



Trademarks Regulations
(Excluded from L.F.N. 2004)

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THE REGULATIONS

1. These Regulations may be cited as the Trademarks Regulations.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them respectively, that is to say -

"Act" means the Trademarks Act;

"Agent" means an agent duly authorized to the satisfaction of the Registrar;

"Journal" means the Trademark Journal published under section 63 of the Act;

"Legal Practitioner" has the meaning assigned to it by the Legal Practitioners Act;

"Office" means the Office of the Registrar of Trademarks, Federal Capital Territory Abuja, Nigeria;

"Schedule" means one of the schedules appended to these Regulations;

"Section" means a section of the Act;

"Specification" means the designation of goods in respect of which a trademark, or a registered user of a trademark, is registered or proposed to be registered.

(2) In these Regulations, the appropriate authority" in relation to a power or function conferred by or under the Act or these Regulations, means the National Assembly or such other authority or public officer upon whom such power or function is vested or delegated according to law.

3. The fees to be paid in relation to trademarks shall be those prescribed in the First Schedule to these Regulations; and such fees shall be paid to the Registrar who shall pay all fees received by him pursuant to these Regulations to the Treasury.

Forms

4. The forms herein referred to are those contained in the Second Schedule to these Regulations and such forms shall be used in all cases to which they are applicable, and may be modified as directed by the Registrar to meet other cases.

Classification of Goods

5. (1) For the purposes of trademarks, registrations dated before the commencement of the Act, and of registrations of registered users thereunder, goods are classified in the manner appearing in the Third Schedule to these Regulations unless any specification has been converted to the Fourth Schedule to these Regulations in accordance with regulation 6 of these Regulations.

(2) For the purposes of trademarks registrations dated on or after the commencement of the Act and of registrations of registered users thereunder, and for the purposes of any registrations dated before that day whereof the specifications have been converted in accordance with regulation 6 of these Regulations, goods are classified in the manner appearing in the Fourth Schedule to these Regulations.

Reclassification of Goods of Old Registrations

6. (1) Where the specification of a registered trademark is founded on the Third Schedule to these Regulations the registered proprietor may apply to the Registrar on Form 42 for the conversion of that specification so that it may be founded on the Fourth Schedule to these Regulations, whether with or without the striking out of goods therefrom, but so that the registration retains its original date, and shall include in the application a request for the like conversion of the specification of the goods of any registered users under that registration. And thereupon the Registrar in accordance with section 42(3) of the Act shall notify in writing to the registered proprietor a proposal showing the form which, in the Registrar's view, the amendment of the register should take.

(2) Two or more registrations of a trademark in respect of goods falling within the same class of the Fourth Schedule to these Regulations, having the same date of registration, may be amalgamated upon conversion in accordance with this regulation.

7. (1) The advertisement of a proposal for amendment under section 42(3) of the Act shall be made in the Journal, and notice of any opposition shall be given on Form 43 within one month from the date of the advertisement, and shall be accompanied by an unstamped duplicate of the notice and by a statement in duplicate showing how the proposed conversion would be contrary to section 42(2) of the Act.

(2) The Registrar shall forthwith send the duplicate copies to the registered proprietor who may within one month from the receipt of such duplicates, send to the Registrar a counter statement setting out fully the grounds on which the opposition is contested and if he does so he shall deliver to the opponent a copy thereof; and the Registrar may thereupon require or admit evidence directed to the question in issue, and if so desired by either party he shall, before deciding the matter, give the parties an opportunity of being heard thereon.

8. When a proposal for the conversion of a specification in accordance with regulation 6 of these Regulations has been advertised and has not been opposed and the time for notice of opposition has expired, or having been opposed the opposition has been determined and a conversion allowed, the Registrar shall make all the entries in the register necessary to give effect to the conversion in accordance with the proposal as advertised, or the proposal as amended after opposition or appeal thereon and published subsequently in the Journal, and shall enter in the register the date when such entries were made; and the expression the expiration of the last registration, shall have regard to the same date in the case of all the resulting entries for the purpose of determining the next renewal thereof in accordance with section 23 of the Act as it had with regard to the registration before conversion.

Documents

9. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers having representation affixed, or other documents authorized or required by the Act or these Regulations to be made, left with or sent to the Registrar shall be upon foolscap paper and, except in the case of statutory declarations and affidavits, on one side only, of a size of 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.

10. A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document.

11. A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorized to sign the document.

12. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Registrar to be duly qualified.

13. (1) All applications, notices, statements, papers having representations affixed or other documents, authorized or required by the Act or these Regulations to be made, left with or sent to the registrar or any other person may be sent through the post by a prepaid letter; and 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; and in proving such sending, it shall be sufficient to prove that the letter was properly addressed and put in the post.

14. (1) Where any person is by the Act or these Regulations bound to furnish the Registrar with an address, 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.

(2) The Registrar may require the address to include the name of the street, and the number in the street or name of the premises, if any.

15. (1) The Registrar may require an applicant, opponent or agent, or a registered proprietor or registered user or a trademark, who does not reside or carry on business in Nigeria to give an address for service in Nigeria and such address may be treated as the actual address of that person for all purposes connected with the matter in question.

