his seal, if any, or the seal of the court to which he is attached thereto and sign his name and description at the end thereof.

(5) Any affidavit purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised by sub-rule (3) to take an affidavit, in testimony of the affidavit having been taken before him, may be admitted by the Registrar without proof of the genuineness of the seal or signature or of the official character of that person.

(6) Alterations and interlineations shall, before an affidavit is sworn or affirmed, be authenticated by the initials of the person before whom the affidavit is taken.

(7) Where the deponent is illiterate, blind or unacquainted with the language in which the affidavit is written, a certificate by the person taking the affidavit that the affidavit was read, translated or explained in his presence to the deponent, that the deponent seemed perfectly to understand it and that the deponent made his signature or mark in his presence, shall appear in the jurat.

(8) Every affidavit filed before the Registrar in connection with any of the proceedings under the Act or the rules shall be duly stamped under the law for the time being in force.

Inspection of Documents by Public

124. Inspection of documents.— The documents mentioned in sub-section (1) of section 148 shall be available for inspection at the appropriate office of the Trade Mark Registry on payment of the fee mentioned in First Schedule on all working days and at such times as may be fixed by the Registrar.

Certificates

125. Certified copies of documents.— The Registrar may, on request being made in Form TM-M along with fees mentioned in First Schedule, furnish certified copies of any entry in the register or of any documents referred to in sub-section (1) of section 148 or of any decision or order of the Registrar, or of a certificate other than a certificate under sub-section (2) of section 23 as to any entry, matter or thing which he is authorised or required by the Act or the rules to make or do:

Provided that the Registrar may furnish an expedited certified copies of the documents aforementioned within thirty seven working days on a request in Form TM-M received to that effect on payment of five times the ordinary fees for such request.

126. Power of Registrar to notify International Non-proprietary names.— The Registrar shall from time to time publish in the Journal, the words which are declared by the World Health Organization as international non-proprietary names referred to in sub-section (b) of section 13.

Well-Known Trademarks

127. Determination of Well Known Trade Mark by Registrar.— (1) Any person may, on an application in Form TM-M and after payment of fee as mentioned in First Schedule, request the Registrar for determination of a Trade Mark as Well Known. Such request shall be accompanied by a statement of case along with all the evidence and documents relied by the applicant in support of his claim.

(2) For the purpose of determination, the Registrar may stipulate criteria in this regard, and also call for such document as he think fit.

(3) In case the Trade Mark is determined as well-known, the same shall be included in the list of Well Known trademarks maintained by the Registrar.

(4) The Registrar may, at any time, if it is found that a trademark has been erroneously or inadvertently included in the list of well-known trademarks, remove the same from the list.

Appeal of the Intellectual Property Appellate Board

128. Time for appeal.— An appeal to the Intellectual Property Appellate Board from any decision of the Registrar under the Act or the rules shall be made within three months from the date of such decision.

129. Service to the Registrar.— A copy of every application to Intellectual Property Appellate Board under the Act shall be served on the Registrar.

Certificate of Validity

130. Certificate of validity to be noted.— Where the Intellectual Property Appellate Board has certified as provided in section 141 with regard to the validity of a registered trade mark the registered proprietor thereof may request the Registrar in Form TM-M to add to the entry in the

register a note that the certificate of validity has been granted in the course of the proceedings, particulars of which shall be given in the request. An officially certified copy of the certificate shall be sent with the request, and the Registrar shall record a note to that effect in the register and publish the note in the Journal.

Return of Exhibits and Destruction of Records

131. Return of exhibits.— (1) Where the exhibits produced in any matter or proceeding under the Act or the rules are no longer required in the Trade Marks Registry, the Registrar may call upon the party concerned to take back the exhibits within a time specified by him and if the party fails to do so, such exhibits shall be destroyed.

(2) Where, before the notified date any exhibits have been produced in any proceeding, the Registrar may, if satisfied that it is no longer necessary to retain them call upon the party concerned to take back the exhibits within a time specified by him and if the party fails to do so, such exhibit shall be destroyed.

132. Destruction of records.— Where an application for the registration of a trade mark has been withdrawn or abandoned or refused or a trade mark has been removed from the register or in an opposition or rectification proceeding the matter has been concluded and no appeal is pending before the Intellectual Property Appellate Board, the Registrar may, at the expiration of three years after the application is withdrawn or is abandoned or is refused or after the trade mark is removed from the register or the opposition or rectification proceeding is closed, as the case may be, destroy all or any of the records relating to the application, opposition or rectification or the trade mark concerned.

PART II

SPECIAL PROVISIONS FOR COLLECTIVE MARKS

133. Rules to apply to collective marks.— The provisions of Part I of the rules shall, in their application to collective marks, apply only subject to the provisions of this Part.

134. Application for registration and proceedings relating thereto.— (1) An application for the registration of a collective mark for goods or services under sub-section (1) of section 63 shall be made to the Registrar in Form TM-A along with the draft regulations, in duplicate.

(2) References in Part I of the rules to the acceptance of an application for the registration of a trade mark for goods or services, shall, in their application to collective mark, be substituted by references to authorisation to proceed with the application.

(3) The address in India, if any, of an applicant to register a collective mark shall be deemed to be the address of his principal place of business in India for all the purposes for which such an address is required by the rules.

(4) The regulations governing collective marks shall specify, *inter alia*—

- (a) the name of the association of persons and their respective office addresses;
- (b) the object of the association;
- (c) the details of members;
- (d) the conditions for membership and relation of each member with the group;
- (e) the persons authorised to use the mark and the nature of control the applicant exercise over the use of the collective mark;
- (f) the conditions governing use of the collective mark, including sanctions;
- (g) the procedure for dealing with appeals against the use of the collective mark;
- (h) such other relevant particulars as may be called for by the Registrar.

135. Case accompanying application.— The applicant shall submit to the Registrar along with his application a statement of case setting out the grounds on which he relies in support of his application. Such case shall be furnished in duplicate.

136. Examination, Hearing, Opposition, Registration, and Renewal.— The provisions related to examination, hearing, opposition, registration and renewal of trademarks shall apply *mutatis mutandis* in respect of collective trademarks.

137. Amendment of regulations relating to collective marks and renewal.— (a) An application by the registered proprietor of a collective mark for any amendment to the regulation under section 66 shall be made in Form TM-M and where the Registrar accepts any such amendment he shall advertise, such application in the Journal and further proceedings in the matter shall be governed by rules 43 to 52,

(b) A collective mark may be renewed from time to time and the provision of rule 58 to 62 shall apply *mutatis mutandis* in respect of such request for renewal.

138. Removal of collective mark.— An application for removal of a collective mark from the register shall be made in Form TM-O and shall set forth particulars of the grounds on which the application is made. The provisions of rule 99 to 102 of these rules shall apply *mutatis mutandis* for further proceeding in the matter.

PART III

SPECIAL PROVISION FOR CERTIFICATION TRADE MARKS

139. Rules to apply to certification Trade Marks.— The provisions of Part I of the rules shall, in their application to certification Trade Marks, apply only subject to the provisions of this Part.

140. Application for registration and proceedings relating thereto. — (1) An application for the registration of a certification mark for goods or services under sub-section (1) of section 71 shall be made to the Registrar in Form TM-A along with the draft regulations, in duplicate.

(2) References in Part I of the rules to the acceptance of an application for the registration of a trade mark, shall, in their application to certification trade mark, be substituted by references to authorisation to proceed with the application.

(3) The address in India, if any, of an applicant to register a certification trade mark shall be deemed to be the address of his principal place of business in India for all the purposes for which such an address is required by the rules.

