

If the applicant sends such counter statement the registrar shall require the person who gave such notice of opposition to give security, in such manner and to such amount as the registrar may require, for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made, or such further time as the registrar may allow, the opposition shall be deemed to be withdrawn.

If the person who gave notice of opposition duly gives such security as aforesaid, the registrar shall send him one copy of the counter statement sent by the applicant, and thereupon the case shall be deemed to stand for the determination of the court.

Registration of Trade Marks.

Time of registration of trade mark.

17. On the expiration of three months from the date of the first appearance of the advertisement in the official paper, the registrar may, if he is satisfied that the applicant is entitled to registration, register the trade mark in respect of the description of goods for which he may be entitled to be registered, and the applicant as the proprietor thereof, on payment of the prescribed fee.

Duty of registrar in case of disputed claim.

18. Where each of several persons claims to be registered as proprietor of the same or a nearly identical trade mark, in respect of the same goods or goods belonging to the same class, the registrar shall use his discretion as to registering all or any of such trade marks, either unconditionally or on the condition of the introduction of such variations (if any) or otherwise as he thinks fit, or the registrar may, if in any case he thinks it expedient, submit or require the claimants to submit their rights to the court.

Prohibition of registration of identical trade marks.

19. Where a trade mark has been already registered in respect of any goods or description of goods belonging to one particular class, a trade mark identical with such trade mark, or so nearly resembling the same as to be calculated to deceive, shall not, without leave of the court, be registered in the name of another person as proprietor thereof with respect to any goods in that class.

Entries to be made in register.

20. Upon registering any trade mark the registrar shall enter in the register the date on which the statement relating to the application for registry was received by the registrar (which day shall be deemed to be the date of the registry) and such other particulars as he may think necessary, including the name and address of the proprietor.

Notice of registration.

21. The registrar shall send notice to the applicant of the registration of his trade mark, together with a reference, where practicable, to the advertisement of such trade mark in the official paper.

Trust not to be entered in register.

22. There shall not be entered in the register, or be receivable by the registrar, any notice of any trust, expressed, implied, or constructive.

Registration of subsequent Proprietors.

Registration of assignee or transferee.

23. The person to whom any registered trade mark has been assigned or transmitted may apply to be registered as proprietor thereof.

Production of assignment, &c. by assignee.

24. Where the trade mark has been assigned the person claiming as assignee to be registered shall send to the registrar, with his application, an assignment by deed executed both by the assignor and assignee, or a certified copy of such assignment, and a declaration verifying the fact of such assignment having been made.

Right of transferee or his assignee.

25. Where a trade mark has been transmitted by the death of the registered proprietor, the legal personal representative of such proprietor shall be recognised as having the title to the mark.

Where the trade mark has been transmitted by marriage, bankruptcy, or otherwise by operation of law, the person applying as the transferee to be registered shall send to the registrar, together with his application, a statement of the manner in which such trade mark has been transmitted, and a declaration verifying such statement.

Any transferee may assign his interest in the mark, notwithstanding that he has not been registered as proprietor thereof.

Evidence to be produced on transmission.

26. Where the person applying to be registered claims as the transferee of any registered proprietor, or as the assignee of a transferee, there shall be produced to the registrar the following evidence:—

(1.) If the business concerned in the goods with respect to which the trade mark is registered is carried on in England or Ireland, then—

- A. If such transmission has taken place by the death of any person, there shall be produced the probate of the will of such deceased person, or the letters of administration to his estate, or an official extract therefrom; and
- B. If such transmission has taken place by the marriage of the female proprietor, there shall be produced a certified copy of the register of such marriage, or other legal evidence of the celebration thereof, and a declaration of the identity of such female proprietor; and
- C. If such transmission has taken place by the bankruptcy of the registered proprietor, or otherwise by operation of law, there shall be produced to the registrar such evidence as may, for the time being, be receivable as proof of the title of the applicant; and

(2.) Where the said business is not carried on in England or Ireland,—

There shall be produced similar evidence to that hereinbefore prescribed, or such evidence as would be received as sufficient evidence in the courts of justice of the country or place at which the proprietor carries on business.