(2) Any registered proprietor or registered user of a trademark or any person about to be registered as such, may, if he so desires, give upon Form 33 an address for service for entry in the register, and such address may be entered by the Registrar.

(3) All applications on Form 33 under this regulation shall be signed by the applicant for registration or the registered proprietor or registered user, as the case may be, or by an agent expressly authorized by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

(4) In any case in which no address for service is entered in the register, the Registrar may treat the trade or business address of the registered proprietor or registered user as therein entered as his address for service for all purposes connected with the registration.

(5) Any written communication addressed to a party or person as aforesaid at an address given by him, or treated by the Registrar, as his address for service shall be deemed to be properly addressed.

(6) The Registrar, at any time that a doubt arises as to the continued availability of an address for service entered in the register, may request the person for whom it is entered by letter addressed to his trade or business address in the register, to confirm the address for service and if within three months of making such a request the Registrar receives no confirmation of that address, he may strike it off the register.

Agents

16. (1) Except as otherwise required by these Regulations, any application, request or notice which is required or permitted by the Act or these Regulations to be made or given to

the Registrar, and all other communications between an applicant or a person making such a request or giving such a notice and the Registrar and between the registered proprietor or a registered user of a trademark and the Registrar or any other person, may be signed, made or given by or through an agent.

(2) Any such applicant, person making request or giving notice, proprietor, or registered user may appoint an agent to act for him in any proceedings or matter before or affecting the Registrar under the Act and these Regulations by signing and sending to the Registrar an authority to that effect in the Form 1 or in such other written form as the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing 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 attendances upon the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Registrar shall not be bound to recognize as such agent any person who has been proved to him to have been guilty of conduct discreditable to a trademark agent or who has been convicted criminally or whose name has been struck off the Roll of Legal Practitioners or (during the term of his suspension) any person who has been suspended from acting as a legal practitioner.

Registrable Trademarks and Preliminary Advice (Section 17)

17. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear -

(a) the words "Patent", "Patented" "Registered" "Registered Design", "Copyright", "To counterfeit this is a forgery", or words to the like effect;

(b) the words "Red Cross" or "Geneva Cross" and representations of the General and other crosses in red, or of the Swiss Federal cross in white on a red ground, or in silver on a red ground or such representations in a similar color or colors.

(2) Where there appears in a trademark the registration of which is applied for a representation of a cross in any color, not being one of those mentioned in the last foregoing subparagraph, the Registrar may require the applicant as a condition of acceptance to undertake not to use the cross device in red or in white on a red ground or in silver on a red ground or in any similar color or colors.

18. The following features may not appear on trademarks the registration of which is applied for -

(a) Representations of the Arms of Nigeria or the Arms of a State (or arms so closely resembling the same as to be likely to be mistaken for them);

(b) Representations of the National Flag;

(c) Any words such as "President", "Governor", or any letters or devices if used in such a manner as to be likely to lead persons to think that the applicant is or has been employed by or supplies goods to the President or the Governor of a State in his official capacity, whether or not such be the case.

19. Where a representation of the armorial bearings, insignia orders of chivalry, decorations or flags of any State, city, town, place, society, body corporate, institution or person appears on a mark, the Registrar before proceeding to register the mark, shall, if he so requires, be furnished with a consent to the registration and use of such emblems from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the mark.

20. Where the name or representation of any person appears on a trademark the Registrar shall, if he so requires, before proceeding to register the mark, be furnished with consent from him, or, in the case of a person recently dead, from his legal representatives, and in default of such consent he may refuse to register the mark.

21. (1) where the name or description of any goods appears on a trademark the Registrar may refuse to register such mark in respect of any goods other than the goods so named or described.

(2) Where the name or description of any goods appear on a trademark which name or description in use varies, the Registrar may permit the registration of the mark for those and other goods, and in that case the applicant shall state in his application that the name or description will be varied when the mark is used upon goods covered by the specification other than the named or described goods.

22. (1) Any person who proposes to apply for the registration of a trademark in Part A or Part B of the register in respect of any goods may apply to the Registrar on Form 30, or on Form 29 in a case where he is also making an application under regulation 118 of these Regulations, for advice as to whether the trademark, of which duplicate representations shall accompany the Form, appears to the Registrar prima facie to be inherently adapted to distinguish within the meaning of section 9 or inherently capable of distinguishing within the meaning of section 10 as the case may be in relation to those goods and shall apply separately in relation to goods comprised within different classes of goods in the Fourth Schedule.

(2) A notice of withdrawal of an application for the registration of a trademark given under section 17(2) of the Act for the purpose of obtaining repayment of any fee paid on the filing of the application shall be given in writing within two months from the date of the notice of the Registrar's objection.

Application for Registration of a Trademark Specification

23. (1) an application to the Registrar for the registration of a trademark shall be signed by the applicant or his agent. For a trademark other than a certification or defensive trademark the application shall be made on Form 2. For a certification or a defensive trademark the application shall be made on Form 5 or Form 32 respectively. Each application shall be for registration in respect of goods in one class of the Fourth Schedule only.

