



Trade Marks Act 1938

1938 CHAPTER 22

REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE PROVISIONS.

Procedure for, and duration of, registration

18 Opposition to registration

- (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted to be advertised in the prescribed manner, and the advertisement shall set forth all conditions and limitations subject to which the application has been accepted :

Provided that the Registrar may cause an application to be advertised before acceptance if it is made under paragraph (e) of subsection (1) of section nine of this Act, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised the Registrar may, if he thinks fit, advertise it again when it has been accepted but shall not be bound so to do.

- (2) Any person may, within the prescribed time from the date of the advertisement of an application, give notice to the Registrar of opposition to the registration.
- (3) The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.
- (4) The Registrar shall send a copy of the notice to the applicant, and within the prescribed time after receipt thereof the applicant shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.
- (5) If the applicant sends such a counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.
- (6) The decision of the Registrar shall be subject to appeal to the Court.

Status: This is the original version (as it was originally enacted).

- (7) An appeal under this section shall be made in the prescribed manner, and on the appeal the Court shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.
- (8) On the hearing of an appeal under this section any party may, either in the manner prescribed or by special leave of the Court, bring forward further material for the consideration of the Court.
- (9) On an appeal under this section no further grounds of objection to the registration of a trade mark shall be allowed to be taken by the opponent or the Registrar, other than those so stated as aforesaid by the opponent, except by leave of the Court.

Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

- (10) On an appeal under this section the Court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity thereof, but in any such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.
- (11) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice, or an appellant, neither resides nor carries on business in the United Kingdom, the tribunal may require him to give security for costs of the proceedings before the tribunal relative to the opposition or to the appeal, as the case may be, and in default of such security being duly given may treat the opposition or application, or the appeal, as the case may be, as abandoned.