

VIRGIN ISLANDS

TRADE MARKS RULES, 2014

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VIRGIN ISLANDS
STATUTORY INSTRUMENT 2014 NO.

TRADE MARKS ACT, 2012
(No. 9 of 2013)

Trade Marks Rules, 2014

[Gazetted _____, 2014]

The Cabinet, acting in accordance with the advice of the Financial Services Commission pursuant to section 134 of the Trade Marks Act, 2013 (No. 9 of 2013), makes these Rules:

PRELIMINARY

Citation and commencement. No. 9 of 2013 1. These Rules may be cited as the Trade Marks Rules, 2014 and shall come into force on the date the Trade Marks Act, 2013 is brought into force.

Interpretation. No. 9 of 2013 2. (1) In these Rules, unless the context otherwise requires,

“Act” means the Trade Marks Act, 2013;

“business days of the Registry” means the official working days of the Registry and such days do not include public holidays or weekends, save as otherwise determined by the Commission through a notice published on its Internet site;

“business hours of the Registry” means the period between 8:30am and 4:30pm of the business days of the Registry or such other period as the Commission may determine through a notice published on its Internet site;

“commencement date” means the date on which the Act is brought into force;

“date of registration” means the filing date of the application for registration as provided in section 57 of the Act;

No. 5 of 2001 “electronic record” bears the meaning assigned by section 2 of the Electronic Transactions Act, 2001;

No. 5 of 2001

“electronic signature” bears the meaning assigned by section 8 of the Electronic Transactions Act, 2003;

“existing registered trade mark” bears the meaning assigned by paragraph 1 of Schedule 4 of the Act;

No. 5 of 2001

“information system” bears the meaning assigned by section 2 of the Electronic Transactions Act, 2001;

“Internet site” means the principal public access Internet site for the time being maintained by, or on behalf of, the Commission;

“Nice Agreement” means the Nice Agreement referred to in the definition of “classification of goods or services” under section 2 (1) of the Act;

“Nice Classification” means the International Classification of Goods and Services adopted under the Nice Agreement and in force at the relevant time;

“Registry” means the Office of the Registrar established under section 96 (1) of the Act;

S.I. 18 of 1937
S.I. 1 of 1947

“repealed Act” bears the meaning assigned by paragraph 1 of Schedule 4 of the Act, and shall be construed to include the Trade Marks Rules, 1937 and Registration of United Kingdom Trade Marks Rules, 1947;

“send” includes give;

“specification” means the statement of the goods or services in respect of which a trade mark is registered or proposed to be registered; and

“specified form”, in relation to any matter or proceeding, means the form prescribed under these Rules, and includes any form required by the Registrar pursuant to section 97 of the Act to be used in connection with that matter or proceeding.

- (2) Unless the context otherwise requires, a reference in these Rules to
- (a) the filing of a document or other thing (however expressed) shall be construed as a reference to the filing of the document or thing with the Registrar in accordance with Part XII; and
 - (b) a trademark shall be construed as including a reference to a certification trade mark, collective trade mark and defensive trade mark.

Publication on Internet site. 3. Where any matter under the Act or these Rules is required to be published in the Gazette, that matter may, pursuant to sections 2 (5) and 134 (2) (h) of the Act, also be published on the Internet site.

Specified forms and directions of Registrar. 4. (1) Where the Registrar, acting pursuant to section 97 of the Act, specifies a form for the purpose of registration of a trade mark or any proceeding, the form shall be used in all cases in which it is applicable.

(2) Unless otherwise specified by the Registrar, a requirement to use a specified form is satisfied by the use either of a replica of the specified form or of a form that is acceptable to the Registrar if the replica or form

(a) contains the information required by the specified form; and

(b) complies with any directions of the Registrar regarding the use of the specified form.

Schedule. (3) This rule applies only in a case where a form has not been specified in the Schedule.

Electronic filing. 5. (1) The Registrar may require that any specified form or other matter that is to be filed with the Registrar shall be filed in an electronic form in accordance with rules 101, 102 and 103.

(2) Where the Registrar requires electronic filing under sub-rule (1), rule 4 (2) (if applicable) shall apply only to the extent that there is no derogation from the requirements of the electronic filing.

PART I APPLICATION FOR REGISTRATION OF TRADE MARKS

Filing of application. Schedule 6. (1) An application for the registration of a trade mark shall be filed in Form TM1 of the Schedule.

(2) An application for the registration of a 3-dimensional shape as a trade mark or as an element of a trade mark shall not be treated as such unless the application contains a statement claiming the shape as the trade mark or, as the case may be, as an element of the trade mark.