(4) The regulation governing a certification trade mark shall specify, *inter alia*—

(a) a description of the applicant;

(b) the nature of the applicant's business;

(c) the particulars of infrastructure like Research and Development, technical manpower support;

(d) the applicant's competence to administer the certification scheme;

(e) the applicant's financial arrangement;

(f) an undertaking from the applicant that there will be no discrimination of any party if they meet the requirements set down in the regulations;

(g) the characteristic, which the mark will indicate in the certified goods or in relation to the rendering of certified services;

(h) the manner of monitoring the use of the mark in India; and

(i) such other relevant particulars as may be called for by the Registrar.

141. Statement of case accompanying application.— The applicant shall submit to the Registrar along with his application a statement of case setting out the grounds on which he relies in support of his application. Such case shall be furnished in duplicate.

142. Examination, Hearing, Opposition, Registration, and Renewal.— The provisions related to examination, hearing, opposition, registration and renewal of trademarks shall apply *mutatis mutandis* in respect of certification trademarks.

143. Cancellation or variation of registration of certification trade mark.— An application for cancellation or variation of registration of a certification trade mark on any of the grounds

mentioned in section 77 shall be made in Form TM-O and shall set forth particulars of the grounds on which the application is made. The provisions of rule 99 to 102 shall apply *mutatis mutandis* to further proceedings in the matter.

144. Alteration of deposited regulations and consent of the Registrar for assignment or transmission of certification Trade Marks.— (1) An application by the registered proprietor of a certification trade mark under sub-section (2) of section 74 to alter the deposited regulation shall be made in Form TM-M and where the Registrar decides to permit such alteration it shall be advertised in the Journal and further proceeding in the matter shall be governed by rules 43 to 52.

(2) An application for the consent of the Registrar to the assignment or transmission of a certification trade mark under section 43 shall be made in Form TM-P.

PART IV REGISTRATION OF TRADE MARKS AGENTS

145. Register of Trade Marks Agents.— The Registrar of Trade Marks shall maintain a Register of Trade Marks Agents wherein shall be entered the name, address of the place of residence, address of the principal place of business, the nationality, qualifications and date of registration of every registered Trade Marks agent.

146. Registration of existing registered Trade Marks agents, code of conduct, etc.— (1) Notwithstanding anything contained in rule 147, every person whose name has been entered in the register of Trade Marks agents maintained under the old law shall be deemed to be registered as a trade marks agent under these rules.

(2) The Registrar may publish in the Journal a code of conduct for the registered Trade Marks agent authorising them to act as such.

147. Qualifications for registration.— Subject to the provisions of rule 148, a person shall be qualified to be registered as a trade marks agent if he—

(i) is a citizen of India,

(ii) is not less than 21 years of age;

(iii) is a graduate of any university in India or possesses an equivalent qualification and has passed the examination prescribed in rule 151 or is an Advocate within the meaning of the Advocates Act, 1961 (25 of 1961),

(iv) is considered by the Registrar as a fit and proper person to be registered as a trade mark agent.

148. Persons debarred from registration.— A person shall not be eligible for registration as a trade marks agent if he—

(i) has been adjudged by a competent Court to be of unsound mind;

(ii) is an undischarged insolvent;

(iii) being a discharged insolvent has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part;

(iv) has been convicted by a competent court, whether within or without India of an offence punishable with transportation or imprisonment, unless the offence of which he has been convicted has been pardoned or unless on an application made by him, the Central Government by order in this behalf, has removed the disability;

(v) being a legal practitioner has been held guilty of professional misconduct by any High Court in India or by any Court beyond the limits of India;

(vi) being a chartered accountant, has been held guilty of negligence or misconduct by a High Court; or

(vii) being a registered Trade Marks agent has been held guilty of professional misconduct by the Registrar.

149. Manner of making application.— All applications under the provisions of this Part shall be made in triplicate and shall be sent to or submitted at that office of the Trade Marks Registry within whose territorial limits the principal place of business of the applicant is situate.

150. Application for registration as a trade marks agent.— (1) Every person desiring to be registered as a trade marks agent shall make an application in Form TM-G.

(2) The applicant shall furnish such further information bearing on his application as may be required of him at any time by the Registrar.

151. Procedure on application and qualifying requirements.— (1) On receipt of an application for the registration of a person as a trade marks agent, the Registrar, if satisfied that the applicant fulfils the prescribed qualifications, shall appoint a date in due course on which the candidate will appear before him for a written examination in Trade Marks Law and practice followed by an interview. The candidate will be expected to possess a detailed knowledge of the provisions of the Act and the rules and knowledge of the elements of Trade Marks Law.

(2) The qualifying marks for the written examination and for interview shall be Seventy Five percent and Twenty Five percent, respectively and a candidate shall be declared to have passed the examination only if he obtained an aggregate of Sixty percent, of the total marks.

152. Certificate of registration.— After a candidate has been interviewed and any further information bearing on his application, which the Registrar may consider necessary has been obtained and if the Registrar considers the applicant eligible and qualified for registration as a trade marks agent, he shall send an intimation to that effect to the applicant and any person so intimated may pay the prescribed fee for his registration as a trade marks agent. Upon receipt of the prescribed fee the Registrar shall cause the applicant's name to be entered in the register of Trade Marks agents and shall issue to him a certificate in Form O-4 of his registration as a trade marks agents.

153. Continuance of the name in the register of Trade Marks Agents.— The continuance of a person's name in the register of Trade Marks agents shall be subject to his payment of the fees prescribed in First Schedule.

154. Removal of agent's name from the register of Trade Marks agents.— (1) The Registrar shall remove from the register of Trade Marks agents the name of any registered Trade Marks agent—

(a) from whom a request has been received to that effect; or

(b) from whom the annual fee has not been received on the expiry of three months from the date on which it became due.

(2) The Registrar shall remove from the register of Trade Marks agents, the name of any registered Trade Marks agent—

(a) who is found to have been subject at the time of his registration, or thereafter has become subject, to any of the disabilities stated in clauses (i) to (vii) of rule 148; or

(b) whom the Registrar has declared not to be a fit and proper person to remain in the Register by reason of any act of negligence, misconduct or dishonesty committed in his professional capacity;

(c) whose name has been entered in the register by an error or on account of misrepresentation or suppression of material fact:

Provided that before making such declaration under clauses (b) and (c) the Registrar shall call upon the person concerned to show-cause why his registration should not be cancelled and shall make such further enquiry, if any, as may be consider necessary.

(3) The Registrar shall remove from the register of Trade Marks agents the name of any registered Trade Marks agent who is dead.

(4) The removal of the name of any person from the register of Trade Marks agents shall be notified in the Journal and shall, wherever possible, be communicated to the person concerned.

155. Power of Registrar to refuse to deal with certain agents.— (1) The Registrar may refuse to recognize—

- (a) any individual whose name has been removed from, and not restored to the register;
- (b) any person, not being registered as a trade marks agent, who in the opinion of the Registrar is engaged wholly or mainly in acting as agent in applying for trade marks in India or elsewhere in the name or for the benefit of the person by whom he is employed;
- (c) any company or firm, if any person whom the Registrar could refuse to recognise as agent in respect of any business under these rules, is acting as a director or manager of the company or is a partner in the firm.

(2) The Registrar shall refuse to recognise as agent in respect of any business under this rule any person who neither resides nor has a place of business in India.

156. Restoration of removed names.— (1) The registrar may, on an application made in Form TM-G with fee specified in the First Schedule, within six months from the date of removal of the name of a person from the Register of Trade Marks agents, whose name has been removed under clause (b) of sub-rule (1) of rule 154, restore his name to the register of Trade Marks agents and continue his name therein for a period of one year from the date on which his last annual fee became due:

Provided that the Registrar may, on payment of additional fee along with the restoration fee, restore the name of the agent even after the period of six months but within a period of three years.

(2) The restoration of a name to the register of Trade Marks agent shall be notified in the Journal and shall be communicated to the person concerned.

157. Alteration in the register of Trade Marks Agents.— (1) A registered Trade Marks agent may apply in Form TM-G for alteration of his name, address of the place of residence, address of the principal place of business or qualifications entered in the register of Trade Marks agents. On receipt of such application and the fee prescribed in that behalf, the Registrar shall cause the necessary alteration to be made in the register of Trade Marks agents.