(2) Every application claiming priority under section 44 of the Act by reason of an application to register the trademark made or deemed to have been made in a Convention country as defined in section 44(5) of the Act which country shall be named, shall state the date of that application and the applicant shall furnish a certificate by the Registrar or other registering authority of that country, or shall otherwise verify the application made or deemed to have been made therein to the satisfaction of the Registrar.

(3) In the case of an application for registration in respect of all the goods included in a class or of a large variety of goods, 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.

24. All applications to register trademarks shall be made, addressed and sent to the Registrar of Trademarks, Federal Ministry of Trade, Federal Capital Territory, Abuja, Nigerians.

25. (1) every application for the registration of a trademark 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.

26. (1) There shall be sent with every application for registration of a trademark (other than a certification trademark) four additional representations of the mark on Form 3.

(2) The representation of the mark on the application and its duplicate (if any) and the additional representations shall correspond exactly.

(3) The additional representations shall in all cases be noted with all such particulars as may from time to time be required by the Registrar; and such particulars shall, if required, be signed by the applicant or his agent.

27. All representations of marks must be of a durable nature, but the applicant may in case of need supply, in place of representations on Form 3, representations on sheets of foolscap paper of the size prescribed in regulation 9 of these Regulations and noted as aforesaid.

28. Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trademark is registered under the same official number for goods in more than one class, whether on conversion of the specification under regulation 6 of these Regulations or otherwise, the registration in respect of goods included in each separate class shall be deemed to be separate registration for all the purposes of the Act.

29. The Registrar, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

30. (1) Where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the trademark may be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient.

(2) The Registrar may also, in exceptional cases, deposit in the office a specimen or copy of any trademark which cannot conveniently be shown by a representation and may refer thereto in the register in such manner as he may think fit.

31. Where application is made for the registration of a series of trademarks under section 25(1) of the Act, a representation of each trademark of the series shall be included, all as aforesaid, in the application form, in the unstamped duplicate thereof (if any), and in each of the accompanying Forms 3.

32. (1) Where a trademark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be indorsed on the application form and on each of the accompanying Forms 3 a sufficient transliteration and translation 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 or his agent.

(2) Where a trademark 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 indorsed and signed as aforesaid.

Procedure on Receipt of Application for Registration of a Trademark.

33. Upon receipt of an application for the registration of a trademark in respect of any goods the Registrar shall cause a search to be made, amongst the registered marks and pending applications, for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark applied for or so nearly resembling it as to render the mark applied for likely to deceive or cause confusion and the Registrar may cause the search to be renewed at anytime before the acceptance of the application, but shall not be bound to do so.

34. After such search, and consideration of the application and of any evidence of use or distinctiveness or of any other matter which the applicant may or may be required to furnish, the Registrar may accept the application absolutely, or he may object to it, or he may express his willingness to accept it subject to such conditions, amendments, disclaimer, modifications or limitations as he may think right to impose.

35. If the Registrar objects to the application, he shall inform the applicant of his objections in writing, and unless within two months the applicant applies for a hearing or makes a considered reply in writing to those objections he shall be deemed to have withdrawn his application.

36. If the Registrar is willing to accept the application subject to any conditions, amendments, disclaimer, modifications, or limitations, he shall communicate such willingness to the applicant in writing, and if the applicant objects to such conditions, amendments, disclaimer, modifications or limitations, he shall within one month from the date of the communications apply for a hearing or communicate his considered objections in writing, and if he does not do so he shall be deemed to have withdrawn his application; and if the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations, he shall forthwith notify the Registrar in writing, and alter his application accordingly.

37. (1) The decision of the Registrar at a hearing as in regulation 35 of regulation 36 of these Regulations, or without a hearing if the applicant has duly communicated his considered objections or considered reply, in writing, and has stated that he does not desire to be heard, shall be communicated to the applicant in writing, and if the applicant objects to such decision he may within one month by applying upon Form 4 require the Registrar 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 requirement to which the applicant does not object, the applicant shall comply therewith before the Registrar issues such statement in

writing; and the date when such statement is sent to the applicant shall be deemed to be the date of the Registrars decision for the purpose of appeal.

38. The Registrar may call on an applicant to insert in his application such disclaimer as the Registrar may think fit in order that the public generally may understand what the applicant's right, if his trademark is registered, will be.

Defensive Trademarks

39. (1) An application for the registration of a defensive trademark under section 32 of the Act shall be made, addressed and sent to the Registrar on Form 32 and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by a statutory declaration made by the applicant or some other person approved for the purpose by the Registrar.

(2) The applicant may send with this declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application; and in all other respects, and where they are appropriate and it is not otherwise stated, these Regulations shall apply to such applications as they apply to applications for the registration of ordinary trademarks.

Certification Trademarks

40. An application for the registration of a certification trademark under section 43 of the Act shall be made to the Registrar upon Form 5 and shall be accompanied by two duplicates of the application or unstamped copies of Form 5 and by six additional representations of the mark on Form 3.