(3) An application for the registration of a colour as a trade mark or as an element of a trade mark shall not be treated as such unless

(a) the application contains a statement claiming the colour as the trade mark or, as the case may be, as an element of the trade mark; and

(b) the trade mark or the elements of the trade mark, as the case may be, appear in the representation of the trade mark included with the application in the colour for which the claim is made.

Specification of goods and services.

7. (1) An application for the registration of a trade mark may be made in more than one class of the Nice Classification and shall specify the class or classes of goods or services to which the application relates.

(2) The specification referred to in sub-rule (1) shall include for each class of goods or services a clear and concise description, appropriate to that class, of the goods or services in respect of which the trade mark is proposed to be registered.

(3) Where the application relates to more than one class of goods or services in the Nice Classification, the specification referred to in sub-rule (1) shall set out the classes in consecutive numerical order and the specification of the goods or services shall be grouped accordingly.

(4) Where the trade mark is proposed to be registered in respect of all the goods or services in a particular class or in respect of a large variety of goods or services, the Registrar may refuse to accept the application unless he is satisfied that the specification is justified by the use the applicant has made of the trade mark or by the use the applicant intends to make of the trade mark if it is registered.

(5) Where the specification lists goods or services by reference to a class or classes in the Nice Classification under which the goods or services do not fall, the applicant may file a request under section 49 (1) (b) of the Act to amend the application to correct the class or classes accordingly.

(6) Subject to rule 18, the Registrar shall, upon receipt of a request under sub-rule (5), amend the application accordingly.

(7) Sub-rule (4) does not apply to an application for the registration of a trade mark as a defensive trade mark.

Representation of trade mark.

8. (1) The representation included with an application for the registration of a trade mark shall

(a) depict the trade mark clearly and in sufficient detail to permit a proper examination to be made of the trade mark and shall be of a kind and quality that is suitable for reproduction and registration; and

(b) subject to sub-rule (2), be provided in two copies, at least one of which shall be an original.

(2) The Registrar may at any time require an applicant to file additional copies of the representation included with an application.

Registrar's notice on deficiencies in application.

9. (1) When it appears to the Registrar that an application for the registration of a trade mark does not satisfy any requirement of rule 6 (1), 7 (1) or (2) or 8 (1), or section 36 of the Act, the Registrar shall send a notice to the applicant informing him of the requirement that has not been satisfied and directing him to comply with the requirement.

(2) An applicant to whom a notice is sent under sub-rule (1) shall, within two months, comply with the requirements identified as not satisfied.

(3) The two-month period shall be computed to commence the day after the date prescribed in the notice.

(4) If the applicant fails to comply with a notice sent under sub-rule (1),

(a) where the failure relates to rule 6 (1) or 7 (1) or section 36 (1), (2) (e), (3) or (4) of the Act, the application shall be treated as abandoned;

(b) where the failure relates to section 36 (5) of the Act or, if applicable, a failure to provide a statutory declaration or an affidavit in accordance with rule 71, the application shall be treated as abandoned;

(c) where the failure relates to the class or classes of goods or services in the Nice Classification that is required to be specified under rule 7 (1), the part of the application relating to the goods or services in respect of which the specification of the class or classes is not satisfied shall be treated as abandoned;

(d) where the failure relates to the description of goods or services required to be provided under rule 7 (2), the part of the application relating to the goods or services the description of which is deficient shall be treated as abandoned; and

(e) where the failure relates to section 36 (2) (a), (b), (c) or (d) of the Act, the application shall be deemed never to have been made.

Claim to priority.

10. (1) Where an applicant wishes to claim a right to priority under section 43 of the Act, the application filed under these Rules shall include the following particulars:

(a) the name of each country, territory or geographical area in respect of which a right to priority is claimed;

(b) the date on which the application was filed in, or in respect of, each country, territory or geographical area referred to in paragraph (a); and

(c) the number assigned to the application by the registering or other competent authority of the country, territory or geographical area concerned.

(2) The Registrar may, at any time and in any particular case, by notice require the applicant to file such documentary evidence as the Registrar may require certifying, or verifying to the satisfaction of the Registrar,

(a) the particulars outlined in sub-rule (1);

(b) the representation of the trade mark; and

(c) the goods or services covered by the application.

(3) Where the Registrar issues a notice under sub-rule (2), the applicant has three months within which to file the required documentary evidence.

(4) If the applicant fails to file the required documentary evidence within the period specified under sub-rule (3), the claim to a right to priority shall be treated as abandoned.