(2) Every alteration made in the register of Trade Marks agents shall be notified in the Journal.

158. Publication of the register of Trade Marks agents.— The Registrar shall ordinarily publish the list of agents in the register of Trade Marks agents shall be published in the Journal from time to time, and at least once in two years together with their addresses as entered in the register, the entries being arranged in the alphabetical order of the surnames of the registered Trade Marks agents and copies thereof may be placed for sale.

159. Appeal.— An appeal shall lie to Intellectual Property Appellate Board from any order or decision of the Registrar in regard to the registration or removal of Trade Marks agents under Part IV of these rules, and the decision of the Appellate Board shall be final and binding.

PART V

REPEAL

160. Repeal.— The Trade Marks Rules, 2002, are hereby repealed without prejudice to anything done under such rules before the coming in to force of the rules.

THE FIRST SCHEDULE
(See Rule 11)
FEEs

Entry No.	On what payable	Amount in INR.		Corresponding Form Number
		For E-filing	For Physical filing	
(1)	(2)	(3)	(4)	(5)
1	On application to register a trade mark for a specification of goods or services included in one class [section 18(1)]	8000	8800	TM-A
2	On application to register a trade mark for goods or services included in a class from a convention country under sections 18(1) and 154(2)	8000	8800	TM-A
3	On a single application under section 18(2) for the registration of a trade mark for different classes of goods or services from a convention country under section 154(2)	8000 for each class	8800 for each class	TM-A
4	On a single application under section 18(2) for the registration of a trade mark for different classes of goods or services	8000 for each class	8800 for each class	TM-A
5	On application to register a series of trade marks under section 15 for a specification of goods or services included in a class or classes	(i) For one trade mark in one class 8000 (ii) For each additional trade mark 8000 (iii) For each additional class 8000	(i) For one trade mark in one class 8800 (ii) For each additional trade mark 8800 (iii) For each additional class 8800	TM-A
6	On application to register a series of trade marks from a convention country under section 154 (2) for a specification of goods or services included in a class or classes	(i) For one trade mark in one class 8000 (ii) For each additional trade mark 8000 (iii) For each additional class 8000	(i) For one trade mark in one class 8800 (ii) For each additional trade mark 8800 (iii) For each additional class 8800	TM-A
7	On application under section 63(1) to register a collective mark for a specification of goods or services included in a class	20000	22000	TM-A
8	On application under section 71(1) to register a certification trade mark for a specification of goods or services included in a class	20000	22000	TM-A
9	On request under rule 37(1) to state grounds of decision	2000	2200	TM-M
10	On a notice of opposition under section 21(1), 64, 66 or 73 for each class opposed	2500	2750	TM-O
11	On a counter-statement in answer to a notice of opposition under Section 21, for each application opposed, or in answer to an application under any of the section 47 or section 57 in respect of each trade mark or in answer to a notice of opposition under section 58 or rule 108 for each application or conversion opposed	2000	2200	TM-O
12	On application under section 16(5) to dissolve the association between registered trade marks	1000 for each dissolution	1100 for each dissolution	TM-P
13	For renewal under section 25 of registration of trade mark in a class at the expiration of the last registration not otherwise charged	10000	11000	TM-R
14	For renewal under section 25 of the registration of a series of trade marks for each class at the expiration of the last registration	10000	11000	TM-R
15	For renewal under section 25 of a single application	10000 for each	11000 for each	TM-R

	of a trade mark for goods or services in more than one class	class	class	
16	For renewal under section 25 of the registration of a collective trade mark/certification trade mark	20000	22000	TM-R
17	On application under section 25(4) for restoration and renewal after six months and within one year from the expiration of the last registration of a trade mark removed from the register	10000 plus fee applicable for renewal under entries 13 to 16	11000 plus fee applicable for renewal under entries 13 to 16	TM-R
18	On application for renewal under proviso to section 25(3) within six months from the expiration of last registration of the trade mark	6000 as surcharge	6600 as surcharge	TM-R
19	On application for certificate of the Registrar under section 40(2) - For the first mark proposed to be assigned For every additional mark of the same proprietor included in that assignment	5000 1000	5500 1100	TM-P
20	On application for approval of the Registrar under section 41 - For the first trade mark For every additional mark of the same proprietor included in the same transfer	5000 1000	5500 1100	TM-P
21	On application under section 42 for direction of the Registrar for advertisement of assignment without goodwill of a trade mark in use - For the first mark assigned For every additional mark assigned with the same devolution of title	5000 1000	5500 1100	TM-P
22	On application for extension of time for applying for direction under section 42 for advertisement of assignment without goodwill of trade mark in use in respect of devolution of title - Not exceeding one month Not exceeding two months Not exceeding three months	1000 2000 3000	1100 2200 3300	TM-P
23	On application under section 45 to register a subsequent proprietor in case of assignment or transfer of a single trade mark - If made within six months from the date of acquisition of partnership If made after expiration of six months but before twelve months from the date of acquisition of partnership If made after twelve months from the date of acquisition of proprietorship	10000 15000 20000	11000 16500 22000	TM-P
24	On application under section 45 to register a subsequent proprietor of more than one trade mark registered in the same name, the devolution to title being the same in each case - If made within six months from the date of acquisition of proprietorship- For the first mark For every additional mark If made after expiration of six months from the date of acquisition of proprietorship - For the first mark For every additional mark If made after expiration of twelve months from the date of acquisition of proprietorship - For the first mark For every additional mark	10000 2000 15000 3000 20000 4000	11000 2200 16500 3300 22000 4400	TM-P
25	On application under section 46(4) for extension of time for registering a company as subsequent proprietor of trade marks on one assignment - Not exceeding two months Not exceeding four months	1000 2000	1100 2200	TM-P

	Not exceeding six months	3000	3300	
26	On application under any of the section 47 to 57 for rectification of the register or removal of a trade mark from the register or cancellation of a registered collective mark or a certification trade mark	6000	6600	TM-O
27	On application under rule 101 for leave to intervene in the proceedings under any of the section 47 or section 57 for rectification of the register or removal of trade mark from the register or under rule 132 or rule 138 in respect of a collective mark or certification trade mark	1000	1100	TM-O
28	On application under section 49 to a registered user of a registered trade mark in respect of goods or services within the specification thereof	10000	11000	TM-U
29	On application under section 49 to register the same registered user of more than one registered trade mark of the same registered proprietor, where all the trade marks are covered by the same registered user agreement in respect of goods or services within the respective specification thereof and subject to the same condition and restriction in each case – For the first mark For every additional mark of the proprietor included in the application, and in the registered user agreement	10000 6000	11000 6600	TM-U
30	On application under clause(a) of sub-section (1) of section 50 to vary the entry of a registered user of one trademark where the trademarks are covered by the same registered user in respect of each of them – For the first mark For every additional mark included in the application	10000 5000	11000 5500	TM-U
31	On application under clause(b) of sub-section (1) of section 50 for cancellation of entry of a registered user of one trade mark – Where the application includes more than one trade mark – For the first mark For every additional mark included in the application-	5000 5000 1000	5500 5500 1100	TM-U
32	On application under clause(c) or (d) of the sub-section(1) of section 50 to cancel the entry of a registered user of one trade mark – Where the application includes more than one trade mark – For the first mark For every additional mark included in the application	10000 10000 4000	11000 11000 4400	TM-U
33	On notice under rule 97(2) of intention to intervene in one proceeding for the variation or cancellation of entries of a registered user of a trade mark	1000	1100	TM-U
34	On application of section 58 to change a name or description of a registered proprietor or a registered user of a trade mark- Where there has been no change in the proprietorship or in the identity of registered user except where the application is made as a result of an order of a public authority or in consequence of a statutory requirement as per law in India Where the application includes more than one trade mark – For the first trade mark For every additional mark included in the application	2000 2000 2000 1000	2200 2200 2200 1100	TM-P
35	On application under section 58 to alter an entry of the address of the registered proprietor or registered user of a trade mark unless exempted from fee under	1000	1100	TM-P