41. (1) These Regulations shall apply to such applications as they apply to applications for the registration of ordinary trademarks, except that for references therein to acceptance of an application there shall be substituted references to authorization to proceed with the application, and that the applicant shall not be deemed to have abandoned his application if in the circumstances of regulation 35 or regulation 36 he does not apply for a hearing or reply in writing.

(2) The address of an applicant to register a certification trademark shall be deemed to be a trade or business address for all the purposes for which such an address is required by these Regulations.

42. (1) The applicant shall send to the Registrar with his application or when required by the Registrar a case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the mark and Form 34, all being in duplicate.

(2) The Registrar may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may modify either of those documents.

43. If the Registrar decides to authorize the application to proceed the said report to the appropriate authority thereon and the appropriate authority may at any time call for such evidence, if any, as it thinks, fit, and shall if required hear the applicant and the Registrar, before giving directions as provided in sub paragraph (5) of paragraph 1 of the First Schedule of the Act; and when such directions have been given and the application has

been accepted, the Regulations for governing the use of the mark approved by the appropriate authority, as well as the form of application shall be open to public inspection.

Advertisement of Application

44. (1) An application for the registration of a trademark required or permitted to be advertised by section 19(1) of the Act or sub paragraph (1) of paragraph 2 of the First Schedule of the Act, shall be advertised in the Journal during such times and in such manner as the Registrar may direct.

(2) In the case of an application with which the Registrar proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trademark or another applicant, the words "By Consent" shall appear in the advertisement.

(3) If no representation of the trademark be included in the advertisement of the application, the Registrar shall refer in such advertisement to the place or places where a specimen or representation of the trademark is deposited for exhibition.

45. For the purposes of such advertisement the applicant may at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of the trademark satisfactory to the Registrar of such dimensions as may from time to time be approved or directed by the Registrar, or shall supply such information or other means of advertising the trademark as may be required by the Registrar, and the Registrar, if dissatisfied with the printing block supplied by the applicant or his agent, may require a fresh block before proceeding with the advertisement.

46. When an application relates to a series of trademarks differing from one another in respect of the particulars mentioned in section 25 (1) of the Act, the applicant may be required to supply a printing block (or more than one if necessary) satisfactory to the Registrar of any of each of the trademarks constituting the series; or the Registrar may, if he thinks fit, insert with the advertisement of the application a statement of the manner in which the several trademarks differ from one another.

47. Advertisements under sections 21(5), 41 (2) and 41(4) of the Act shall, with the necessary modifications, be made in the same manner as advertisements relating to an application for registration.

Opposition to Registration

48. Any person may within two months from the date of any advertisement in the Journal of an application for registration of a trademark give notice on Form 6 to the Registrar of opposition to the registration.

49. The notice shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles marks already on the register, the numbers of such trademarks and the numbers of the Journals in which they have been advertised shall be set out; and the notice shall be accompanied by an unstamped duplicate which the registrar will forthwith send to the applicant.

50. (1) Within one month from the receipt of such duplicate the applicant shall send to the Registrar a counter statement on Form 7 setting out the grounds on which he relies as supporting his application.

(2) The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits; and the counter statement shall be accompanied by an unstamped duplicate.

51. Upon receipt of the counter statement and duplicate the Registrar will forthwith send the duplicate to the opponent and within one month from the receipt of the duplicate the opponent shall leave with the Registrar such evidence by way of statutory declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant a copy of such evidence.

52. If an opponent leaves no evidence, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition but, if he does leave evidence, then, within one month from the receipt of the copies of declarations, the applicant shall leave with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his application and shall deliver to the opponent a copy of such evidence.

53. Within one month from the receipt by the opponent of the applicant's declaration the opponent may leave with the Registrar evidence by statutory declaration in reply and shall deliver to the applicant a copy of such evidence; and this evidence shall be confined to matters strictly in reply.

54. No further evidenced shall be left on either side but, in any proceedings before the Registrar, he may at anytime 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.

55. (1) Where there are exhibits to declarations filed in an opposition, a copy or impression of each exhibit 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.

(2) The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

56. (1) Upon completion of the evidence the Registrar shall give notice to the parties of a date when he will hear the arguments in the case and such appointments shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice.

(2) Within seven days from the receipt of the notice any party who intend to appear shall so notify the Registrar on Form 8 and a party who receives notice as aforesaid and who does not, within seven days from the receipt thereof, so notify the Registrar on Form 8 may be treated as not desiring to be heard and the Registrar may act accordingly.

57. Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, if he thinks fit, without giving the said party any hearing, grant any reasonable extension of time to any other party in which to take any subsequent step.

58. The Registrar may require any person giving notice of opposition or any applicant sending a counter statement after receipt of a copy of such notice to give security, in such form as the Registrar may deem sufficient, for the costs of the proceedings before the Registrar, for such amount as the Registrar may deem fit, and at any stage in the opposition proceeding may require further security to be given at any time before giving his decision in the case.

