

NOTIFICATION

S.R.O 211 (I)2004:- In exercise of the powers conferred by sub-section (1) of section 132 of the Trade Marks Ordinance, 2001 (XIX of 2001), the Federal Government is pleased to make the following rules, the same having been previously published as required by the said sub-section, namely:-

THE TRADE MARKS RULES, 2004.

PART I

CHAPTER I.— PRELIMINARY

1. Short title and commencement.— (1) These rules may be called the Trade Marks Rules, 2004.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless there is anything repugnant in the subject or context, -

(a) “Advisory Committee” means the Advisory Committee constituted under rule 101;

(b) “Form” means a Form as set out in either the Second or the Third Schedule;

(c) “old law” means the Trade Marks Act, 1940 (V of 1940), and rules made thereunder as in force immediately before the commencement of the Ordinance;

(d) “Ordinance” means the Trade Marks Ordinance, 2001 (XIX of 2001);

(e) “publish” means published in the Journal;

(f) “Schedule” means the Schedule to these rules;

(g) “section” means section of the Ordinance;

(h) “send”, with its grammatical variations, in relation to an act, includes to give; and

(i) “specification” means the designation of goods or services in respect of which a trade mark is registered or proposed to be registered.

(2) The words and expressions used but not defined in these rules shall have the meaning assigned to them in the Ordinance.

(3) In these rules, reference to filing of any application, notice or other document shall be construed as reference to its being sent or delivered to the Registrar at the Trade Marks Registry or its branches.

3. Forms.— The Forms set out 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 the requirements of other cases.

4. Requirement as to fee.— (1) Any fee to be paid in respect of an application, registration or any other matter under the Ordinance or these rules shall be as specified in the First Schedule.

(2) Fee may be paid in cash at the Registry or any Branch Registry or may be sent by money order, postal order, cheque, bank draft or pay order payable to the Registrar.

(3) Cheques not carrying the correct addition for commission, and other cheques on which the full value cannot be collected in cash within the time allowed for payment of the fee shall be accepted only at the discretion of the Registrar.

(4) Stamps shall not be received in payment of any fee.

(5) Any Form required to be filed with the Registrar in respect of any specified matter shall be subject to the payment of the fee, if any, payable in respect of that matter under these rules.

5. 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 trade marks authorized or required by the Ordinance or these rules to be made, left with or sent to the Trade Marks Registry or left with or sent to the Registrar or the Federal Government shall be written, type-written, lithographed or printed in the English language in large and legible characters with deep permanent ink upon strong paper, and except in the case of affidavits, on one side only, of a size approximately thirteen inches by eight inches, and shall have on the left-hand part thereof a margin of not less than one inch and-a-half.

(2) Duplicate documents including trade marks shall be filed at the Trade Marks Registry or its branch, if at any time required by the Registrar.

6. Signature of documents.– (1) A document purporting to be signed by proprietor or in case of partnership shall be signed by at least one of the partners and a document purporting to be signed by a body corporate shall be signed by a director or by its secretary or other principal officer of the body corporate. A document purporting to be signed by any other association of persons shall be signed by the President, Chairman or Principal Secretary of the Association or by any other person who appears to the Registrar to be duly qualified. The capacity in which an individual signs a document on behalf of a partnership or a body corporate or other association of persons shall be stated below his signature and name and complete address.

(2) Signature to any documents if written in characters other than Roman, or if not clearly legible shall be accompanied by a transliteration in English language and in block capitals.

7. Service of documents.– All applications, notices, statements, papers having representation affixed thereon, or other documents authorized or required by the Ordinance or these rules to be made, left or sent, at or to the Trade Marks Registry or to its branch or with or to the Registrar or the Federal Government or any other person may be sent through post by a prepaid letter, any application or any document so sent shall be deemed to have been made, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

8. Particulars of applicants and other persons.– (1) Names and address of applicants and other persons shall be given in full, together with their nationality and such particulars, if any, as are

necessary for identification. In the case of a firm, the full name and nationality of every partner thereof shall be stated.

(2) The address given shall in all cases be as full as possible, for the purpose of enabling any person easily to find the place of trade or business of the person whose address is given.

(3) In the case of body corporate or firm or an association the country of incorporation and the nature of registration, if any, as the case may be, shall be given.

9. Address for service.— (1) For the purposes of any proceedings before the Registrar under these rules an address for service in Pakistan shall be filed by—

(a) every applicant for the registration of a trade mark;

(b) every person opposing an application for registration of a trade mark;

(c) every applicant applying to the Registrar under section 73 for revocation of the registration of a trade mark, under section 80 for invalidation of the registration of a trade mark, or under section 96 for rectification of the register;

(d) every person granted leave to intervene under rule 67 (the intervener), and

(e) every proprietor of a registered trade mark, which is the subject of any application to the Registrar for the revocation, invalidation or rectification of the registration of the mark.

(2) The address for service of an applicant for registration of a trade mark shall upon registration of the mark be deemed to be the address for service of the registered proprietor, subject to any filing to the contrary under paragraph (1) above or under rule 70

(3) In any case in which an address for service at the same time as the filing of a form required by the Registrar under rule 3 which requires the furnishing of an address for service, the address shall be filed on that form and in any other case it shall be filed on Form TM-50. All applications on Form TM-50 under this rule shall be signed by the person about to be registered or the registered proprietor or registered licensee, as the case may be, or by an agent expressly authorized by him for the purpose of such application.

(4) Anything sent to any applicant, opponent, intervener or registered proprietor at his address for service shall be deemed to be properly sent and the Registrar may, where no address for service is filed, treat as the address for service of the person concerned his trade or business address in Pakistan, if any.

(5) An address for service in Pakistan may be filed at any time by the proprietor of a registered trade mark and by any person having a legitimate interest in or consented charge on a registered trade mark.

(6) Where an address for service is not filed as required by sub-rule (1), the Registrar shall send the person concerned notice to file an address for service within two months of the date of the notice and if that person fails to do so—

(a) in the case of an application as is referred to in clause (a) or (c) of sub-rule (1), the application shall be treated as abandoned.

(b) in the case of a person as is referred to in clause (b) or (d) of sub-rule (1), he shall be deemed to have withdrawn from the proceedings; and

(c) in the case of the proprietor referred to in clause (e), he shall not be permitted to take part in any proceeding.

10. Agency.— The authorization of an agent, being either a legal practitioner or a person registered as a trade mark agent shall be executed in the form as set out in Form TM-48.

CHAPTER II.— CLASSIFICATION

11. Classification of goods and services.— For the purposes of the registration of a trade mark and of these rules, goods and services shall be classified in the manner specified in the Fourth Schedule, which sets out the current version of the classes of the International Classification of goods and services.

CHAPTER III.— APPLICATION FOR REGISTRATION

12. Form and signing of application.— (1) An application to the Registrar for the registration of a trade mark shall be signed by the applicant or his agent and shall be subject to the payment of the application fee.