	rule 103(3)- Where the application includes more than one trade mark – and where the address in each case is the same and is altered in the same way – For the first entry For every other entry included in the application	1000 500	1100 550	
36	On application to make an entry of an address for service in India of a registered proprietor or a registered user of a trade mark – Where the application includes more than one trade mark and the address for service to be entered is the same in each case – For the first entry For every other entry included in the application	1000 500	1100 550	TM-P
37	On application to alter or substitute an entry of an address for service in India in the register unless exempted from fee under rule 103(3) Where the application includes more than one trade mark and the address in each cases is the same and is altered or substituted in the same way – For the first entry For every other entry included in the application	1000 500	1100 550	TM-P
38	On application under clause (c) of sub-section (1) of section 58 for cancelling the entry or part thereof or under clause (d) to strike out goods or services from the register	500	550	TM-P
39	On application under section 59 (1) for leave to add or alter a registered trade mark (except where the application is made as a result of an order of public authority or in consequence of statutory requirement) – Where the application includes more than one trade mark and the addition or alteration to be made in each case being the same – For the first mark For every other mark included in the application	5000 2000	5500 2200	TM-P
40	On notice of opposition under sub-section (2) of section 59 to an application for leave to add or to alter a registered trade mark for each application opposed	3000	3300	TM-P
41	On application under Section 60 for conversion of specification	2000	2200	TM-P
42	On notice of opposition in each separate class under sub-section (2) of section 60 to a conversion of the specification or specifications of a registered trade mark – For the first mark For every additional mark included in the notice of opposition	3000 1500	3300 1650	TM-P
43	On application under section 66 for amendment of the deposited regulations of a collective mark or alteration under section 74(2) of the regulation of a certification trade mark – Where the mark are entered in the register as associated trade marks – For the regulation of one registration For the same or substantially same regulation of each additional registration proposed to be altered in the same way and included in the same application	2000 500	2200 550	TM-M
44	On application under section 68 to remove the registration of collective mark or cancel or vary the registration of a certification trade mark under section 77	2000	2200	TM-O
45	On request for the Registrar's preliminary advice under section 133 (1) for a trade mark in respect of one class	2000	2200	TM-M
46	On request for certificate of the Registrar under	1000	1100	TM-M

	section 137 (other than the certificate under section 23(2))			
47	On request for certificate of the Registrar (other than certificate under section 23(2) of the Registration of a series of the trade mark under section 15 for each class)	1000	1100	TM-M
48	On request for a certified copy of any entry in the register or any document under section 148 (2)	1000	1100	TM-M
49	On request to enter in the register and advertise a note of certificate of validity, under rule 130 in respect of one mark in a class	500	550	TM-M
50	On request, not otherwise charged for correction of a clerical error or for amendment under section 18(4), 22 and 58 except where the request is made as a result of an order of a public authority or in consequence of a statutory requirement as per law in India	1000	1100	TM-M
51	On application for extension of time for a month or part thereof under section 131 (not being a time expressly provided in the Act or prescribed by rule 86 or by rule 87 (4))	1000	1100	TM-M
52	On application for review of the Registrar's decision under Section 127 (c)	4000	4400	TM-M
53	On Petition (not otherwise charged) for obtaining Registrar's order for any interlocutory matter in a contesting proceeding	5000	5500	
54	On a request to Registrar for particulars of advertisement of a mark under rule 42	500	500	TM-M
55	For inspecting the documents mentioned in section 148(1) – (a) relating to any particular trade mark for every hour or part thereof (c) search of index mentioned in section 148 for every hour or part thereof	500 500	550 550	
56	For applying of documents, (photocopy or typed) for every page of part thereof in excess of one page	10 per page (subject to a minimum of Rs.10)	10 per page (subject to a minimum of Rs.10)	
57	On request for a duplicate or further copy of certificate under rule 57(3)	1000	1100	TM-M
58	On a counter-statement in an answer to notice of opposition in respect of collective trade mark or certification trade mark under sections 64, 66, 73 or 77	3000	3300	TM-O
59	For search and issue of certificate under rule 23(3)	10000	11000	TM-C
60	On application under sub-section (b) of section 25 of Geographical Indication of Goods (Regulations and Protection) Act, 1999 to refuse or invalidate the registration of a trade mark which conflicts with or which contains or consists of a Geographical Indication identifying goods or class or classes of goods notified under sub-section (2) of section 22 of the said Act.	6000	6600	TM-O
61	On applications made under sub-section (a) of section 25 of Geographical Indication of Goods (Regulations and Protection) Act, 1999 to refuse or invalidate the registration of a trade mark containing or consisting of a Geographical Indication not originating in the territory of a country or region or locality in that territory which the geographical indication indicates .	6000	6600	TM-O
62	On a request to divide an application or to divide a single application under proviso to section 22	2000 plus appropriate class fee	2200 plus appropriate class fee	TM-M
63	On application under section 43, rule 143 (2) for consent of Registrar to the assignment or transmission of a certification trade mark	2000	2200	TM-P

64	On application under rule 35 for expedited examination of an application for the registration of a trade mark	20000	44000	TM-M
65	On application under section 63(1) to register a collective mark of a specification of goods or services included in a class from a convention country under section 154 (2)	20000	22000	TM-A
66	On application under section 71 to register a certification trade mark for a specification of goods or services included in a class from a convention country under section 154(2)	20000	22000	TM-A
67	On request for an expedited certificate of the Registrar (other than a certificate under section 23(2) of the Act) or certified copies of the documents under proviso to rule 125	5000	5500	TM-M
68	On request for an expedited search and issuance of certificate under rule 23(3)	35000	37500	TM-C
69	On application for registration as a trade mark agent under rule 148	2000	2200	TM-G
70	For registration of a person as a Trade Mark Agent under rule 150	2000	2200	
71	For continuance of the name of a person in the Register of a Trade Mark Agents under rule 155 – For every year (excluding the first year) to be paid on the 1 st April of each year For the first year to be paid along with the fee or registration in the case of a person registered at any time between the 1 st April and 30 th September NB: A year for this purpose will commence on 1 st day of April and end on the 31 st day of March following.	2000 2000	2200 2200	
72	On application for restoration of the name of a person to the Register of trade marks agents under rule 158 within Six months from the date of removal After Six months but within one year from the date of removal After one year but within two years from the date of removal After two years but within three years from the date of removal	2000 plus continuance fee under entry number 71 5000 plus continuance fee under entry number 71 10000 plus continuance fee under entry number 71 15000 plus continuance fee under entry number 71	2200 plus continuance fee under entry number 71 5500 plus continuance fee under entry number 71 11000 plus continuance fee under entry number 71 16500 plus continuance fee under entry number 71	TM-G
73	On application for an alteration of any entry in the Register of Trade Marks Agent under rule 156	500	550	TM-G
74	For each addition to the registered entry of a trade mark that may be associated with a newly registered mark under section 16(1)	1000	1100	
75	On a single application under section 18(2) for the registration of collective mark for different classes of goods or services	10000 for each class	11000 for each class	TM-A
76	On a single application under section 18(2) for the registration of a collective mark for different classes of goods or services from a convention country	20000 for each class	22000 for each class	TM-A
77	On a single application under section 18(2) for the registration of a certification trade mark for different classes of goods or services	20000 for each class	22000 for each class	TM-A

78	On a single application under section 18(2) for the registration of a certification trade mark for different classes of goods or services from a convention country under section 154(2)	20000 for each class	22000 for each class	TM-A
79	Handling fee for certification and transmission of international application to International Bureau	--	4000	--
80.	Request to include a mark in the list of well known trademark	1,00,000	1,10,000	TM-M