59. In the event of an opposition being uncontested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.

60. Within one month from the date of any advertisement in the Journal of an application for the registration of a certification trademark, any person may give notice to the Registrar on Form 6 of opposition under sub paragraph (1) of paragraph 2 of the First Schedule of the Act and regulations 49 and 59 of these Regulations shall apply to the proceedings thereon; and any person may give notice to the appropriate authority on Form 37 of opposition under subparagraph (2) of paragraph 2 of the said First Schedule and regulations 49 to 59 of these Regulations shall apply with the necessary modifications to the proceedings thereon, with substitution of Form 38 for Form 7 and of Form 39 for Form 8 and in any case of doubt any party may apply to the Registrar or the appropriate authority, as the case may be for, directions.

Non Completion

61. Where registration of a trademark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar shall on Form 9 give notice in writing to the applicant at his trade or business address of the non completion, but if the applicant has authorized an agent for the purpose of the application the Registrar shall instead send the notice to the agent and shall send a duplicate thereof to the applicant and if after fourteen days from the date when the notice was sent or such further time as the Registrar may allow the registration is not completed the application shall be deemed to be abandoned.

Entry in the Register, and Associated Marks

62. (1) 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 trademark, the Registrar shall, subject to any opposition and the determination thereof, and subject to the provisions of section 22(1) and (2) of the Act and upon payment of the prescribed fee on Form 10 enter the trademark in the Register.

(2) In those cases where the applicant has supplied a printing block in accordance with regulation 45 of these Regulations he shall send with his fee a representation of the trademark agreeing in all respects with the representation then appearing on the form of application to be affixed by the Registrar to the certificate of registration as required by regulation 65 of these Regulations.

(3) The entry of a trademark in the register shall give the date of registration, the goods in respect of which it is registered, and all particulars named in section 2 of the Act including both the trade or business address and the address for service (if any application of Form 33 for the entry thereof has been approved), particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertakings by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration and such other particulars as are prescribed.

(4) In the case of an application as aforesaid which the Registrar accepts only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trademark or another applicant for registration the aforesaid entry in the register shall state that it is BY Consent and shall give the number of the previous registration or the application for registration.

63. (1) Where a mark is registered as associated with another mark or marks the Registrar shall note in the register in connection with the first mentioned mark the number of the marks with which it is associated and shall also note in the register in connection with each of the associated marks the number of the first mentioned mark as being a mark associated therewith.

(2) An application by a registered proprietor under section 27(2) of the Act to the Registrar to dissolve the association between two or more associated trademarks shall be made on Form 20 and shall include a statement of the grounds of the application.

64. In case of the death of any applicant for the registration of a trademark after the date of his application, and before the trademark applied for has been entered in the register, the Registrar, after the expiration of the prescribed period of advertisement and the determination of any opposition to the application, may, on being satisfied of the applicant's death, enter in the register, in place of such deceased applicant, the name, address and description of the person owning the trademark, on such ownership being proved to the satisfaction of the Registrar.

65. Upon the registration of a trademark the Registrar shall issue to the applicant certificate in the Form 11 and shall affix thereto a copy of the mark, which may be a representation thereof supplied by the applicant under regulation 62.

Renewal

66. At anytime not more than three months before the expiration of the last registration of a trademark any person may leave with the Registrar a fee for the renewal of the registration of the mark upon Form 12 and, if he is not the registered proprietor, shall sign a statement on the Form that he is directed by the registered proprietor to pay the fee (if such be the case) and shall give his address; and before taking any further step the Registrar may either -

(a) require the person leaving the fee to furnish within ten days an authority to pay the fee signed by the registered proprietor, and if he does not furnish such authority may return the fee and treat it as not received; or

(b) Communicate with the registered proprietor stating that the fee has been received and that the registration within due course be renewed.

67. At a date not less than one month and not more than two months before the expiration of the last registration of a mark, if no fee upon Form 12 has been received, the Registrar shall notify the registered proprietor in writing of the approaching expiration.

68. At a time not less than fourteen days and not more than one month before the expiration of the last registration of a mark the Registrar may, if no fee as aforesaid has been received, send a notice in writing to the registered proprietor at his trade or business address as well as at his address for service, if any.

69. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid the Registrar shall advertise the fact forthwith in the Journal, and if within one month of that advertisement the renewal fee upon Form 12 together with an additional fee upon Form 13 is received, he may renew the registration without removing the mark from the register.

70. Where at the expiration of one month from the advertisement mentioned in regulation 69 of these Regulations the fees therein mentioned have not been paid, the Registrar may remove the mark from the register as of the date of the expiration of the last registration, but may, upon payment of the renewal fee upon Form 12 together with a restoration fee upon Form 14, restore the mark to the register if satisfied that it is just so to do, and upon such conditions as he may think fit to impose.

71. Where a trademark has been removed from the register, the Registrar shall cause to be entered in the register a record of the removal and of the cause thereof.

72. Upon the renewal or restoration and renewal of a registration, a notice to that effect shall be sent to the registered proprietor and the renewal or restoration and renewal shall be advertised in the Journal.

Assignments and Transmissions

73. Where a person becomes entitled by assignment or transmission to a registered trademark, he may, conjointly with the registered proprietor, make application to the Registrar on Form 16 to register his title.