(2) An application to register a trade mark for specification of goods or services included in any one class shall be made in the form as set out in Form TM-1.

(3) An application to register a trade mark under section 25 for the specification of goods or services included in any one class from a convention country shall be made in the form as set out in Form TM-2.

(4) An application under sub-section (1) of section 26 for protection of trade mark during exhibition shall be made in the form as set out in Form TM-2.

(5) An application to register a textile trade mark, other than a collective mark or a certification trade mark, consisting exclusively of numerals or letters or any combination thereof for a specification of goods or services included in one item of the Fifth Schedule under rule 98 shall be made in the form as set out in Form TM-53.

(6) An application for registration of a textile mark, other than a collective mark or a certification mark, consisting exclusively of numerals or letters or any combination thereof for a specification of goods or services included in one item of the Fifth Schedule under rule 98 from a convention country under section 25 shall be made in the form as set out in Form TM-54.

(7) An application under clause (5) of the First Schedule to the Ordinance to register a collective trade mark for a specification of goods or services in any one class shall be made in the form as set out in Form TM-3.

(8) An application under clause (5) of the First Schedule to the Ordinance to register a collective trade mark for a specification of goods or services from a convention country under section 25 shall be made in the form as set out in Form TM-51.

(9) An application under clause (6) of the Second Schedule to the Ordinance to register a certification trade mark for a specification of goods or services included in any one class shall be made in the form as set out in Form TM-4.

(10) An application under clause (6) of the Second Schedule to the Ordinance to register a certification trade mark for a specification of goods or services from a convention country under section 25 shall be made in the form as set out in Form TM-52.

(11) An application under the Third Schedule to the Ordinance to register a domain name for a specification of goods or services included in any one class shall be made in the form as set out in Form TM-1.

13. Application to be confined to one class.— Every application for the registration of a trade mark shall be in respect of goods or services in one class only of the Fourth Schedule.

14. Separate application.— An application for the registration of the same trade mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods or services in more than one class, whether on conversion of the specification under rule 71 or otherwise, the registration in respect of goods or services included in each separate class shall be deemed to be a separate registration for all the purposes of the Ordinance.

15. Claim of priority.— (1) Where a right to priority is claimed by reason of an application for protection of a trade mark duly filed in a convention country under section 25 particulars of that claim shall be included in the application for registration under rule 12 and, where no certificate as is referred to in sub-rule (2) is filed with the application, such particulars shall include the country or countries and the date or dates of filing.

(2) Unless it has been filed at the time of filing of an application for registration, there shall be filed, within three months of filing of the application under rule 12, a certificate by the registering or other competent authority of that country certifying, or verifying to the satisfaction of the Registrar, the date of filing of the application, the country or registering or competent authority, the representation of the mark, and the goods or services covered by the application.

(3) The application relied upon under sub-rule (1) must be the first application of an applicant in a convention country for the same mark and for the same goods or services. The application must include a statement indicating the filing date of the foreign application relied upon, the convention country where it was filed, the serial number, if available, or statement indicating that priority is claimed.

16. Statement of user in application.– An application to register a trade mark shall contain a statement of the period during which, and the person by whom, it has been used in respect of the goods or services mentioned in the application. The Registrar may require the applicant to file an affidavit testifying to such user with exhibits showing the mark as used.

17. Representation of marks.– (1) Every application for the registration of trade mark, and where additional copies of the application are required, every such copy shall contain a representation of the mark in the space provided on the application form for that purpose.

(2) Where the representation exceeds such space in size, the representation shall be mounted upon linen, tracing cloth or such other material as the Registrar may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded.

18. Additional representations.– Every application for the registration of a trade mark shall, except as hereinafter provided, be made in duplicate and shall be accompanied by six additional representations of the mark on the application and its duplicate and the additional representations shall correspond exactly with the other. The additional representations shall in all cases be noted with all such particulars as may from time to time be required by the Registrar. Such particulars shall, if required, be signed by the applicant.

19. Representation to be durable.– All representations of trade marks must be of a durable nature and each additional representation required to be filed with an application for registration shall be mounted on a sheet of strong paper of the size of approximately thirteen inches by eight inches, leaving a margin of not less than one inch and-a-half on the left hand part of the sheet.

20. Specimens of the mark in exceptional cases.– Where a representation of a trade mark cannot be given in the manner set forth in rule 19, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient.

21. Series of trade marks.– Where an application is made for the registration of a series of trade marks under sub-section (3) of section 20, copies of representations of each trade mark of the series shall accompany the application in the manner set forth in rules 17 and 18.

22. Transliteration.– Where a trade mark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be endorsed on the application form, and on each of the accompanying representations, a sufficient transliteration to the satisfaction of the Registrar of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant.

23. Translation.— Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as aforesaid.

24. Acknowledgement of receipt of 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.

25. Deficiencies in application.— Where an application for registration of a trade mark does not satisfy the requirements of sub-section (2),(3) or (5) of section 22 or rule 12 or 13, the Registrar shall send notice thereof to the applicant to remedy the deficiencies or, in the case of sub-section (5) of section 22, the default of payment and if within two months of the date of the notice the applicant—

(a) fails to remedy any deficiencies notified to him in respect of sub-section(2) of section 22, the application shall be deemed never to have been made; or

(b) fails to remedy any deficiency notified to him in respect of sub-section(3) of section 22 or rule 12 or 13 or fails to make payment as required by sub-section(5) of section 22, the application shall be treated as abandoned.

26. Search.— Upon receipt of an application for the registration of a trade mark in respect of any goods or services and upon satisfying the requirements of sub section (2) or (3) of section 22, sub-rule (4) of rule 12, or rule 13, the Registrar shall carry out a search of earlier trade marks for the purpose of ascertaining whether there are on record in respect of same goods or services or same description of goods or services any marks identical with the mark sought to be registered or so nearly resembling it as to render it likely to deceive or cause confusion and the Registrar may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

27. Objection to acceptance-hearing.— (1) If, on consideration of an application, and on 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, disclaimers, modifications or limitations as he may think right to impose, the Registrar shall communicate such objection or proposal in writing to the applicant.

(2) Unless within two months from the date of communication specified in sub-rule (1), the applicant alters his application according to the proposal aforesaid or makes representation or applies for a hearing or fails to attend hearing, the application shall be deemed to have been abandoned.

(3) An application which is treated as abandoned under sub-rule(2), clause(b) of rule 25 or sub-section (5) of section 33 may be restored to the file on sufficient cause being shown to the satisfaction of the Registrar and on an application to that effect being made in the form as set out in Form TM-57 accompanied by a statement of case.