Disclaimers,
conditions and
limitations.

11. (1) Where an applicant wishes to

(a) disclaim any right to the exclusive use of a trade mark, or

(b) subject the rights to be conferred by the registration of the trade mark to a specified territorial limit or condition or limitation,

he shall include particulars of the disclaimer, territorial limit, condition or limitation in his application by filing a notice in Form TM1 of the Schedule.

Schedule

(2) An application with respect to a disclaimer, territorial limit or other condition or limitation may relate to any specified element of the trade mark.

(3) The Registrar shall enter in the register the particulars of any disclaimer, territorial limit or other condition or limitation notified to him under this rule.

Additional
disclaimer,
condition and
limitation.
Schedule

12. (1) The owner of a registered trade mark may, by filing a notice in Form TM1 of the Schedule,

(a) disclaim any right to the exclusive use of any specified element of the trade mark; or

(b) agree that the rights conferred by the registration shall be subject to a specified territorial limit or other condition or limitation.

(2) Upon receipt of a notice under sub-rule (1), the Registrar shall publish a notice of the disclaimer, territorial limit or other condition or limitation in the Gazette.

(3) A notice filed under sub-rule (1) with respect to a disclaimer, territorial limit or other condition or limitation may relate to any specified element of the trade mark.

(4) The Registrar shall enter in the register the particulars of any disclaimer, territorial limit or other condition or limitation notified to him under this rule.

Examining an application.

13. (1) The Registrar shall, subject to sub-rule (2), examine whether an application for the registration of a trade mark filed under these Rules, and in respect of which the deficiency notified under rule 9 has been remedied, satisfies the requirements for registration.

(2) Where rule 9 (c) or (d) applies, the Registrar shall examine whether the remaining part of the application that is not affected by the deficiency referred to in that rule satisfies the requirements for registration.

Failure to comply with registration requirements.

14. (1) Where it appears to the Registrar, on the basis of the examination of an application under rule 13, that the requirements for registration have not been met, he shall act in accordance with section 46 (2) and (3) of the Act.

(2) For purposes of considering an application for extension of time under section 46 (4) of the Act, the Registrar may take into account any of the following matters:

(a) where the notice sent to the applicant raises an objection to the registration of the trade mark on any of the grounds mentioned in section 24 (1), (2) or (3) of the Act,

(i) the applicant needs additional time to obtain the consent of the owner of an earlier trade mark;

(ii) the applicant needs additional time to obtain an assignment of an earlier trade mark; or

(iii) the proceedings for the cancellation, invalidation or revocation of an earlier trade mark are pending;

(b) the applicant needs additional time to prepare evidence of use to be filed in support of the application; or

(c) other exceptional circumstances exist to justify the granting of an extension of time.

PART II
AMENDMENT OF APPLICATION

Publication of amendments to an application. 15. (1) Where the Registrar, after publication of an application for the registration of a trade mark under section 48 of the Act, receives a request under section 49 (1) (b) of the Act to amend that application

(a) on the basis that it affects or, in the opinion of the Registrar, is likely to affect the representation of a trade mark or the goods or services covered by the application, or

(b) which, in the opinion of the Registrar, may materially alter the meaning or scope of the application,

the Registrar shall publish in the Gazette the particulars of the requested amendments.

Schedule (2) A request under section 49 (1) (b) of the Act or for any of the purposes outlined in rule 17 shall be filed in Form TM2 of the Schedule.

Notice of objection. 16. (1) The publication of the particulars of an application under rule 15 (1) shall be for a period of thirty days and shall invite persons who have an interest in the application or claim to be affected by the requested amendment to file a notice of objection in Form TM8 of the Schedule within the thirty-day period.

Schedule

(2) A written objection filed under sub-rule (1) shall

(a) provide a statement of the grounds of objection;

(b) indicate how the person objecting would be affected by the requested amendment if it were allowed;

(c) indicate why, in the opinion of the person objecting, the requested amendment would be contrary to section 49 (1) (b) of the Act;

(d) provide such evidence as may be necessary to assist the Registrar to make a determination on the matter; and

(e) be made available to the applicant who has requested the amendment.

(3) Where a written objection is made available under sub-rule (2), the applicant requesting the amendment has twenty-one days within which to submit to the Registrar a written response to the objection.

(4) The Registrar shall take no longer than thirty days, after receipt of an objection or, if he has received a response under sub-rule (3), within thirty days after the receipt of the response, to make a determination on the objection and his decision shall be conclusive on the objection.

(5) For the purposes of sub-rule (1), a person shall be considered to have an interest if he satisfies any of the requirements of section 51 (3) of the Act.