74. Where a person becomes entitled to a registered trademark in the manner referred to in regulation 73 of these Regulations and no conjoint application as therein mentioned is made, he shall make application to the Registrar on Form 17 to register his title.

75. (1) An application under regulation 73 or regulation 74 of these Regulations shall contain the name, trade or business address and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced for inspection by the Registrar, preferably at the time of application and the full names of the partners in a partnership shall be given in the body of the application.

(2) The Registrar may in any case 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.

76. Where in the case of an application on Form 16 or Form 17 the person applying for registration of his title does not 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 trademark is based, and showing that the trademark has been assigned or transmitted to him; and if the Registrar so require, the case shall be verified by a statutory declaration on Form 18.

77. The Registrar may call on any person who applies to be registered as proprietor of a registered trademark for such proof or additional proof of title as he may require for his satisfaction.

78. (1) An application under regulation 73 or regulation 74 of these Regulations relating to an assignment on or after the commencement of the Act of a trademark in respect of any goods shall state -

(a) Whether the trademark was, at the time of the assignment, used in a business in any of those goods; 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 with the Registrar a copy of the Registrars directions to advertise the assignment, obtained upon application under section 26(4) of the Act and regulation 81 and such proof, including copies of advertisements or otherwise as the Registrar may require 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.

(2) For the purposes of section 35(4) of the Act, the period within which a corporation may be registered as the subsequent proprietor of a registered trademark, upon application made under regulation 73 or 74 these Regulations shall be six months from the date of advertisement in the Journal of the registration of the trademark or such further period not exceeding six months as the Registrar may allow, on application being made to him on Form 15 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.

79. When the Registrar is satisfied as to the title of the person claiming to be registered, he shall cause him to be registered as proprietor of the trademark in respect of the relevant goods, and shall enter in the register his name, trade or business address and description and particulars of the assignment or transmission.

80. Where pursuant to an application under regulation 73 or 74 of these Regulations, and as the result of a division and separation of the goods of a registration or a division and separation of places or markets, different persons become registered separately under the same official number as subsequent proprietors of a trademark, each of the resulting separate registrations in the names of those different person shall be deemed to be a separate registration for all purposes of the Act.

81. (1) an application to the Registrar under section 26(4) of the Act shall be made by the assignee on Form 40 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 trademark, and, in the case of an unregistered trademark shall show the mark and give particulars of the registered trademark that has been assigned therewith in accordance with section 26(3) of the Act.

(2) The Registrar may call for any evidence of 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.

(3) A request to the Registrar for an extension of the period within which the application may be made, which shall be on Form 41 may be made at any time before or during the period for which extension can be allowed, but the extension of the period which the Registrar may allow shall not exceed three months.

82. (1) A registered proprietor or registered user of a trademark whose trade or business address is changed so that the entry in the register is rendered incorrect shall forthwith request the Registrar on Form 19 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 registered user of a trademark whose address for service in Nigeria 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 on Form 33 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 registered user of a trademark whose trade or business address or address for service is altered by a public authority so that the changed address designates the same premises as before, may make the aforesaid request to the Registrar on an unstamped copy of Form 19 or an unstamped copy of Form 33, as the case may be, and if he does so he shall leave therewith a certificate of the alteration given by the said authority, and if the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly, but shall not require the Form to be stamped.

(4) In case of the alteration of the address of a person entered in the register as the address for service of more than one registered proprietor or registered user of trademarks, 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 that person on a Form 33 amended 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.

(5) All applications under this regulation on Form 33 shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorized by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

Applications to the Registrar for Rectification (Sections 31, 32, 38 and 39)

83. (1) An application to the Registrar under any of the sections 31, 32, 38 or 39 for the making, removing or varying of any entry in the register shall be made on Form 27 and shall be accompanied by a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks.

(2) Where the application is made by a person who is not the registered proprietor of the trademark in question it shall be accompanied by two unstamped copies of the application and two copies of the statement, and the Registrar will forthwith send these copies to the registered proprietor at his trade or business address as entered in the register and if an address for service different thereof is entered in the register, at that address also.

84. Upon such application being made and copy thereof transmitted to the registered proprietor, if necessary, the provisions of regulations 50 to 59 of these Regulations shall apply with the necessary modifications to the further proceedings thereon; but the Registrar shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a counter statement, and in any case of doubt any party may apply to the Registrar for directions.

85. Any person other than the registered proprietor alleging interest in a registered trademark in respect of which an application is made on Form 27 may apply to the Registrar on Form 28 for leave to intervene, stating thereon 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. Before dealing in any way with the application for leave to intervene the Registrar may require the applicant to give an undertaking to pay such costs as in the circumstances he may award to any party.