28. Decision of Registrar.— (1) The decision of the Registrar under section 27 after a hearing or without hearing if the applicant has duly communicated his observations in writing and

has stated that he does not desire to be heard, shall be communicated in writing, and if the applicant intends to appeal from such decision he may within one month from the date of communication apply in the form as set out in Form TM-15 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 such statement is sent shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

CHAPTER IV.— ADVERTISEMENT OF APPLICATION

29. Manner of advertisement.± (1) An Application for the registration of a trade mark required or permitted to be advertised by sub-section (1) of section 28 shall be advertised in the Journal during such time and in such manner as the Registrar may direct. The advertisement should contain the following particulars, namely:±

(a) Specimen of the trade mark;

(b) application number;

(c) the class number of the goods or services in respect of which registration of the trade mark is sought;

(d) description of goods or services for which the registration is sought;

(e) the name and address of applicant;

(f) the date of filing the application;

(g) the agent's name and address (in case the application, on behalf of the applicant, is made by his agent);

(h) description of limitations, conditions and disclaimers imposed;

(i) details of special circumstances, if any, under the proviso to sub-section (1) of section 28.

(j) particulars of any claim for a right of priority for the application;

(k) in case application has been accepted by consent the words ^a By consent^o shall appear in the advertisement;

(l) if no representation of the trade mark be included in the advertisement of the application, the place or places where a specimen or representation of the trade mark may be inspected should be mentioned in the advertisement; and

(m) in case application has been accepted in series the words ^a in series^o should appear in the advertisement.

(2) For the purpose of advertisement in the Journal, the applicant may within two months supply or be required to supply ^a film positives^o of the trade mark satisfactory to the Registrar or shall supply such information or other means of advertising the trade mark as may be required by the Registrar. Any ^a film positives^o so sent to the Registrar shall be retained by the Trade Marks Registry.

30. Opposition proceedings.± (1) Notice of opposition to the registration of a trade mark shall be sent to the Registrar in the form as set out in Form TM-5 in duplicate within two months from the date of the advertisement or re-advertisement or within such further period not exceeding two months in the aggregate as the Registrar may allow, and shall include a statement of the grounds of opposition. The Registrar shall send a copy of the grounds of the notice and the statement to the applicant.

(2) Within one month from the receipt by the applicant of such copy of the notice of opposition or within such further period not exceeding two months in aggregate as the Registrar may allow, the applicant shall send to the Registrar a counter-statement in the form as set out in Form TM-6 in duplicate, and if he does not do so he shall be deemed to have abandoned his application. The Registrar shall send a copy of counter-statement in the form as set out in Form TM-6 to opponent.

(3) Within one month from the receipt by the opponent of a copy of counter-statement or within such further period not exceeding two months in aggregate as the Registrar may allow, the opponent may file a rejoinder.

(4) If the opponent files a rejoinder, the Registrar shall send a copy of the same to the applicant.

(5) Within two months from the receipt of a copy of counter-statement or within such further period as the Registrar may allow, the person opposing the application shall file such evidence by way of statutory declaration or affidavit, as he may consider necessary to adduce in support of his opposition and shall send a copy thereof to the applicant.

(6) If the person opposing the registration files no evidence under sub-rule 5, he shall be deemed to have abandoned his opposition.

(7) With two months from the receipt of a copy of opponent's evidence or within such further period as the Registrar may allow, the applicant shall file such evidence by way of a statutory declaration or affidavit as he may consider necessary to adduce in support of his application and shall send a copy thereof to the opponent.

(8) Within one month of the date on which a copy of the applicant's evidence is sent to him or within such further period as the Registrar may allow, the person opposing the application may file evidence in reply by way of statutory declaration or affidavit which shall be confined to matters strictly in reply to the applicant's evidence, and shall send a copy thereof to the applicant.

(9) No further evidence may be filed, except that, in relation to any proceedings before him, the Registrar may at any time if he thinks fit give leave to either party to file evidence upon such terms as he may think fit.

(10) Where there are exhibits to affidavits filed in an opposition, copies or impressions of such exhibits shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the originals shall be left with the Registrar in order

that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

(11) Where any document or exhibit is in a language other than English is referred to in the notice of opposition, counter-statement or an affidavit filed in an opposition, an attested translation thereof in English shall be furnished in duplicate.

(12) Upon completion of evidence, if any, the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such appointment shall be for a date at least one month after the date of the notice, unless the parties consent to a shorter notice. Within fourteen days from the receipt of the notice, any party who intends to appear shall so notify the Registrar in the form as set out in Form TM-7. Any party who does not so notify the Registrar within the time last aforesaid may be treated as not desiring to be heard and the Registrar may act accordingly.

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

31. Decision of the Registrar to be notified: (1) The decision of the Registrar shall be notified in writing to the person opposing the application and the applicant.

(2) For the purpose of any appeal against the Registrar" s decision the date of the decision shall be the date when notice of the decision is sent under sub-rule(1).

CHAPTER V.— NOTICE OF NON-COMPLETION OF REGISTRATION

32. Procedure for giving notice.— The notice which the Registrar is required by sub-section

(5) of section 33, to give to an applicant, shall be sent to the applicant at his trade or business address or address for service in the form as set out in Form O-1, but if the applicant has authorized an agent for the purpose of the application, the notice shall be sent to the agent and a duplicate thereof to the applicant. The notice shall specify twenty-one days time from the date thereof or such further time as the Registrar may allow, for completion of the registration.

CHAPTER VI.— REGISTRATION

33. Registration.— As soon as may be after the expiration of two months from the date of the advertisement in the Journal of any application for the registration of a trade mark the Registrar shall, subject to any opposition and the determination thereof, and to the provisions of sub-section (1) of section 33 and upon payment of the prescribed fee, in the form as set out in Form TM-11, within two months from the date of receipt of the requisite information in the form as set out in Form TM-11, enter the trade mark in the register.

34. Entry in the register.— In addition to the entries in the Register required to be made by sub-section (1) of section 10 there shall be entered in the Register in respect of each trade mark registered therein the following particulars, namely;—

(a) the date of registration as determined in accordance with section 23 (that is to say, the date of the filing of the application for registration);

- (b) the actual date of registration (that is to say, the date of the entry in the Register);
- (c) the priority date, if any, to be accorded pursuant to claim to a right to priority made under section 25;
- (d) the name and address of the proprietor;
- (e) the address for service as furnished pursuant to rule 9;
- (f) any disclaimer or limitation of rights under section 21;
- (g) any memorandum or statement of the effect of any memorandum relating to a trade mark of which the Registrar has been notified in the form as set out in Form TM-37;
- (h) the goods or services in respect of which the mark is registered;
- (i) where the mark is a collective or certification mark, that fact; and
- (j) where the mark is registered pursuant to sub-section (5) of section 17 with the consent of the proprietor of an earlier trade mark or earlier right, that fact.

35. 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 proof of the applicant's death and of the title of another person to the ownership of the trade mark being furnished to him within ninety days enter in the Register the name, address and description of that person as the proprietor of the trade mark.

36. Amendment of application.— A request for an amendment of an application to correct an error or to change the name or address of the applicant or in respect of any amendment requested before or after publication of the application shall be made in the form as set out in Form TM-16.