Amendment of application. 17. In addition to the matters mentioned in section 49 (1), an application for the registration of a trade mark may be amended for the purpose of

- (a) effecting a correction pursuant to rule 7 (5) and (6) with respect to the class or classes of goods or services listed in the specification referred to in that rule;
- (b) adding a disclaimer under section 72 of the Act or, as the case may be, any condition or limitation in relation to a disclaimer under sections 73 and 74 of the Act; or
- (c) withdrawing a claim to priority made under section 43 of the Act.

Determination of request to amend. 18. Subject to this Part, where a request is filed to amend an application, the Registrar may

- (a) amend the application as requested by the applicant if he is satisfied that the requested amendment complies with section 49 (1) of the Act and these Rules;
- (b) amend the application in such manner as he thinks fit if he is satisfied that only a part of the requested amendment complies with section 49 (1) of the Act and these Rules; or
- (c) decline to make the requested amendment if he is satisfied that the request does not comply with section 49 (1) of the Act and these Rules.

PART III OPPOSITION TO REGISTRATION

Filing of notice of opposition. Schedule 19. (1) A notice of opposition to the registration of a trade mark shall be filed in Form TM8 of the Schedule within three months of the publication of the application for registration of the trade mark.

(2) The notice of opposition shall include a statement of the grounds of opposition and, where the opposition is based on an earlier trade mark, the notice shall also include,

- (a) a representation of the earlier trade mark;

- (b) if the trade mark is registered, a statement indicating the class or classes and the goods or services in respect of which the trade mark is registered;
- (c) if the trade mark is not registered, a statement indicating the goods or services in respect of which it is used; and
- (d) if it is an earlier trade mark by virtue of section 6 (1) of the Act, a statement indicating the application or registration number of the trade mark.

(3) A notice of opposition filed under sub-rule (1) may be accompanied by such evidence as the person filing the notice considers fit.

Filing of counter-statement. Schedule

20. (1) Where an applicant receives, pursuant to section 53 (1) of the Act, a copy of a notice of opposition filed with the Registrar, the applicant may file a counter-statement in Form TM9 of the Schedule setting out

- (a) the grounds on which he relies in support of his application;
- (b) the facts alleged in the notice of opposition that he admits;
- (c) the facts alleged in the notice of opposition that he denies, including any alternative version of events that he relies on; and
- (d) the facts alleged in the notice of opposition that he is unable to admit or deny.

(2) A counter-claim filed under sub-rule (1) may be accompanied by such evidence as the applicant considers fit.

Leave to file additional evidence.

21. (1) Where, for the purpose of making a determination on an opposition under section 54 (1) of the Act, the Registrar considers it appropriate to do so, he may grant leave to the person filing a notice of opposition and the applicant to file additional evidence in support of their opposition and counter-claim respectively.

(2) The period for the filing of additional evidence under sub-rule (1) shall not exceed twenty-one days for each of the parties as the Registrar may determine, having regard to the nature of the opposition and the counter-claim.

(3) Where leave is granted for the filing of additional evidence, the additional evidence shall be confined in relation to only the matters that had been raised in the initial filings made by the parties.

Fixing date of hearing.

22. Where the Registrar, after reviewing the evidence before him, decides to grant a request for a hearing to determine an opposition, he shall fix a date, time and place for the hearing and shall notify the parties accordingly.

PART IV
WITHDRAWAL, DIVISION AND MERGER OF
APPLICATION FOR REGISTRATION

Withdrawal of application.

23. (1) Where an applicant for the registration of a trade mark intends to withdraw the application pursuant to section 49 (1) (a) of the Act, he shall do so by notifying the Registrar and the withdrawal shall take effect upon receipt by the Registrar of the notice.

(2) If the application has been registered in accordance with section 48 of the Act, the Registrar shall publish the fact of the withdrawal in the Gazette.

Division of application. Schedule

24. (1) At any time after an application for the registration of a trade mark is assigned a filing date under section 38 of the Act and before the registration of the trade mark, the applicant may file a request in Form TM5 of the Schedule to divide the application (“the original application”) into two or more separate applications (“the divisional applications”), indicating for each divisional application the specification of goods or services to be covered by that application.

(2) Each divisional application shall

(a) be treated as a separate application for registration with the same filing date as the original application; and

(b) have the same protection under the Act as the original application.