Applications for alteration of the Register by correction, change, cancellation or striking out goods, or for entry of disclaimer, memorandum or note (Section 40(1))

86. An application to the Registrar under section 40(1) of the Act for the alteration of the register by correction, change, cancellation, or striking out goods, or for the entry of disclaimer or memorandum, may be made by the registered proprietor of the trademark or by such person as he may satisfy the Registrar that he is entitled to act in the name of the registered proprietor. Such applications shall be made on Forms 19, 21, 22, 23, 24, 25 and 33 as may be appropriate; but an application on Form 23 or 24 or 33 shall be signed by the registered proprietor or other person entitled under this Regulation unless in exceptional circumstances the Registrar otherwise allows, or, in the case of Form 33 only, it is signed by an agent expressly authorized for the purpose of such an application.

87. In the case of an application as in the last foregoing Regulation, the Registrar may require such evidence by a statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

88. Where application is made on Form 25, to enter a disclaimer or memorandum relating to a trademark, the Registrar, before deciding upon such application shall advertise the application in the Journal in order to enable any person desiring so to do to state, within one month of the advertisement, any reasons in writing against the making of the entry of disclaimer or memorandum.

89. (1) Where the court has certified as provided in section 50 with regard to the validity of a registered trademark, the registered proprietor thereof may request the Registrar on Form 46 to add to the entry in the register a note that the certificate of validity has been granted in the course of the proceedings, which shall be named in the Form.

(2) An office copy of the certificate shall be sent with the request, and the Registrar shall so note the register and publish the note in the Journal.

Application to alter Registered Trademarks

90. Where a person desires to apply under section 41 that his registered trademark may be added to or altered, he shall make his application in writing on Form 26 and shall furnish the Registrar with four copies of the mark as it will appear when so added to or altered.

91. (1) The Registrar shall consider the application and shall, if it appears to him expedient, advertise the application in the Journal before deciding it; and within one month from the date of such advertisement any person may give notice of opposition to the application, on Form 44 accompanied by an unstamped duplicate of the notice, and may also send therewith a further statement of his objections in duplicate.

(2) The Registrar shall send the duplicate notice and the duplicate of any further statement of objecting to the applicant and the provisions of regulations 50 to 59 of these Regulations

shall apply with the necessary modifications to the further proceedings thereon and in any case of doubt any party may apply to the Registrar for directions.

92. If the Registrar decides to allow the application he shall add to or alter the mark in the register and if the mark so added to or altered has not been advertised under regulation of these Regulations, he shall advertise it in the Journal and in any case shall insert in the Journal a notification that the mark has been altered.

93. In connection with an application to alter a registered trademark the Registrar may at any time call on the applicant to supply a printing block satisfactory to the Registrar and suitable for advertising the mark with the addition or alteration as aforesaid, if in the opinion of the Registrar an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

Appropriate authority's Order for rectification of Certification Trademark Entries and Regulations

94. An application on any of the grounds mentioned in paragraph 4 of the First Schedule of the Act may be made by any person concerned to the appropriate authority for an order striking out or varying an entry in the register of or relating to a certification trademark or varying the relevant deposited Regulations, shall be made on Form 36 and shall include full particulars of the grounds on which the application is made.

Alteration of Certification Trademark Regulations

95. (1) An application by the registered proprietor of a certification trademark for an alteration of the deposited Regulations and the consent of the appropriate authority thereto shall be made on Form 35.

(2) Where the appropriate authority causes such an application to be advertised the time within which any person may give notice to the appropriate authority of opposition to the application shall be one month from the date of the advertisement.

Registered Users

96. An application to the Registrar for the registration under section 34 of the Act of a person as a registered user of a registered trademark shall be made by that person and the registered proprietor on Form 47.

97. (1) The entry of a registered user in the register shall state the date on which the application for such entry was made, which date shall be deemed to be the date of registration as a registered user of the person mentioned in the entry.

(2) The entry shall state the trade or business address of the registered user, and, if an application by him on Form 33 for the inclusion of an address for service which is different there from has been approved, that address also.

(3) Notification in writing of the registration of a registered user shall be sent to the registered proprietor of a trademark, and to the said registered user, and shall be inserted in the Journal.

98. An application by the registered proprietor of a trademark for the variation of the registration of a registered user of that trademark under section 34(5) (a) of the Act shall be made on Form 48 and shall be accompanied by a statement of the grounds on which it is made, and, where the registered user in question consent, by the written consent of that registered user.

99. An application by the registered proprietor or any registered user of a trademark for the cancellation of the registration of a registered user of that trademark under section 34(5)(b) of the Act shall be made on Form 49 and shall be accompanied by a statement of the grounds on which it is made.

100. An application by any person for the cancellation of the registration of a registered user under section 34(5) (c) of the Act shall be made on Form 50 and shall be accompanied by a statement of the grounds on which it is made.

101. (1) The Registrar shall notify in writing applications under regulations 98, 99 and 100 of these Regulations to the registered proprietor and each registered user (not being the applicant) whose registration is the subject of any such application and shall give notice thereof by advertisement in the Journal. Any person who intends to intervene in the proceedings shall within one month of the publication of such advertisement give notice to the Registrar on Form 51 to that effect and shall send therewith a statement of the grounds of his intervention.

(2) The Registrar shall thereupon send copies of such notice and statement to the other parties, so that the intervention may be known to the applicant, the registered proprietor, the registered user whose registration is in suit and any other registered user who intervenes.