THE SECOND SCHEDULE

FORMS

Form No.	Section and Rules of the Act & Rules	Title	Entry number of first Schedule
1	2	3	4
TM-A	Sections 15, 15(3), 18(1), 18(2), 63(1), 71, 71(1), 154(2).	Application for registration of a trade mark for goods or services	1, 2, 3, 4, 5, 6, 7, 8, 65, 66, 75, 76, 77, 78.
TM-M	Sections 18(4), 22, proviso to 22, 23(2), 43, 58, 66, 74(2), 127(c), 131, 133(1), 137, 148(2), Rules: 24, 37, 37(1), 42, 57(3), 125, 127, 130.	Request for amendment in Trade Mark application, seeking grounds of decision, seeking Registrar preliminary advice under Section 133(1), Certified copy, Expedite Examination, Duplicate Registration Certificate, request to inclusion of a mark in list of well-known trademarks and any other matters not covered in other TM forms.	9, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 57, 62, 66, 80
TM-R	Section: 25, Proviso to Section 25(3), 25(4).	Application of Renewal, Renewal with surcharge and for restoration of a Trade Marks.	13, 14, 15, 16, 17, 18.
TM-C	rule 23(3), rule 23(5)	Application for Search certificate request filed under rule 23.	59, 68,
TM-O	Sections 21, 21(1), 47-57, 59, 64, 66, 68, 73, 77 and 25 of Geographical Indication of Goods (Regulation and Protection) Act, 1999 Rules: 101, 108, 133, 139.	Notice of opposition, rectification and counterstatement related thereto.	10, 11, 26, 27, 44, 58, 60, 61,
TM-P		Application related to dissolve of association, Assignment, amendment of details of registered proprietors, amendment of registered Trademarks of description of goods or services.	12, 19, 20, 21, 22, 23, 24, 25, 34, 35, 36, 37, 38, 39, 40, 41, 42, 63, 64,
TM-U	Sections 49, 50, 50(1)(a), 50(1)(b), 50(1)(c) or (d). Rule: 97.	Application of Registered Users or application to intervene in the proceedings by third party	28, 29, 30, 31, 32, 33,
TM-G	Rules 150, 156, 157.	Application of Trade Mark Agent, restoration of the Trade Mark agent name and alteration related to details of Trademarks Agents in the register.	69, 72, 73.

List of Forms

FORM TM-A

The Trade Marks Act, 1999

Application for registration of a trade mark

[The relevant information must be filled up in coloured box against the respective head]

1	NATURE OF THE APPLICATION	
	<i>[(a) The applicant must choose either of the following categories-</i>	
	<i>1. Standard trademark, 2. Collective Mark, 3. Certification Mark, 4. Series Marks</i>	
	<i>Standard mark' here means an application for registration of a normal trademark not being Collective or Certification trademarks or Series of marks</i>	
	<i>(b) In case of Collective Mark or Certification Mark the draft regulations with form TM-M must be submitted.]</i>	
	FEE PAID	(See First Schedule for Appropriate Fee)
2	APPLICANT	
	Name: *	
	Trading as	
	Address: *	
		(State) (Country)
	<i>[This address should be the address of the applicant's principal place of business in India]</i>	
	Address for service:	
		(State) (Country)
	<i>[(a) Unless otherwise specifically stated, the applicant's address shall be the address for service of the applicant who has principal place of business in India.</i>	
	<i>(b) The address for service in India must be provided, in case the applicant does not carry business in India]</i>	
	Mobile No :	
	E-mail address: *	
	Nature of the applicant	
	<i>[The applicant must choose either of the following categories-</i>	
	<i>1. Individual, 2. Partnership Firm, 3. Body-incorporate including Private Limited/limited Company, 4. Limited Liability Partnership, 5. Society 6. Trust 7. Government Department 8. Statutory Organization, 9. Association of persons 10. Hindu Undivided Family</i>	
3	APPLICANT'S AGENT (if any)	
	Name:	
	address	
	Mobile No :	
	E-mail address:	
	Nature of the Agent	
	<i>[The applicant must choose either of the following categories-</i>	
	<i>1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]</i>	
	Registration No	
	<i>[In case of authorisation of agent, the address of the agent may be mentioned as the applicant's address for service</i>	
4	TRADEMARK	(trademark to be mentioned here)
	Category of mark	
	<i>[The applicant must choose either of the following categories-</i>	
	<i>1. Word mark (it includes one or more words, letters, numerals or anything written in standard character), 2. Device mark (it includes any label, sticker, monogram, logo or any geometrical figure other than word mark), 3. Colour (when the distinctiveness is claimed in the combination of colours with or without device), 4. Three dimensional trademark (it includes shape or packaging of goods), 4. Sound</i>	
	Description of the mark	
	<i>[(a) Description of mark must be provided in terms of Rule 28.</i>	
	<i>(b) In case of trademarks submitted in specific combination of colours other than black and white, it shall be presumed that the distinctiveness of the mark is claimed in that combination of colours and application will be considered accordingly.</i>	
	<i>(c) In case of colour marks the description may be like "The trade mark consists of three vertical stripes in the colours PURPLE, GREEN and YELLOW" applied to the fascias of buildings and to doors as shown in the representation of the mark."</i>	

	<i>(d) In case of sound marks representation of specific musical notes must be submitted at the place provided for the trademark. The applicant is also required to submit sound clipping in MP3]</i>	
5	MARK IN A LANGUAGE OTHER THAN HINDI OR ENGLISH	
	Language	
	Transliteration of the mark in roman script	
	<i>[Transliteration of the mark in roman script must be provided in case the mark is in a language other than Hindi or English]</i>	
	Translation of the mark in English	
	<i>[Translation of the mark in English must be provided in case the mark is in a language other than Hindi or English]</i>	
6	CONDITIONS OR LIMITATIONS TO USE THE TRADEMARK, IF ANY	
7	CLASS OF GOODS OR SERVICE	DESCRIPTION OF GOODS AND SERVICE
8	STATEMENT AS TO USE OF MARK	☐ Proposed to be used ☐ The mark is used by the applicant or its predecessor in title Since in respect of the goods and service mentioned in the application.
	<i>[(a) The applicant must select either of the above]</i>	
	<i>(b) The date of use must be given in the format (DD/MM/YYYY) and shall refer to all items mentioned in the application.</i>	
	<i>(c) In case the use of the Trade Mark is claimed prior to the date of application, the applicant shall file an affidavit testifying to such use along with supporting documents</i>	
	<i>(d) The statement as to use of the mark once made shall be final]</i>	
9	PRIORITY CLAIM, IF ANY	
	Priority claimed since	DD/MM/YYYY
	Priority claim based on application filed in the Convention Country or organization	Name of the country or organisation
	Priority Application No	
	<i>[The priority must be claimed in respect of all goods and services mentioned in the application]</i>	
10	ANY OTHER IMPORTANT INFORMATION OR STATEMENT	
	<i>[Applicant may provide here any other information or statement in relation to his application]</i>	
11	VERIFICATION	I hereby verify that above mentioned facts are true to best of my knowledge and belief.
12	DETAIL OF THE PERSON SUBMITTING THE APPLICATION	
	Signature	
	Name	
	Authority	

FORM TM-M

The Trade Marks Act, 1999

Application/Request for any miscellaneous function in respect of a trademark Application/ Opposition/Rectification under the Trade Marks Act

<i>[(a) One form is meant for one request only. Different forms should be submitted for different requests. In case more than one request is claimed in one form the first one will be entertained and rest of the requests will be ignored.]</i>	
<i>(b) The relevant information must be filled up in coloured box against the respective head]</i>	
1	FEE PAID
	(See First Schedule for Appropriate Fee)
	APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY MAKING THE APPLICATION/REQUEST
	<i>[(a) Anyone from the above, must be chosen on whose behalf the application/request is being submitted.]</i>
	<i>(b) 'Applicant' or 'Registered Proprietor' here means the person who is recorded as such in TMR records in respect of the referred application or registered trademark. The 'Opponent' here means the Opponent in the referred opposition proceeding or an Applicant for Rectification desiring to cancel or vary the registration of the trademark of someone else. 'Third Party' means the person who is not a party to the application/opposition/Rectification referred to.]]</i>
	Name: *
	Trading as