(3) On the division of the original application, any notice of objection filed under rule 17 or notice of opposition filed under rule 19 in relation to the original application shall,

(a) where the notice of objection or notice of opposition relates only to some of the goods or services covered by the original application, be treated as having been filed in relation to each divisional application the specification of which covers any of those goods or services, and

(b) in any other case, be treated as having been filed in relation to each of the divisional applications,

and the proceedings on the objection or opposition shall continue accordingly.

(4) On the division of an original application in relation to which a notice or request relating to the grant of a licence or a security interest or any right in or under the original application has been filed under rule 61 or 63, the notice or request shall,

(a) where it relates only to some of the goods or services covered by the original application, be treated as having been filed in relation to each divisional application the specification of which covers any of those goods or services; and

(b) in any other case, be treated as having been filed in relation to each of the divisional applications.

Merger of separate applications. Schedule

25. (1) An applicant who has filed separate applications for the registration of a trade mark may, at any time before particulars of any of those applications have been published under rule 19 or section 48 of the Act, file a request in Form TM6 of the Schedule to merge those applications into a single application.

(2) The Registrar shall merge the applications that are the subject of the request into a single application if he is satisfied that all of the applications

(a) are in respect of the same trade mark;

(b) bear the same filing date; and

(c) are, at the time of the request, in the name of the same person.

(3) Applications that are merged shall have equal protection under the Act and these Rules.

Merger of separate registrations. Schedule

26. (1) The owner of two or more registrations of a trade mark may file a request in Form TM6 of the Schedule to merge them into a single registration.

(2) Upon receipt of a request in accordance with sub-rule (1), the Registrar shall merge the registrations into a single registration if he is satisfied that all of the registrations

(a) are in respect of the same trade mark; and

(b) provide the same protection under the Act.

(3) Where registrations have been merged under sub-rule (2), the merged registration shall be subject to the same disclaimers, conditions and limitations to which each of the original registration was subject.

(4) The Registrar shall, in relation to a merged registration, enter in the register the same particulars as were registered with respect to each of the original registrations.

(5) Where the separate registrations bear different dates of registration, the date of registration of the merged registration shall be the latest of those dates.

PART V
APPLICATION FOR REGISTRATION OF SERIES, DEFENSIVE,
CERTIFICATION, AND COLLECTIVE, TRADE MARKS

- Application in relation to series of trade marks. Schedule
27. (1) An application may be filed in accordance with Form TM1 of the Schedule for the registration of a series of trade marks in a single registration if the series comprises no more than six trade trade marks.
- (2) The application shall be accompanied by a representation of each trade mark claimed to be in the series.
- (3) Where an application for the registration of a series of trade marks comprises three or more trade marks, a fee shall be paid for each trade mark in excess of two trade marks.
- (4) Where, in an application under sub-rule (1), the Registrar is satisfied that the trade marks constitute a series and satisfy the requirements for registration, he may accept the application.
- Request for division. Schedule
28. (1) At any time before the registration of a series of trade marks, an applicant may file a request in Form TM7 of the Schedule for a division of his application into separate applications in respect of one or more of the trade marks in the series and the Registrar shall, if satisfied that the division conforms with rule 24 (1) and (2) (a), divide the application accordingly.
- (2) For the purpose of sub-rule (1), rule 24 (2) (b), (3) and (4) applies to the division of an application under this rule.
- Request for deletion of trade mark in series. Schedule
29. (1) An applicant for the registration of a series of trade marks may at any time request the deletion of a trade mark in that series by filing Form TM3 of the Schedule and the Registrar shall act accordingly.
- (2) Where the Registrar deletes a trade mark under sub-rule (1), the application shall, in so far as it relates to the deleted trade mark, be treated as withdrawn.
- Application for registration of defensive trade mark. Schedule
30. (1) An application for the registration of a trade mark as a defensive trade mark under section 75 of the Act shall be filed in Form TM1 of the Schedule.
- (2) Within a period of nine months after the date of the application, the applicant shall file
- (a) a statement setting out full particulars of the facts on which he relies in support of his application; and
 - (b) such evidence, if any, as he may desire to adduce in support of the application.

(3) A statement filed pursuant to sub-rule (2) shall be verified by the statutory declaration or affidavit of the applicant or some other person approved for the purpose by the Registrar, and rule 71 shall apply accordingly.

(4) Where the applicant fails to file a statement within the period specified in sub-rule (2), the application shall be treated as abandoned.

(5) The Registrar may, on such terms as he considers fit, require or accede to a request by the applicant to file additional evidence in support of the application.

(6) The provisions of Part II apply in relation to an application for the registration of a trade mark as a defensive trade mark, except to the extent they are inconsistent with this rule.

Application for registration of certification trade mark.