(3) 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 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.

102. Applications under section 40(2) of the Act shall be made on Form 19 or Form 21 or Form 22 or Form 33 as may be appropriate, by a registered user of a trademark, 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 statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

103. (1) In case of the registration of a registered user for a period, in accordance with section 34(1)(d) of the Act, the Registrar shall cancel the entry of the registered user at the end of the period.

(2) Where some or all of the goods are struck out from those in respect of which a trademark is registered, the Registrar shall at the same time strike them out from those specifications of registered users of the trademark in which they are comprised.

(3) The Registrar shall notify every cancellation or striking out under this section to the registered users whose permitted use is affected thereby and the registered proprietor of the trademark.

Extension of Time

104. If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any act or taking any proceeding under these Regulations not being a time expressly provided in the act or prescribed by regulation 78 or 81 of these Regulations, he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceedings.

105. Whenever the last day fixed by the Act or by these Regulations for doing any act or thing at the office shall fall on a day when the office is not open which day shall be an excluded day for the purpose of the Act and these Regulations, it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.

Discretionary Power.

106. Before exercising adversely to any person any discretionary power given to the Registrar by the Act or these Regulations, the Registrar shall, if so required, hear such person thereon.

107. An application for a hearing shall be made within one month from the date of notification by the Registrar of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.

108.

(1) Upon receiving such application the Registrar shall give the person applying, ten days notice of a time when he may be heard.

(2) Within five days from the date when such notice would be delivered in the ordinary course of post, the person applying shall notify the Registrar whether or not he intends to be heard on the matter.

109. The hearing before the Registrar of any dispute between two or more parties relating to any matter in connection with a registered trademark or an application to register a trademark shall be in public unless the Registrar, after consultation with those parties to the dispute who are represented at the hearing, otherwise directs.

110. The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the person affected.

Power to dispense with Evidence

111. Where under these Regulations any person is required to do any act or thing or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or

any document or evidence is required to be produced or left with the Registrar or at the office and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration or that such declaration, or has such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, signature, declaration, document or evidence.

Amendments

112. Any document or drawing or other representation of a trademark may be amended and any irregularity in procedure which in the opinion of the Registrar may be excused without detriment to the interests of any person may be corrected, if the Registrar thinks fit, and on such terms as he may direct.

Certificates

113. (1) The Registrar may give a certificate, other than a certificate under section 22(3) of the Act as to any entry, matter or thing which he is authorized or required by the Act or these Regulations to make or do, upon receipt of a request therefor on Form 31 from any person who, if the Registrar, thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction.

(2) Except in a case falling under regulation 115 of these Regulations, the Registrar shall not be obliged to include in the certificate a copy of any mark unless he is furnished by the applicant with a copy thereof suitable for the purpose.

114. Where a mark is registered without limitation of color the Registrar may grant a certificate of its registration for the purpose of obtaining registration abroad, either in the color in which it appears upon the register or in any other color or colors, but in the last mentioned case the certificate shall be marked: For use in obtaining registration abroad only.

115. (1) Where a certificate of registration of a trademark is desired for use in obtaining registration abroad, the Registrar shall include in the certificate a copy of the mark and may require the applicant for a certificate to furnish him with a copy of the mark suitable for the purpose and if the applicant fails to do so may refuse to issue the certificate.

(2) The Registrar may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimers appearing in the register; but in the last mentioned case the certificate shall be marked: For use in obtaining registration abroad only.

Declarations

116. The statutory declarations required by the Act, and these Regulations, or used in any proceedings thereunder shall be made and subscribed as follows -

(a) in Nigeria, before a commissioner for oaths, a notary public or other officer authorized by any law in force in any part of Nigeria to administer an oath;

(b) In any other country, before any person having authority to administer an oath in that country.

117. Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorized by regulation 116 of these Regulations to take a declaration in testimony that the declaration was made and subscribed before him maybe admitted by the Registrar without proof of the genuineness of the seal or signature or of the official character of the person or his authority to take the declaration.

Search

118. Any person may request the Registrar on Form 29 to cause a search to be made in respect of specified goods classified in any one class of the Fourth Schedule to these Regulations to ascertain whether any mark is on record at the date of the search which resembles a trademark of which duplicate representations accompany the Form; and the Registrar shall cause such a search to be made and the person making the request to be informed of the result thereof.

119. The Office shall be open to the public and the Registrar shall be open to inspection on payment of the fees specified in the First Schedule to these Regulations between the hours of 8 am and 12 noon on Monday to Friday, except on days observed as public holidays and days which may from time to time be notified by a placard posted in a conspicuous place at the Office.

Applications to and Orders of the court

120. Every application to the court under the Act shall be served on the Registrar.

121. Where an order has been made by the court in any case under the Act the person in whose favor such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Office an Office Copy of such order, together with Form 45, if required and the register may, if necessary, thereupon be rectified or altered by the Registrar.

122. Whenever an order is made by the court under the Act the Registrar may, if he thinks that the order should be made public, publish it in the Journal.