37. Amendment of application after publication.— (1) Where, pursuant to sub-section(7) of section 27, a request is made for amendment of any application which has been published and the amendment affects the representation of the trade mark or the goods or services covered by the application, the amendment or a statement of the effect of the amendment shall also be published.

(2) Notice of opposition to the amendment shall be sent to the Registrar in the form as set out in Form TM-5 within two month of the date on which the application as amended was published under sub-rule (1), and shall include a statement of the grounds of objection and, in particular, how the amendments would be contrary to sub section (7) of section 27.

(3) The provisions of rule 30 shall apply to proceedings relating to the opposition to the amendment of the application as they apply to proceedings relating to opposition to the registration of a trade mark.

38. Registration of a series of trade mark.— The proprietor of a series of trade marks may apply to the Registrar for their registration as a series in a single registration and there shall be included in such application a representation of each mark claimed to be in the series, and the Registrar shall, if satisfied that the marks constitute a series, accept the application.

CHAPTER VII.— COLLECTIVE MARKS

39. Application for registration and proceedings relating thereto.— (1) An Application for the registration of a collective mark for goods or services shall be made to the Registrar in the form as set out in Form TM-3 or TM-51, as the case may be, in triplicate and shall be accompanied by six additional representations of the mark. The draft regulation to be forwarded with the application under paragraph 5 of the First Schedule to the Ordinance shall be in triplicate and shall be accompanied by the requisite information in the form as set out in Form TM-49.

(2) An applicant applying for the registration of a collective mark shall not be deemed to have abandoned his application, if in the circumstances of sub-rule(2) rule 27 he does not apply for a hearing or reply in writing.

(3) The regulations governing collective mark shall specify, inter alia, the following, namely:—

(a) the name of the association of persons and their respective office address;

(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 authorized 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; and

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

(4) 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 triplicate.

(5) The Registrar shall cause an application for the registration of a collective mark to be examined, in the first instance, as to whether it satisfies the requirement of the Ordinance and the rules and issue a report to the applicant.

(6) The Registrar shall not refuse an application for the registration of a collective mark or accept the application subject to any conditions or limitations or impose amendments or modification to the application or to the regulation without giving to the applicant an opportunity of being heard.

40. Opposition to registration of collective marks.— (1) On acceptance of an application the Registrar shall cause the application to be advertised in the Journal and the provisions of sub-rules(1) to (12) of rule 30 shall apply in relation to an application for the registration of a trade mark.

(2) In any case of doubt with regard to proceedings on the opposition to the registration of a collective mark any party may apply to the Registrar for directions.

41. Amendment of regulation relating to collective marks and renewal.— (1) An application by the registered proprietor of a collective mark for any amendment or alteration to the regulation shall be made in the form as set out in Form TM-42, and where the Registrar accepts any such amendment or alteration he shall advertise such application in the Journal and further proceedings in the matter shall be governed by sub-rules(1) to (12) of rule 30.

(2) A collective mark may be renewed from time to time and the provisions of rule 50 to

53 shall apply *mutatis mutandis* in respect of such request for renewal.

42. Rectification of collective mark.— An application for cancellation of a collective mark including on any of the grounds mentioned in paragraph 13 of the First Schedule to the Ordinance shall be made in the form as set out in Form TM-43 and shall set forth particulars of the grounds on which the application is made. The provisions of sub-rules(2) to (12) of rule 30 shall apply *mutatis mutandis* for further proceeding in the matter.

CHAPTER VIII.— CERTIFICATION TRADE MARKS

43. Application for registration and proceedings thereto.— (1) An application for the registration of a certification trade mark shall be made to the Registrar in the form as set out in Form TM-4 or Form TM-52, in triplicate, and shall be accompanied by six additional representation of the mark. The draft regulations to be forwarded with the application under paragraph 6 of the Second Schedule to the Ordinance shall be in triplicate and shall be accompanied by the requisite information as set out in Form-49.

(2) An applicant applying for the registration of a certification trade mark shall not be deemed to have abandoned his application if, in the circumstances specified in sub-rule(2) of rule 27 he does not apply for a hearing or reply in writing.

(3) The regulation governing a certification trade marks shall specify, inter alia, the following, namely:—

(a) The description of the applicant;

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

(c) the particulars of 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 regulation;

(g) the characteristic 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 Pakistan; and

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

(4) The applicant shall forward a statement of case to the Registrar with an application setting out the grounds in which he relies in support of the application. Such case shall be furnished in triplicate.

(5) The Registrar shall cause an application for the registration of a certification trade mark to be examined in the first instance as to whether it satisfies the requirement of the Ordinance and the rules and issue a report to the applicant.

(6) The Registrar shall not refuse an application for registration of a certification trade mark or accept the application subject to any conditions or limitations or impose amendments or modifications to the application or to the regulations without giving to the applicant an opportunity of being heard.

44. Opposition to registration of certification trade mark and renewal.— (1) On acceptance of an application the Registrar shall cause the application to be advertised in the Journal and the provisions of sub-rules (1) to (12) of rules 30 shall apply *mutatis mutandis* as they apply in relation to an application for the registration of a trade mark.

(2) In case of doubt with regard to the proceedings on the opposition to the registration of a certification trade mark any party may apply to the Registrar for directions.

(3) A certification trade mark may be renewed from time to time and the provisions of rule 50 to 53 shall apply *mutatis mutandis* in respect of such request for renewal.

45. Rectification of certification trade mark.— An application for cancellation or variation of registration of a certification trade mark on any of the grounds mentioned in paragraphs 15 and 16 of the Second Schedule to the Ordinance shall be made in the form as set out in Form TM-43 and shall set forth particulars of the grounds on which the application is made. The provisions of sub-rules (2) to (12) of rule 30 shall apply *mutatis mutandis* to further proceedings in the matter.

46. 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 paragraph 11 of the Second Schedule to the Ordinance to alter the deposited regulation shall be made in the form as set out in Form TM-42 and where the Registrar decides to permit such alteration it shall be advertised in the Journal and further proceedings in the matter shall be governed by sub-rules(1) to (12) of rule 30.

(2) An application for the consent of the Registrar to the assignment and transmission of a certification trade mark under paragraph 12 of the Second Schedule to the Ordinance shall be made in the form as set out in Form TM-22.

47. Registration subject to disclaimer or limitation.—Where the applicant for registration of a trade mark or the proprietor by notice in writing sent to the Registrar -
(a) disclaims any right to the exclusive use of any specified element of the trade mark;
or

(b) agrees that the rights conferred by the registration shall be subject to a

specified territorial or other limitation,
the Registrar shall make the appropriate entry in the Register and publish such disclaimer or limitation.

48. Certificate of registration.— The certificate of registration of a trade mark to be issued by the Registrar under sub-section (4) of section 33 shall be in the form as set out in Form 0-2 with such modifications as the circumstances of any case may require, and the Registrar shall annex a copy of the trade mark to the certificate.

CHAPTER IX.— DIVISIONAL APPLICATION

49. Divisional application.— An application under section 32 shall be made in the form as set out in Form TM 14 and shall include a statement of the grounds of the application.