31. (1) For the purposes of paragraph 6 (1) of Schedule 1 of the Act, an applicant for the registration of a certification trade mark shall, within a period of nine months after the date of the application for registration, file a copy of the regulations governing the use of the trade mark.

(2) The regulations shall be accompanied by evidence of the applicant's competence to certify the goods or services for which the trade mark is to be registered and the evidence shall be verified by a statutory declaration or affidavit as provided in rule 71.

(3) Without prejudice to paragraph 8 of Schedule 1 of the Act, the Registrar may send to the applicant any observations that he may wish to make with regard to the application, the suitability of the regulations or the sufficiency of the evidence, and the applicant may, as he considers appropriate,

(a) file a request under section 49 of the Act to amend the application; or

(b) modify the regulations or file new evidence.

Application for registration of collective trade mark.

32. (1) For the purposes of paragraph 6 (2) of Schedule 2 of the Act, an applicant for the registration of a collective trade mark shall, within a period of nine months after the date of the application for registration, file a copy of the regulations governing the use of the trade mark.

(2) Without prejudice to paragraph 7 of Schedule 2 of the Act, the Registrar may send to the applicant any observations that he may wish to make with regard to the application or the suitability of the regulations, and the applicant may, as he considers appropriate,

(a) file a request under section 49 of the Act to amend the application; or

(b) modify the regulations.

Application to amend regulations re certification and collective trade marks. Schedule

33. (1) An application by the owner of a registered certification trade mark or collective trade mark for the amendment of the regulations governing the use of the trade mark shall be filed in Form TM4 of the Schedule.

(2) Where the Registrar considers it appropriate to do so, he shall publish a notice of the amendment in the Gazette, indicating where copies of the amended regulations may be inspected.

(3) Where the Registrar publishes a notice under sub-rule (2), any person claiming to be affected by the amendment to the regulations may, within two months after the date of publication of the notice, file a notice of opposition in Form TM8 of the Schedule.

Schedule

(4) The notice of opposition shall

(a) include a statement of the grounds of opposition;

(b) indicate how the person opposing would be affected by the amendment if it were allowed; and

(c) indicate why, in the opinion of the person opposing, the amendment would be contrary to

(i) paragraph 5 (1) or 7 (1) of Schedule 1 of the Act, in the case of a certification trade mark;

(ii) paragraph 4 (1) or 6 (1) of Schedule 2 of the Act, in the case of a collective trade mark; or

(iii) public policy or accepted principles of morality.

(5) The person opposing shall, at the same time as he files the notice of opposition, send a copy of the notice to the owner of the registered certification trade mark or collective trade mark in question.

(6) Where a notice of opposition is filed within the period specified in sub-rule (3), the Registrar may, if he is satisfied that the opposition

(a) has merit, decline to accept the amendment; or

(b) does not have merit and that the amendment should be accepted, accept the amendment as filed by the owner.

(7) Where a notice of opposition is not filed as prescribed in sub-rule (3), and the Registrar is satisfied that the amendment is in order, he shall accept the amendment as filed by the owner.

PART VI
REGISTRATION OF TRADE MARKS

Registration of
trade mark.

34. (1) The Registrar shall register a trade mark under section 55 (1) of the Act by entering a representation of the trade mark in the register, together with the following particulars:

- (a) the date of registration as determined in accordance with section 57 of the Act;
- (b) the date of priority, if any, claimed under section 43 of the Act;
- (c) the name and address of the owner;
- (d) the address for service of the owner;
- (e) the class or classes and description of goods or services in the Nice Classification in respect of which the trade mark is registered;
- (f) any disclaimer, territorial limit or other condition or limitation to which the registration is subject;
- (g) where the trade mark or any element of the trade mark consists of a 3-dimensional shape for which a claim has been made in accordance with rule 6 (2), that fact;
- (h) where the trade mark or any element or elements of the trade mark consists of a colour or colours for which a claim has been made in accordance with rule 6 (3), that fact and the colour or colours so claimed;
- (i) where the trade mark consists wholly or in part of a sound or smell, that fact;
- (j) where the trade mark is a certification trade mark, a collective trade mark or a defensive trade mark, that fact;
- (k) where the trade mark registration consists of a series of trade marks, that fact; and
- (l) where the trade mark is registered under or by virtue of section 15 (2), 24 (8) or 27 (1) (a) or (b) of the Act, that fact.

(2) The Registrar may at any time enter in the register such other particulars in relation to the trade mark as he considers fit.

Publication of date of registration.

35. The publication in the Gazette of a notice under section 55 (2) (b) of the Act indicating the registration of a trade mark shall specify the date of registration of the trade mark.