Address:*		(State)	(Country)
Address for service:		(State)	(Country)
<i>[(a) Unless otherwise specifically stated, the applicant's/opponent's/third party's address shall be the address for service of the applicant who has principal place of business in India.</i> <i>[(b) The address for service in India must be provided, in case the above person does not carry on business in India]</i>			
Mobile No :			
E-mail address: *			
2	AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY, AS THE CASE MAY BE, (if any)		
	Name:		
	address		
	Mobile No :		
	E-mail address:		
	Nature of the Agent		
	[One of the following categories must be chosen -		
	1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]		
	Registration No		
	[In case of authorisation of agent, the address of the agent may be mentioned as the address for service of the Applicant or Registered Proprietor/Opponent/Third Party as the case may be.]		
3	REQUEST/ APPLICATION IN THE MATTER OF		
	Application / Opposition/ Rectification No	Reference No	
	[Anyone of the above must be chosen]		
	Additional Reference, if required		
	PURPOSE OF REQUEST		
A	For correction of clerical error or for amendment under rule 41		
	Details of corrections		
B	Statement of grounds of decision/Review of Registrar's decision		
	Hearing Date		
	Order No and date		
C	For certificate of the Registrar or certified copy of a document		
	If request is for EXPEDITED certificate	YES or NO	
	[In case of request for expedited certificate, the fee will be ordinarily five times of normal request]		
	Details of certified copy required		
	No of copies of document required		
D	For particulars of advertisement of a trade mark under rule 46		
E	For payment of Association Fees		
	[Number of associated applications/registered trademark numbers and fee in Rs are to be entered here]		
F	For submitting Authorisation of Agent		
	[The copy of the Power of Attorney must be attached]		
G	Request for extension of time		
	Reason for extension of time period	Extension of time requested for the period of	
		From	
H	Preliminary Advice about the distinctiveness of the trademark, U/S 133		
	mark to be entered/pasted here		
I	Request of expedited examination of an application		
	Declaration of reason for expedited examination		
J	Division of an Application		
	Class to be divided		
	Trademark(s) (in case of series marks) to be divided		
K	Request for duplicate Registration Certificate		
	Registered trade mark No		
L	For payment of Misc. fee(s) for other purpose(s) apart from above		
	Purpose	fee in Rs	

M	Request for Inclusion of Trademark in the list of Well- Known Trademarks Registration Certificate	Representation of the Mark (paste here)	Fee in Rs.
	Is requested mark is registered with Trademark Registry, India -- if Yes (details there off		
4	DETAILS OF THE PERSON SUBMITTING THE APPLICATION		
	Signature		
	Name		
	Authority		
5	LIST OF DOCUMENTS ATTACHED, IF ANY		

FORM TM-R
The Trade Marks Act, 1999
Application for Renewal/Restoration of registration of a trademark
or for payment of surcharge towards the renewal

[The relevant information must be filled up in colored box against the respective head]		
1	APPLICANT <i>[The Applicant here means the person on whose behalf the request is being submitted. He will ordinarily be the registered proprietor of the mark]</i> FEE PAID (See First Schedule for Appropriate Fee) Name: * trading as Address:* (State) (Country) Address for service: (State) (Country) <i>[(a) Unless otherwise specifically stated, the applicant's address shall be the address for service of the applicant who has principal place of business in India.</i> <i>[(b) The address for service in India must be provided, in case the applicant does not carry business in India]</i> Mobile No : E-mail address: *	
2	APPLICANT'S AGENT (if any) Name: address Mobile No : E-mail address: Nature of the Agent <i>[The applicant must choose either of the following categories-</i> <i>1. Registered Trade Marks Agent 2. Advocate 3. Constituted Attorney]</i> Registration No <i>[In case of authorisation of agent, the address of the agent may be mentioned as the applicant's address for service]</i>	
	TRADE MARK TYPE <i>[(a) one of the following categories must be choosen-</i> 3 <i>1. Standard trademark, 2. Collective Mark, 3. Certification Mark, 4. Series Marks</i> <i>(b) 'Standard mark' here refers to registration of a normal trademark not being Collective or Certification trademarks or Series of marks]</i>	
4	Trade Mark No:	
5	Class <i>(In case of multiclass number of classes to be mentioned)</i>	
6	Payment for (Select from below) Renewal before expiry of last registration of trade mark	

	Renewal if filed within 6 months after expiry of last registration.	
	Restoration and renewal of registration of the trade mark removed from the register	
7	DETAIL OF THE PERSON SUBMITTING THE APPLICATION	
	Signature	
	Name	
	Authority	
8	List of Documents attached	

FORM TM-C

The Trade Marks Act, 1999

Application for Search and certificate under section 45(1) of the Copyright Act, 1957

[The relevant information must be filled up in coloured box against the respective head]

1	APPLICANT	
	FEE PAID	(See First Schedule for Appropriate Fee)
	Name: *	
	trading as	
	Address: *	
		(State) (Country)
	<i>[This address should be the address of the applicant's principal place of business in India]</i>	
	Address for service:	
		(State) (Country)
	<i>[(a) Unless otherwise specifically stated, the applicant's address shall be the address for service of the applicant who has principal place of business in India. (b) The address for service in India must be provided, in case the applicant does not carry business in India]</i>	
	Mobile No :	
	E-mail address: *	
	Nature of the applicant	
	<i>[The applicant must choose either of the following categories- 1. Natural person-Single Proprietor, 2. Natural person-Partnership Firm, 3. Body-incorporate including Private Limited/limited Company, 4. Limited Liability Partnership, 5. Society 6. Trust 7. Government Department 8. Statutory Organization. 9. any other]</i>	
2	APPLICANT'S AGENT (if any)	
	Name:	
	address	
	Mobile No :	
	E-mail address:	
	Nature of the Agent	
	<i>[The applicant must choose either of the following categories- 1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]</i>	
	Registration No	
<i>[In case of authorisation of agent, the address of the agent may be mentioned as the applicant's address for service]</i>		
3	Expedited (Y/N)	
	space of label/image	
4	DETAIL OF THE PERSON SUBMITTING THE APPLICATION	
	Signature	
	Name	
	Authority	
5	DETAILS OF DOCUMENTS ATTACHED	

FORM TM-O

The Trade Marks Act, 1999

Notice of Opposition/Application for Rectification of the Register by cancelling or varying registration of a trade mark /Counter statement /Request to refuse or invalidate a trade mark under Section 25(a), (b) of Geographical Indication of Goods (Regulation and Protection) Act, 1999
The relevant information must be filled up in coloured box against the respective head]