CHAPTER X.— RENEWAL AND RESTORATION

50. Reminder of renewal of registration.— At any time not earlier than six months nor later than one month before the expiration of the last registration of a trade mark, the Registrar shall (except where renewal has already been effected under rule 51) send to the registered proprietor a notice in the form as set out in Form O-3 of the approaching expiration and inform him at the same time that the registration may be renewed in the manner described in rule 51

51. Renewal of registration.— Renewal of registration shall be effected by filing a request for renewal in the form as set out in Form TM-12 along with the prescribed fee at any time within the period of six months ending on the date of expiration of the registration.

52. Advertisement of non-payment.— (1) If at the expiration of the last registration of a trade mark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the Journal and if within six months of that advertisement the renewal fee along with a request for renewal in the form as set out in Form TM-12 and together with the prescribed additional fee is received, he shall renew the registration without removing from the Register.

(2) Where no request for renewal is filed as provided for in sub-rule(1), the Registrar shall, subject to rule 53, 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 at any time within six months before the date on which renewal is due, the registration may be renewed on payment of –

(a) the renewal fee within six months after the actual date of registration; or

(b) the renewal fee and additional renewal fee within the period commencing on the date six months after the actual date of registration, that is to say, at the end of the period referred to in clause (a) and ending on the date six months after the due date of renewal.

(4) Where the fees referred to in clause (b) of sub-rule(3) are not paid within the period specified in that clause the Registrar shall, subject to rule 53, remove the mark from the Register.

(5) Where, in the case of a mark the registration of which, by reference to the date of application for registration, become due for renewal, the mark is registered after the date of renewal,

the registration may be renewed on 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 53, remove the mark from the Register.

(6) The removal of the registration of a trade mark shall be published.

53. Restoration of registration.— (1) Where the Registrar has removed the mark from the Register for failure to renew its registration in accordance with sub-rule(2) of rule 51, he may, upon a request filed in the form as set out in Form TM-13 within six months of the date of the removal of

the mark accompanied by the appropriate renewal fee and appropriate restoration fee, restore the mark to the Register and renew its registration if, having regard to the circumstances of the failure to renew, he is satisfied that it is just to do so.

(2) The restoration of the registration shall be published in the Journal, with the date of restoration shown therein.

54. Alteration of registered trade mark.— (1) The proprietor may request the Registrar in the form as set out in Form TM-38 for such alteration of his registered mark as is permitted under section 37; and the Registrar may require such evidence by statutory declaration or affidavit or otherwise as to the circumstances in which the application is made. The proprietor shall furnish six copies of the mark as it will appear when so added to or altered.

(2) Where, upon the request of the proprietor, the Registrar proposes to allow such alteration, he shall publish the mark as altered. The proprietor shall supply “ film positives” of the mark so altered or added to for advertising in the Journal.

(3) Any person claiming to be affected by the alteration may within three months of the date of publication of the alteration under sub-rule(2) send a notice in the form as set out in Form TM-39, in duplicate, to the Registrar of opposition to the alteration and shall include a statement of the grounds of opposition; the Registrar shall send a copy of the notice and the statement to the proprietor and thereafter the procedure specified in rule 30 shall apply to the proceedings as they apply to proceedings relating to opposition to an application for registration.

55. Surrender of registered trade mark.— (1) Subject to sub-rule(2), the proprietor may surrender a registered trade mark, by sending notice to the Registrar -

(a) in the form as set out in Form TM-35 in respect of all the goods or services for which it is registered; or

(b) in the form as set out in Form TM-36 in respect only of those goods or services specified by him in the notice.

(2) A notice under sub-rule (1) shall be of no effect unless the proprietor in that notice –

(a) gives the name and address of any person having a registered interest in the mark by virtue of registerable transaction as specified in sub-section (2) of section 70 of the Ordinance ; and

(b) certifies that any such person –

- (i) has been sent not less than three months" notice of the proprietor" s intention to surrender the mark, or
- (ii) is not affected or if affected consents thereto.
- (3) The Registrar shall, upon the surrender taking effect, make the appropriate entry in the Register and publish the same.

CHAPTER XI.—ASSIGNMENT AND TRANSMISSION

56. Application for entry of assignment or transmission.— (1) 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 the form as set out in Form TM-24 or Form TM-23 by such person alone or jointly with the registered proprietor.

(2) An application under sub-rule(1) shall contain full particulars of the instrument, if any, under which the applicant, or, in the case of a joint application, the person other than the registered proprietor claims to be entitled to the trade mark and such instrument or a duly certified copy thereof shall be produced at the Trade Marks Registry for inspection at the time of application. The Registrar may require and retain an attested copy of any instrument produced for inspection in proof of title, but such copy shall not be open to public inspection.

(3) Where a person applying under sub-rule(1) for registration of his title does not establish his claim under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Registrar otherwise directs, either upon or with the application, state a case setting forth the full particulars of the facts upon which his claim to be proprietor of the trade mark is based and showing that the trade mark has been assigned or transmitted to him. If the Registrar so requires, the case shall be verified by an affidavit in the form as set out in Form TM-18.

(4) 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.

57. Assignments involving transmission of moneys outside Pakistan and assessment of goodwill of business.— If there is in force any law regulating the transmission of moneys outside Pakistan, 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.

58. Application for Registrar"s direction as to advertisement of an assignment of a trade mark without goodwill of the business.— (1) Any person who desires registration of a assignment or transmission of a trade mark under sub-rule(1) of rule 56 without goodwill of the business under sub-section(2) of section 69 shall make an application in the form as set out in Form TM-20, and shall state the date on which the assignment was made. The applicant shall give particulars of the registration in the case of a registered trade mark, and in the case of an unregistered trade mark shall show the mark and give particulars including user of the registered as well as 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 an application referred to in sub-rule(1), in a case to which sub-section(3) of section 69 applies unless his approval has been obtained under the rule 61 and a reference identifying the Registrar" s notification of approval included in the application.

(3) A request for an extension of the period within which the application referred to in sub-rule (1) may be made shall be in the form as set out in Form TM-21, and may be made at any time before or during the period for which extension can be allowed. The extension of the period which the Registrar may allow shall not exceed three months.

59. Application for entry of assignment without goodwill.– An application under sub-rule(1) of rule 56 relating to an assignment of a trade mark in respect of any goods or services shall state -

(a) whether the trade mark has been or was used in the business in any of those goods or services;

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

c) in case both the circumstances referred to in clauses (a) and (b) exist, then the applicant shall leave at the Trade Marks Registry a copy of the directions to advertise the assignment, obtained upon application under rule 58 and such proof, including copies of advertisement or otherwise, as the Registrar may require, to show that the directions have been fulfilled and if the Registrar is not satisfied that the directions have been fulfilled he shall not proceed with the application.

60. Separate registration.– Where pursuant to an application under sub-rule(1) of rule 56 and as a result of a division and separation of the goods or services of a registration or a division and separation of places of 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 Ordinance.