Notice for renewal of registration. Schedule

36. For purposes of section 59 (3) of the Act, the notice to be sent to the owner of a registered trade mark for the renewal of the trade mark shall be in Form TM10 of the Schedule.

Renewal of registration. Schedule

37. (1) The renewal of registration of a trade mark shall be effected by filing a request for renewal in Form TM11 of the Schedule.

(2) Where a request for the renewal of a trade mark is not filed, or the relevant renewal fee is not paid, prior to the expiry of the trade mark, the Registrar shall publish that fact in the Gazette.

(3) Where

(a) the registration of a trade mark is renewed under section 59 (2) of the Act, the Registrar shall specify the date on which the renewal takes effect; and

(b) the Registrar removes a trade mark from the register under section 59 (4), he shall publish that fact in the Gazette specifying the date of removal.

Restoration of registration.

38. (1) Where, within a period of six months after the registration of a trade mark has expired, the owner of the trade mark

(a) files a request for restoration of the trade mark on the register in Form TM11 of the Schedule, and

(b) pays the renewal fee and the applicable penalty for late renewal prescribed in the Financial Services (Trade Marks Fees) Regulations, 2014,

S.I. No. of 2014

the Registrar may if, having regard to the circumstances of the failure to renew the trade mark he considers it just to do so, restore the trade mark on the register.

(2) Where the Registrar restores a trade mark under sub-rule (2) he shall, in publishing that fact in the Gazette, also specify the date of restoration.

(3) A trade mark that is restored on the register by virtue of this rule shall

(a) be treated as if the restoration were a renewal of the registration of the trade mark, and

(b) have its effective date computed as provided in section 59 (2) of the Act,

and the publication of the removal of the trade mark from the register under rule 37 (3) (b) shall cease to have any effect.

Request to alter a registered trade mark. Schedule

39. (1) A request under section 60 (2) of the Act by the owner of a trade mark to alter the trade mark shall be filed in Form TM19 of the Schedule.

(2) A request for the alteration of a registered trade mark shall provide

(a) the reasons for the request; and

(b) such evidence as may be necessary to assist the Registrar in making a determination on the request.

(3) Where the Registrar proposes to allow the alteration of a trade mark, he shall publish a notice of the proposal in the Gazette, including a representation of the trade mark as proposed to be altered in the register.

Notice of objection to a proposed alteration. Schedule

40. (1) A person claiming to be affected by a proposal to alter a registered trade mark may, within two months of the date of publication of the notice under rule 39 (3), file a notice of objection in Form TM8 of the Schedule.

(2) The notice of objection shall include a statement

(a) of the grounds of objection;

(b) explaining how the person would be affected by the proposed alteration if it were made;

(c) explaining why in the person's opinion it would be contrary to section 60 of the Act to allow the alteration; and

(d) providing such evidence as may be necessary to assist the Registrar in making a determination on the objection.

(3) The person filing the notice of objection under sub-rule (1) shall, at the same time as he files the notice of objection, send a copy of it to the owner of the trade mark in question.

Determination of an alteration.

41. (1) The Registrar may, after receipt and consideration of a request to alter a registered trade mark and, if any objection is filed under rule 40 (1), after consideration of the objection,

(a) allow the alteration if he is satisfied that it complies with section 60 of the Act;

(b) allow the alteration in part if he is satisfied that only a part of the alteration complies with section 60 of the Act; or

(c) disallow the alteration if he is satisfied that it does not comply with section 60 of the Act.

(2) Where the Registrar allows an alteration under sub-rule (1) (a) or (b),

(a) the registered trade mark shall, with effect from the date of alteration, become effective as altered;

(b) he shall amend the register by making the appropriate entry; and

(c) he shall publish in the Gazette the alteration and specify the effective date of the alteration.

Surrender of
registered
trade mark.
Schedule

42. (1) The owner of a registered trade mark may surrender the registration of the trade mark by filing a notice of surrender in Form TM12 of the Schedule.

(2) The notice of surrender shall,

(a) state whether the registration is surrendered in respect of all of the goods or services for which the trade mark is registered or only in respect of certain of those goods or services;

(b) where the registration is surrendered in respect of only certain goods or services, specify the goods or services concerned by reference to their class or classes in the Nice Classification;

(c) give the name and address of any other person having a registered interest or any right in the trade mark; and

(d) certify that the person referred to in paragraph (c)

(i) has been sent not less than three months' notice of the owner's intention to surrender the registration; or

(ii) is not affected or, if affected, consents to the surrender.