1	APPLICANT OR REGISTERED PROPRIETOR/OPPONENT /THIRD PARTY MAKING THE APPLICATION/REQUEST	
<i>[(a) Anyone from the above, must be choosen on whose behalf the Notice/Application/Request is being submitted.</i>		
<i>[(b) 'Applicant' or 'Registered Proprietor' here means the person who is recorded as such in TMR records in respect of the referred application or registered trademark. The 'Opponent' here means the Opponent in the referred opposition proceeding or an Applicant for Rectification desiring to cancel or vary the registration of the trademark of someone else. 'Third Party' means the person who is not a party to the application/opposition/Rectification referred to.]</i>		
FEE PAID		(See First Schedule for Appropriate Fee)
Name*		
trading as		
Address: *		
		(State) (Country)
Address for service:		
		(State) (Country)
<i>[(a) Unless otherwise specifically stated, the applicant's/opponent's/third party's address shall be the address for service of the applicant who has principal place of business in India.</i>		
<i>[(b) The address for service in India must be provided, in case the applicant/opponent/third party as the case may be, does not carry on business in India]</i>		
Mobile No :		
E-mail address: *		
2	AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY, AS THE CASE MAY BE, (if any)	
Name:		
address		
Mobile No :		
E-mail address:		
Nature of the Agent		
<i>[The applicant must choose either of the following categories-</i>		
<i>1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]</i>		
Registration No		
<i>[In case of authorisation of agent, the address of the agent may be mentioned as the address for service of the applicant/opponent/third party as the case may be]</i>		
3	PURPOSE	
IN THE MATTER OF (for filing opposition/rectification)		
Application/Registered Trade Mark No		Class
Trade Mark		
Application published in Journal No		
<i>[The copy of the journal publication needs to be attached]</i>		
GROUND OF OPPOSITION/RECTIFICATION		
<i>[Grounds of Opposition/Application for Rectification needs to be drafted in detail and verified by the Opponent/Applicant for Rectification and the same should be attached]</i>		
IN THE MATTER OF (for filing Counter Statement)		
Opposition/Rectification No		Class
Application/Registered Trade Mark No.		
Details of Counter statement		

	<i>[Counter Statement needs to be drafted in detail and verified by the Applicant/Registered Proprietor for Rectification and the same needs to be attached.]</i>	
	Request to refuse or invalidate a trade mark u/s 25(a) (b) of GI Act, 1999	
	Application/Registered Trade Mark No	Class
	Statement of case	
	<i>[Statement of Case needs to be drafted in detail and verified by the Applicant; and an affidavit of the applicant in support, needs to be attached.]</i>	
4	DETAIL OF THE PERSON SUBMITTING THE APPLICATION	
	Signature	
	Name	
	Authority	
5	LIST OF DOCUMENTS ATTACHED, IF ANY	

FORM TM-P
The Trade Marks Act, 1999
Application for Post registration changes in the trademarks

	<i>[(a) One form is meant for request of one change only. Different forms should be filed up for different changes]</i>	
	<i>[(b) The relevant information must be filled up in colored box against the respective head.]</i>	
1	APPLICANT	
	<i>[The Applicant here means the person on whose behalf the request is being submitted. He will ordinarily be the registered proprietor of the mark or a person claiming to be subsequent proprietor of the mark by virtue of any assignment or transmission]</i>	
	FEE PAID	(See First Schedule for Appropriate Fee)
	Name: *	
	trading as	
	Address: *	
		(State) (Country)
	Address for service:	
		(State) (Country)
	<i>[(a) Unless otherwise specifically stated, the applicant's address shall be the address for service of the applicant who has principal place of business in India.]</i>	
	<i>[(b) The address for service in India must be provided, in case the applicant does not carry business in India]</i>	
	Mobile No :	
	E-mail address: *	
2	APPLICANT'S AGENT (if any)	
	Name:	
	address	
	Mobile No :	
	E-mail address:	
	Nature of the Agent	
	<i>[The applicant must choose either of the following categories-]</i>	
	<i>1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]</i>	
	Registration No	
	<i>[In case of authorisation of agent, the address of the agent may be mentioned as the applicant's address for service]</i>	
3	REQUEST/ APPLICATION FOR AMENDMENTS IN THE DETAILS OF REGISTRATION OF A TRADEMARK	
	Registered TM NO.	
	<i>[In case of request made for more than one trademarks, the first trademark number should be written.]</i>	
	Additional Nos, if any	
	TYPE OF MARK	
	<i>[(a) The applicant must choose either of the following categories-]</i>	
	<i>1. Standard trademark, 2. Collective Mark, 3. Certification Mark, 4. Series Marks]</i>	

	<i>Standard mark' here means an application for registration of a normal trademark not being Collective or Certification trademarks or Series of marks]</i>	
4	AMENDMENT REQUESTED	
	AMENDMENT IN PROPRIETOR DETAIL	
	<i>[This block should be used only when there is no change in the proprietorship of the mark by virtue of assignment or transmission]</i>	
	AMENDMENT REQUESTED IN	
	PRIPRIETOR NAME	
	ADDRESS	
	ADDRESS FOR SERVICE	
	AGENT/ATTORNEY DETAILS	
	<i>[Any of the above may be chosen and the change requested should be clearly mentioned against relevant column.]</i>	
	AMENDMENT IN THE TRADE MARK	<i>Enter or paste proposed trade mark here</i>
	STRIKING OUT GOODS OR SERVICES FROM THE REGISTER	<i>[change requested should be clearly mentioned here.]</i>
	CONVERSION OF SPECIFICATION OF GOODS AND SERVICES	<i>[change requested should be clearly mentioned here]</i>
	CANCELLATION OF THE REGISTRATION	<i>[cancellation of the registration requested should be clearly mentioned here.]</i>
	REASON FOR AMENDMENT	
	DISSOLUTION OF THE ASSOCIATION BETWEEN A REGISTERED TRADE MARKS AND OTHER TRADE MARKS	
	REGISTERED TRADE MARK No(S)	
		<i>[Enter the trade marks numbers whose association with the referred registered trademark is requested to be dissolved]</i>
	ASSIGNMENT OR TRANSMISSION OF REGISTERED TRADE MARK(S) ALONG WITH THE GOODWILL	
	Assignment along with goodwill or without goodwill	
	Date of assignment deed or the date of transmission	
	Request submitted within the period from the date of acquisition	Within 6 months within 12 months after 12 months
		<i>[Any of the above must be chosen]</i>
	ASSIGNMENT TO DIFFERENT PEOPLE FOR DIFFERENT PARTS OF INDIA	
	Name of proposed assignee	
	Address of proposed assignee	
	<i>[(a) Add details of assignees if there are more than one assignees, against relevant row.]</i>	
	<i>[(b) Please mention the region specifically with the proposed assignee]</i>	
5	CERTIFICATE OF THE REGISTRAR UNDER SECTION 40(2)	
	Request for the certificate	
	<i>[The details of the request in terms of Section 40(2) must be mentioned here and the statement of case with copy of the assignment must be submitted.]</i>	
6	Approval of the Registrar under section 41	
	Request for the approval	
	<i>[The details of the request in terms of Section 41 must be mentioned here and the statement of case with copy of the assignment or transmission must be submitted.]</i>	
7	Application under Section 42 for direction of the Registrar for advertisement of assignment without goodwill of a trademark	
	Request for the direction	

[The details of the request in terms of Section 42 must be mentioned here and the statement of case with copy of the assignment or transmission must be submitted.]	
8	Application for extension of time under Section 42 for direction of the Registrar for advertisement of assignment without goodwill of a trademark
Application for extension of time	
[The details in terms of Section 42 must be mentioned here.]	
Application submitted within the period from the date of acquisition or devolution	
Not exceeding one month	
Not exceeding two month	
Not exceeding three month	
9	Application for extension of time under Section 46(4) for registering a company as subsequent proprietor of a trademark
Application for extension of time	
[The details in terms of Section 46(4) must be mentioned here.]	
Application submitted within the period	
Not exceeding two months	
Not exceeding four months	
Not exceeding six month	
[Any one of the above should be selected]	
10	DETAIL OF THE PERSON SUBMITTING THE APPLICATION
Signature	
Name	
Authority	
11	List of documents attached

FORM TM-U

The Trade Marks Act, 1999

Application for registration Registered User/Variation of Registered User/Cancellation of Registered Users and Notice of intention to intervene in proceeding in cancellation/variation