61. Registrar"s approval as to certain assignments and transmission. Any person who desires registration of assignment or transmission under sub-rule(1) of rule 56 relating to an

assignment of a trade mark under sub-section(3) of section 69 shall obtain registrar" s approval and shall send to the Registrar with his application in the form as set out in Form TM-17 or Form TM-19, as the case may be, 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, two 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.

62. Registration of assignment to a company.— For the purposes of sub-section (4) of section 72, the period within which a company may be registered as the subsequent proprietor of a registered trade mark, upon application made under sub-rule(1) of rule 56 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 the form as set out in Form TM-25 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.

63. Application for entry of license.— (1) An Application to the Registrar for the registration under clause(b) of sub-section(2) of section 70 read with sections 75 and 76 of a person as registered licensee of a registered trade mark shall be made by that person and the registered proprietor in the form as set out in Form TM-28.

(2) The entry of a registered licensee in the Register shall contain the following particulars, namely:-

- (a) Registration number and class;
- (b) name and address of registered proprietor,
- (c) name and address of registered licensee;
- (d) goods in respect of which licensee is registered;
- (e) address for service;
- (f) whether licensee is exclusive licensee or non-exclusive;
- (g) whether permitted use is to be for a specific period or without limit of period;
- (h) any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter; and
- (i) particulars of relationship, existing or proposed, between the proprietor and the proposed registered licensee, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer.

64. 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 licensee of that trade mark under clause (a) of sub-section(4) of section 70 shall be made in the form as set out in Form TM-29 and shall be accompanied by a statement of the grounds on which it is made and, where the registered licensee in question consents, by the written consent of that registered licensee.

65. Cancellation of the registration of registered licensee.— (1) An application for the cancellation of the registration of a registered licensee under clause (b) of sub-section(4) of section

70 shall be made in the form as set out in Form TM-30 or Form TM-31, as may be appropriate, and shall be accompanied by statement of grounds on which it is made.

(2) In case of the registration of a registered licensee for a period, in accordance with clause(i) of sub-section(4) of section 70, the Registrar shall cancel the entry of the registered licensee at the end of that period. Where some or all of the goods 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 licensee of the trade mark in which they are comprised. The Registrar shall notify every cancellation or omission under this sub-rule to the registered licensee or licensees whose permitted use is affected thereby and to the registered proprietor of the trade mark.

66. Notification and hearing.— The Registrar shall notify in writing applications under clause(b) of sub-section(4) of section 70 to the registered proprietor and each registered licensee (not being the applicant) under the registration of the trade mark. Any person so notified who intends to intervene in the proceedings, shall within one month of the receipt of such notification give notice to the Registrar in the form as set out in Form TM-32 to that 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, viz., the applicant, the registered proprietor, the registered licensee whose registration is in suit, and any other registered licensee who intervenes. Any such party may, within such time or times as the Registrar may appoint, leave evidence in support of his case, and the Registrar after giving party 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.

67. Registered licensee's application.— An application under sub-section (4) of section 96 shall be made in the form as set out in Form TM-16 or Form TM-33 or Form TM-34, as may be appropriate, by a registered licensee of a trade mark or by such person as may notify the Registrar that he is entitled to act in the name of a registered licensee 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.

68. Revocation, invalidation and rectification.— (1) An application to the Registrar for revocation under section 73, or declaration of invalidity under section 80 of the registration of a trade mark or for rectification of an error or omission in the Register under section 96 shall be made in the form as set out in Form TM-26 together with a statement of the grounds on which the application is made. Where the application is made by a person other than the proprietor of the registered trade mark, the application and the statement of the grounds aforesaid shall be left at the Registry, in duplicate. The duplicate copies shall be transmitted forthwith by the Registrar to the registered proprietor.

(2) Upon an application referred to in sub rule (1) being made and copies thereof being transmitted to the registered proprietor, if necessary, the provisions of sub-rules(2) to (12) of rule 30 shall apply *mutatis mutandis* to the further proceedings on the application but the Registrar shall not rectify the Register merely because the registered proprietor has not filed a counter-statement, save that, in case of an application for revocation on the grounds of non-use under clause(a) or (b) of sub-section(1) of section 73, the application shall be granted where no counter-statement is filed.

69. Intervention by third parties.— (1) Any person, other than the registered proprietor, alleging interest in a registered trade mark in respect of which an application is made under rule 68 may apply in the form as set out in Form TM-27 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 as he may deem fit.

(2) Any person granted leave to intervene, hereinafter referred as the intervener, shall, subject to the terms and conditions imposed in respect of the intervention, be treated as a party for the purposes of the application of the provisions of rule 30 to the proceedings on an application under this rule.

(3) Where the Registrar has made a decision on the application following any opposition, intervention or proceedings held in accordance with this rule, he shall send the applicant, the person opposing the application and the intervener, if any, written notice of it, stating the reason for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

70. Change of name, address or address for service.— (1) The Registrar shall, on a request made in the form as set out in Form TM-33 or Form TM-34, as may be appropriate, by the proprietor of a registered trade mark or a licensee or any person having interest in or charge on a registered trade mark which has been registered under rule 56 or 62, enter any change in his name or address as recorded in the Register.

(2) The Registrar may at any time, on a request made in the form as set out in Form TM-

50 by any person who has furnished an address for service under rule 9, if the address is recorded in the Register, change it.

CHAPTER XII.— RE-CLASSIFICATION OF GOODS AND SERVICES IN RESPECT OF EXISTING REGISTRATION

71. Re-classification in respect of existing registration.— (1) On the classification set forth in the Fourth Schedule, the registered proprietor of a trade mark may apply to the Registrar in the form as set out in Form TM-40 for the conversion of the specification relating to the trade mark, so as to bring that specification into conformity with the specification as set forth in the Fourth Schedule. The application shall include a request for the like conversion of the specification in respect of any registered licensee under that registration, and the registered proprietor shall serve a copy of the application on the registered licensee or licensees of the trade mark, if any.

(2) The Registrar shall, thereupon notify in writing to the registered proprietor and to the registered licensee or licensees, if any, a proposal showing the form which, in the Registrar's view, the amendment of the Register should take in consequence of the proposed conversion. Two or more registrations of a trade mark having the same date and in respect of goods, which fall within the same class under the amended or substituted classification, may be amalgamated upon conversion in accordance with this rule.

(3) The proposal referred to in sub-rule (2) shall be advertised in the Journal.

72. Notice of opposition.— (1) Notice of opposition shall be given in the form as set out in Form TM-41, in duplicate, within two months from the date of advertisement of the proposal under sub-rule (2) or within such period not exceeding two months in the aggregate and shall be accompanied by a statement, in duplicate, showing how the proposed amendment would contravene

the provisions of section 97. Where there are any registered licensees under the registration of trade mark in question such notice and statement shall

also be accompanied by as many copies thereof as there are registered licensees. The Registrar shall within two months send a copy each of the notice and the statement to the registered proprietor and to each registered licensee, if any, and within two months from the receipt by him of each copies the registered proprietor may send to the Registrar in the form as set out in Form TM-6 a counter-statement, in triplicate, setting out fully the grounds on which the opposition is contested. If the registered proprietor sends such counter-statement, the Registrar shall serve a copy thereof on the person giving notice of opposition within two months and the further procedure for the disposal of the opposition shall be regulated by the provisions of sub-rules (3) to (12) of rule 30 *mutatis mutandis*. In any case of doubt, any party may apply to the Registrar for directions.

(2) If there is no opposition within the time specified in sub-rule (1), or in case of opposition, if the conversion of the specification is allowed, the proposal as allowed shall be advertised in the Journal, and all necessary entries shall be made in the Register. The date when such entries are made in the register shall be recorded therein. Any entry made in the Register in pursuance of this sub-rule shall not affect the date of renewal of registration under section 35, which shall be determined in the same manner as above the allowance of the conversion.

73. Request for information.— A request for information relating to an application for registration or to a registered trade mark shall be made in the form as set out in Form TM-45.

74. Information available before publication.— Before publication of an application for registration the Registrar shall make available for inspection by the public the application and any amendments made to it and any particulars contained in a notice given to the Registrar.

75. Inspection of documents.— (1) Subject to sub-rules(2) and (3), the Registrar shall permit all documents filed or kept at the Registry in relation to a registered mark or, where an application for the registration of a trade mark has been published, in relation to that application, to be inspected.

(2) The Registrar shall not be obliged to permit the inspection of any such documents as is mentioned in sub-rule(1) until he has completed any procedure, or the stage in the procedure which is relevant to the document in question, which is required or permitted to carry out under the Ordinance or these rules.

(3) The right of inspection under sub-rule (1) shall not apply to –

- (a) any document until fourteen days after it has been filed at the Registry;
- (b) any document prepared in the Registry solely for use therein;
- (c) any document sent to the Registry, whether at its request or otherwise, for inspection and subsequent return to the sender;
- (d) any request for information under rule 73;
- (e) any document issued by the Registry which the Registrar considers should be treated as confidential;
- (f) any document in respect of which the Registrar issues directions under rule 76 that it be treated as confidential;

(4) Nothing in sub-rule(1) shall be construed as imposing on the Registrar any duty of making available for public inspection –

(a) any document or part of a document which in his opinion discharges any person in a way likely to damage him; or

(b) any document filed with or sent to the Registry before coming into force of the Ordinance.

(5) No appeal shall lie from a decision of the Registrar under sub-rule(4) not to make any document or part of a document available for public inspection.

76. Confidential documents.— (1) Where a document other than a form required by the Registrar and published in accordance with rule 3 is filed at the Registry and the person filing it requests, at the time of filing or within fourteen days of the filing, that it or a specified part of it be treated as confidential, giving his reasons, the Registrar may direct that it or part of it, as the case may be, be treated as confidential, and the document shall not be open to public inspection while the matter is being determined by the Registrar.

(2) Where such direction has been given and not withdrawn, nothing in this rule shall be taken to authorize or require any person to be allowed to inspect the document or part of it to which the direction relates except by leave of the Registrar.

(3) The Registrar shall not withdraw any direction given under this rule without prior consultation with the person at whose request the direction was given, unless the Registrar is satisfied that such prior consultation is not reasonably practical.

(4) The Registrar may where he considers that any document issued by the Registry should be treated as confidential so direct, and upon such direction that document shall not be open to public inspection except by leave of the Registrar.

(5) Where a direction is given under this rule for a document to be treated as confidential a record of the fact shall be filed with the document.

77. Decision of Registrar to be taken after hearing.—(1) Without prejudice to any provisions of the Ordinance or these rules requiring the Registrar to hear any party to proceedings under the Ordinance or these rules, or to give such party an opportunity to be heard, the Registrar shall, before taking any decision on any matter under the Ordinance or these rules which is or may be adverse to any party to any proceedings before him, give that party an opportunity to be heard.

(2) The Registrar shall give that party at least ten days" notice of the time when he may be heard unless that party consents to shorter notice.

78. Evidence in proceedings before Registrar.—Evidence in any proceedings before the Registrar shall be given by affidavit, provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit.

79. Registrar"s power to require documents, information or evidence.— At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may reasonable require shall be filed within such period as he may specify.

80. Extension of time.— (1) The time or periods –

- (a) specified by these rules, other than the times or periods specified by the rules referred to in sub-rule (3); or
- (b) specified by the Registrar for doing any act or taking any proceedings, may, at the request of the person or party concerned, be extended by the Registrar to such further period which shall not exceed three months in aggregate, upon such notice to any other person or party affected and upon such terms as he may direct.

(2) A request for the extension of a period specified by these rules which is filed after an application has been published under rule 29 shall be in the form as set out in Form TM-56 and shall in any other case be on that form if the Registrar so directs.

(3) The rules excepted from sub-rule (1) are sub-rule (6) of rule 9 (failure to file address for service), rule 25 (deficiencies in application), sub-rule (1) of rule 30 (time for filing notice of opposition), sub-rule(2) of rule 30 (time for filing counter statement), sub-rule (1) of rule 50 (delayed renewal), rule 52 (restoration of registration) and sub-rule (3) of rule 57 (direction with respect to advertisement of assignment) and rule 62 (registration of assignment to a company under section 72).

(4) Subject to sub-rule (5), a request for extension of time under sub-rule (1) shall be made before the time or period in question has expired.

(5) Where the request for extension is made after the time has expired, the Registrar may, at his discretion, extend the period or time if he is satisfied with the explanation for the delay in requesting the extension and it appears to him that any extension would not disadvantage any other person or party affected by it.

(6) Where the period within which any party to any proceedings before the Registrar may file evidence under these rules is to begin upon the expiry of any period in which any other party may file evidence and that other party notifies the Registrar that he does not wish to file any, or any further evidence the Registrar may direct that the period within which the first mentioned party may file evidence shall begin on such date as may be specified in the direction and shall notify all parties to the dispute of that date.

81. Correction of irregularities, calculation of times and periods.– (1) Any irregularity in procedure in or before the Registry or the Registrar may be rectified, subject to sub-rule (2), on such terms as he may direct.

(2) In the case of an irregularity or prospective irregularity –

(a) which consists of a failure to comply with any limitation as to times or periods specified in the ordinance, these rules or the old law as that law continues to apply and which has occurred or appears to the Registrar as likely to occur in the absence of a direction under this rule; and

(b) which is attributable wholly or in part to an error, default or omission on the part of the Registry or the Registrar and which it appears to him should be rectified,

he may direct that the time or period in question shall be extended in such manner as he may specify.

(3) Sub-rule(2) shall be without prejudice to the Registrar" s power to extend any time or periods under rule 80.

CHAPTER XIII.— AWARD OF COSTS BY REGISTRAR

82. Costs in uncontested cases.— (1) Where any opposition duly instituted under these 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.