[The relevant information must be filled up in coloured box against the respective head]	
1	NATURE OF THE APPLICATION
[(a) The applicant must choose either of the following categories-	
1. Standard trademark, 2. Collective Mark, 3. Certification Mark, 4. Series Marks	
[(b) In case of Collective Mark or Certification Mark the draft regulations with form TM-M must be submitted.]	
FEE PAID (See First Schedule for Appropriate Fee)	
2	APPLICANT
Name: *	
trading as	
Address:*	
(State) (Country)	
[This address should be the address of the applicant's principal place of business in India]	
Address for service:	
(State) (Country)	
[(a) Unless otherwise specifically stated, the applicant's address shall be the address for service of the applicant who has principal place of business in India.	
[(b) The address for service in India must be provided, in case the applicant does not carry business in India]	
Mobile No :	

	E-mail address: *	
	Nature of the applicant	
	<i>[The applicant must choose either of the following categories-</i>	
	<i>1. Natural person-Single Proprietor, 2. Natural person-Partnership Firm, 3. Body-incorporate including Private Limited/limited Company, 4. Limited Liability Partnership, 5. Society 6. Trust 7. Government Department 8. Statutory Organization. 9. any other]</i>	
3	APPLICANT'S AGENT (if any)	
	Name:	
	address	
	Mobile No :	
	E-mail address:	
	Nature of the Agent	
	<i>[The applicant must choose either of the following categories-</i>	
	<i>1. Registered Trade Marks Agent, 2. Advocate 3. Constituted Attorney]</i>	
	Registration No	
	<i>[In case of authorisation of agent, the address of the agent may be mentioned as the applicant's address for service]</i>	
4	REQUEST/ APPLICATION IN THE MATTER OF	
	Regd. TM No. / Registered User No	CLASS:
		For Registration of Registered User
	Details of proposed registered User	
	Period	
	Goods/Services	
	Condition	
5	For variation of the registered user there with regard to goods/service or the condition/restriction	
	In Registered User	
	In goods/service	
	in condition/restriction	
6	Cancellation of entry of registered user thereof	
	By the proprietor (details)	
	By the registered user (details)	
	Grounds for cancellation	
		Notice of intention to intervene in proceedings for
	Cancellation	
	Variation	
7	DETAIL OF THE REGISTERED PROPRIETOR OR AGENT	
	Signature	
	Name	
	Authority	
	DETAIL OF THE REGISTERED USER OR AGENT	
	Signature	
	Name	
	Authority	

FORM TM-G
The Trade Marks Act, 1999
Trade Marks Agent Registration/Renewal/Restoration/Alteration

[The relevant information must be filled up in colored box against the respective head]	
1	Application for Registration of Trade Marks Agent
	FEE PAID (See First Schedule for Appropriate Fee)
	DETAILS OF THE APPLICANT
	Name in full beginning with surname (in capital letters)
	Address of residence
	(State) (Country)
	Principle place of business
	(State) (Country)
	Nationality
	Date of Place of Birth
	Occupation in full
	Particulars of qualification for registration as a trade mark agent
	Whether at any time removed from the Register of Trade Marks Agents and if so the details thereof
	Mobile No :
E-mail address: *	
2	Application for renewal/restoration of the name of a person in the Register of Trade Marks Agents
	Trade Mark Agent No.
	Name:
	address
	Mobile No :
	E-mail address:
3	Application for alteration in the Register of Trade Marks Agents
	Trade Mark Agent No.
	Name:
	address
	Mobile No :
	E-mail address:
	Details to be altered in and as
	Name:
	Address of place of residence
	Address of principle place of business
	Educational Qualification
	Mobile No :
	E-mail address:
	4
Name	
Authority	
5	List of documents attached

THE THIRD SCHEDULE
Forms to be used by the Registrar
LIST OF FORMS

Form No.	Section	Title
O-1	23(3)	Notice of non-completion of registration
O-2	23(2)	Certificate of registration of trade mark
O-3	25(3)	Notice of expiration of last registration.
O-4	Rule 152	Certificate of registration of a person as a trade marks Agent

FORM 0-1

GOVERNMENT OF INDIA, TRADE MARKS REGISTRY, Trade Marks Act, 1999
Notice of non-completion of registration Section 23(3) Rule 53.

No
Notice is hereby given as required by section 23(3) of the Trade Marks Act, 1999, that the registration of the trade mark, in respect of which application numbered as above was made on the day of 20 has not been completed by reason of default on the part of the applicant. Unless registration is completed within twenty-one days from the date of this notice the application will be treated as abandoned.

All communications relating to this application may be sent to the following address in India:-

Dated this.....day of 20
To,

Registrar of Trade Marks

FORM 0-2

GOVERNMENT OF INDIA, TRADE MARKS REGISTRY, Trade Marks Act, 1999
Certificate of registration of trade mark [section 23(2), rule 57(1)]

Trade Marks No.....

Date.....

Certified that the Trade Mark, of which a representation is annexed hereto, has been registered in the register in the name ofin Class..... under No.....as of the date in respect of

Sealed at my direction this:.....day of20.....

Registrar of Trade marks.

Registration is for 10 years from the date first above-mentioned and may then be renewed for a period of 10 years, and also at the expiration of each period of 10 years thereafter. (See section 25 of the Trade Marks Act, 1999 and Rules 58 to 61 of the Trade Marks Rules, 2015).

This certificate is not for use in legal proceedings or for obtaining registration abroad.

Note- Upon any change of ownership of this trade mark, or change in address of the principal place of business or address for service in India, application should AT ONCE be made to register the change.

FORM 0-3

GOVERNMENT OF INDIA, TRADE MARKS REGISTRY, Trade Marks Act, 1999
Certificate of registration of trade mark [section 23(2); rule 59 (1)]

Registered Trade Marks No.....

Class.....

Notice is hereby given as required in section 25(3) of the Trade Marks Act, 1999 that the registration of the aforesaid trade mark will expire on..... and that the registration can be renewed for a further period of 10 years on receipt in the Trade Marks Registry of an application on the enclosed Form TM-12 accompanied by the prescribed fee of Rs..... on or before the said date.....

Dated this..... day of 20

Registrar of Trade marks.

To,

FORM 0-4
GOVERNMENT OF INDIA, TRADE MARKS REGISTRY, Trade Marks Act, 1999
Certificate of registration as Trade Marks Agent (rule 152)

No.....

This is to certify that..... of
was registered on thisday of 20 in the Register of
Trade Marks Agents maintained under rule 145 of the Trade Marks Rules, 2015.

Registrar of Trade Marks

THE SIXTH SCHEDULE

Scale costs allowable of in rule 122 proceedings before the Registrar

Entry No.	Matter in respect of which costs to be awarded	Amount (In Rupees)
1	For one day's hearing involving examination of witnesses	1000
2	For one day's hearing when there is no examination of witnesses	500
3	For adjournment of hearing granted on the petition of any party	Rs.500 plus cost for re- summoning were due to be examined on the day
4	For striking out scandalous matter from an affidavit.	200
5	For attendance of witnesses..... Subsistence allowance..... Travelling allowance...	500 (vide note below) The fare by rail or steamer for the first class or the second class each way and if there is no rail or steamer communication Rs. 20 or Rs. 10 per km. depending upon the rank and status of the witness.
Note: the rates of subsistence allowance and travelling allowance for witness shall vary according to the status of the witness subject to the maximum prescribed above		

Part VI

Language of the Trade Marks Registry.— (1) (a) The language of the Trade Marks Registry shall be English:

Provided that the parties to a proceedings before the Trade Marks Registry may file documents drawn up in Hindi, if they so desire:

Provided that where-

(a) the Registrar permits the use of Hindi in the proceedings of the Tribunal and hearing in such proceedings, he may in his discretion direct English translation of pleadings and documents to be filed;

(b) the Trade Marks Registry located in "Region A" as defined in clause (f) of rule 2 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Registrar may, in his discretion, make final orders either in Hindi or in English.

(2) Notwithstanding anything contained in paragraph (1), where a final order is made in Hindi, an authenticated English translation thereof shall simultaneously be prepared and kept on record.

(F.No. 8/16/2015-IPR-IV)



(Rajiv Aggarwal)

Joint Secretary to the Government of India