(2) Notwithstanding anything in sub-rule(1) costs in respect of fees specified under entries 5, 6, 7, 8, 9 & 10 of the First Schedule and of all stamps used on and affixed to affidavits used in the proceedings shall follow the event.

(3) Scale of costs: Subject to the provisions of sub-rules (1) and (2), in all proceedings before the Registrar the Registrar may, save as otherwise expressly provided by the Ordinance, award such costs, not exceeding the amount admissible therefor under the Sixth Schedule, as he considers reasonable having regard to all the circumstances of the case.

83. Security for costs.— (1) The security for cost which the Registrar may require any person who is a party to any proceedings before him under the Ordinance or these rules to give in relation to those proceedings, 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 proceedings.

(2) In default of the security referred to in sub-rule(1) being given, the Registrar, in the case of the proceedings before him, may treat the party in default as having withdrawn his application, opposition, objection or intervention, as the case may be.

84. Supply of certified copies, etc. The Registrar shall supply a certified copy of extract, as requested in the form as set out in Form TM-46 of any entry in the Register or any document referred to in sub-section (1) of section 121 or of any decision or order of the Registrar. The purpose for which the certified copy of extract or document is required shall be stated in the form as set out in Form TM-46.

(2) Where a copy of any trade mark has to be included in a certified copy, the Registrar may require the applicant to supply a copy thereof suitable for the purpose, and if the applicant fails to do so, the Registrar shall not be obliged to include a copy of the mark in the certified copy.

(3) Where a certificate or certified copy of extract relating to the registration of a trade mark is desired for use in obtaining registration in any territory outside Pakistan, the Registrar shall include in the certificate or certified copy of extract a copy of the mark and may require the applicant for the certificate or certified copy of extract to furnish him with a copy of the mark suitable for the purpose, and if the applicant fails to do so, the Registrar may refuse to issue the certificate or certified copy of extract.

(4) Where a trade mark is registered without limitation of colour, the copy of the mark to be included in the certified copy of extract, may be either in the colour in which it appears upon the Register or in any other colour or colours. It shall be stated in the certificate or certified copy of extract that the trade mark is registered without limitation of colours.

CHAPTER XIV.-APPEAL TO THE HIGH COURT

85. Time for appeal.-An appeal to the High Court from any decision of the Registrar under the Ordinance or these rules shall be made within two months from the date of such decision or within such further time as the High Court may allow.

CHAPTER XV.-MISCELLANEOUS

86. Certificate of validity to be noted.- Where the court has certified as provided in section

112 with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar in the form as set out in Form TM-47 to add to the entry in the Register a note that the certificate of validity has been granted in the course of 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.

87. Request to Registrar for search.- A person may in the form as set out in Form TM-55 request the Registrar to cause a search to be made in respect of specified goods or services classified in any one class of the Fourth Schedule to ascertain whether any mark in the Register or among pending applications for registration resembles a trade mark of which duplicate representations accompany the form. The Registrar shall cause such search to be made and the person making the request to be informed of the result thereof.

88. Personal Search.- A person may also conduct personal search on payment of the fee in respect of the specified goods or services in any one class of the Fourth Schedule to ascertain whether any mark in the Register or among pending applications for registration resembles a trade mark of which he desires registration.

89. Distribution of copies of Journal and any other document.- The Federal Government may direct the Registrar to distribute the Journal and any other document which it may consider necessary, to such places as may be fixed by the Federal Government in consultation with the Provincial Governments and notified from time to time in the official Gazette.

90. Applications made to the Court to be served on the Registrar.- Every application to the High Court under the Ordinance shall be served on the Registrar.

91. Exercise of discretionary power of Registrar.- The time within which a person entitled under sub-section (2) of section 111 to an opportunity of being heard shall exercise his option of requiring to be heard shall, save as otherwise expressly provided in the Ordinance or these 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 shall be entitled to be heard, if within that month such

person requires to be heard the Registrar shall appoint a date for the hearing and shall give ten days" notice thereof.

92. Notification of decision.- The decision of the Registrar in the exercise of any discretionary power given to him, by the Ordinance or these rules shall be notified to the person affected.

PART II

SPECIAL PROVISION FOR TEXTILE MARKS

CHAPTER I.-MISCELLANEOUS

93. Rules to apply to textile marks.- Subject to the provisions of this Part, the provisions of Part I and Part IV of these rules shall apply to textile marks and certification trade marks in respect of textile goods as they apply to trade marks and certification trade marks in respect of non-textile goods.

94. Textile marks.- The expression "textile mark" means a trade mark or a certification trade mark used or proposed to be used in relation to goods specified in rule 95 as "textile goods" for the purpose of Chapter XI of the Ordinance.

95. Textile goods.- The classes of goods to which Chapter XI of the Ordinance shall apply and which are in the Ordinance and these rules referred to as textile goods shall be classes 22 to 27, both inclusive, of the Fourth Schedule.

96. Items of textile goods.- A separate application for the registration of a trade mark shall be made in respect of each of the items of textile goods specified in the Fifth Schedule where the mark consists exclusively of letters or numerals or any combination thereof. Such application shall be made in the form as set out in Form TM-53.

97. Grouping of items of the Fifth Schedule.- For the purposes of applications for the registration of trade marks consisting exclusively of letters, numerals or any combination thereof, the items of the Fifth Schedule shall be grouped as follows; and goods falling in each group shall be deemed to be goods of the same description, and goods falling in different groups shall not be deemed to be goods of the same description.

Group 1: Items 1, 4, 5, 8, 9, 10, 11, 12, 16, 19, 20, 22, 23, 24, 25, 26, 27, 30, 33, 36, 37, 39, 41, 42, 44, 45, 48, 49, 54, 55, 59, 61, 62, 65 and 91.

Group 2: Items 2, 3, 14, 17, 18, 34, 35 and 47. Group 3: Items 6, 7, 21, 38 and 52.

Group 4: Items 13, 29, 75, 77 and 78

Group 5: Items 15, 28, 31, 40, 60, 66, 79, 88, 90 and 93. Group 6: Items 32, 43, 64 and 94.

Group 7: Items 46, 83 and 85.

Group 8: Items 50, 51, 56, 57, 63, 76, 80, 84, 86, 87 and 89.

Group 9: Items 53.

Group 10: Items 58, 82 and 92.

Group 11: Items 67, 68, 69, 70 and 71.

Group 12: Items 72.

Group 13: Items 73.

Group 14: Items 74.

Group 15: Items 81.

CHAPTER II.-CONDITIONS AND RESTRICTIONS FOR REGISTRATION OF LETTERS AND NUMERALS

98. Definitions.- For the purposes of this Chapter, unless there is anything repugnant in the subject or context,-

(a) “ balanced numeral” means a trade mark consisting of either identical

numerals or identical letters of not less than three nor more than seven digits;

(b) “ digit” includes a single letter; and

(c) “ letter fraction” means a fraction containing one or more letters.