Effect and
publication of
surrender.

43. (1) A surrender of the registration of a trade mark

(a) has the same effect in respect of the goods or services for which the registration is surrendered as the registration of the trade mark ceasing to have effect in respect of those goods or services; and

(b) takes effect on the date of receipt by the Registrar of a notice that complies with rule 42.

PART VII
CLASSIFICATION AND RECLASSIFICATION OF
GOODS AND SERVICES

Classifying goods and services.

44. (1) This rule and rules 45 to 48 apply subject to any Order made by the Commission pursuant to section 2 (1) of the Act.
- (2) Subject to sub-rule (4), the goods or services in respect of which a trade mark is registered shall, for the purposes of
- (a) trade marks registered on or after the commencement date, be classified in accordance with the classifications of the Nice Classification in force on the date of registration; and
 - (b) existing registered trade marks, be classified in the same manner as they were classified immediately before the commencement date.
- (4) The specification of a registered trade mark may be reclassified in accordance with rules 45 to 48.

Change of classification of goods or services.

45. Subject to rules 46, 47 and 48 and section 95 (4) of the Act, the Registrar may, in order to
- (a) reclassify the specification of a registered trade mark that is not founded on the classification of the Nice Classification to one that is founded on such Classification, or
 - (b) implement any amendment to, or substitution for, the classification of the Nice Classification,

make such amendments to the entries in the register as he considers necessary for the purposes of reclassifying the specification of any registered trade mark.

Notice to owner before reclassification.

46. (1) The Registrar shall, before he amends an entry in the register under rule 45, send to the owner of the registered trade mark in question a notice informing the owner of the proposals for amendment.
- (2) The notice shall include a statement informing the owner that
- (a) he may file written objections to the proposals within two months after the date of the notice, stating the grounds of his objections; and
 - (b) if no written objections are filed within the period specified under paragraph (a), the Registrar will publish the proposals in the Gazette and the owner will not be entitled to make any objections to the proposals upon such publication.

Publication of proposals.

47. (1) If the owner of a registered trade mark does not file written objections within the period specified in rule 46 (2) (a), or at any time before the expiry of that period files written notice of his intention not to make any objections, the Registrar shall as soon as practicable after the expiry of the specified period or receipt of that notice, as the case may be, publish the proposals for amendment in the Gazette.

(2) Where the owner files written objections within the period specified in rule 46 (2) (a), the Registrar shall consider the objections.

(3) If, having considered the objections, the Registrar is satisfied that

(a) the objections (or part of the objections) have merit, he shall

(i) abandon the proposals; or

(ii) amend the proposals and publish in the Gazette the proposals as amended; or

(b) the objections are without merit, he shall publish the proposals in the Gazette.

Notice of opposition. Schedule

48. (1) Where the Registrar publishes proposals for amendment under rule 47 (1), any person claiming to be affected may, within two months after the date of publication of the proposals, file a notice of opposition in Form TM8 of the Schedule.

(2) The notice of opposition shall include a statement

(a) of the grounds of opposition;

(b) explaining how the person would be affected by the amendments if they were made;

(c) explaining why in the person's opinion it would be contrary to section 95 (4) of the Act to make the amendments; and

(d) providing such evidence as may be necessary to assist the Registrar in making a determination on the opposition.

(3) The person claiming to be affected by the proposals for amendment shall, at the same time as he files the notice of opposition, send a copy of the notice to the owner of the registered trade mark in question.

(4) Where no notice of opposition is filed within the period specified in sub-rule (1), or where any opposition has been determined against the person claiming to be affected by the proposals for amendment, the Registrar shall

- (a) make the amendments as proposed; and
- (b) enter in the register the date on which the amendments were made.

PART VIII
REVOCAION, INVALIDATION, VARIATION AND
CANCELLATION OF REGISTRATION

Revocation

Application for
revocation for
for non-use.
Schedule

49. (1) An application for the revocation of the registration of a trade mark on any of the grounds mentioned in section 67 (2) of the Act shall be filed in Form TM8 of the Schedule.
- (2) The application shall be accompanied by
- (a) a statement outlining the grounds on which the application is made; and
 - (b) evidence in support of the application.
- (3) The applicant shall, at the same time as he files the application, send a copy of the application, along with the statement of grounds and evidence, to the owner of the registered trade mark in question.

Filing counter-
statement.
Schedule

50. (1) Within a period of two months after the date of receipt of the copy of the application, statement of grounds and evidence under rule 49, the owner may file a counter-statement in Form TM9 of the Schedule setting out
- (a) the grounds on which he relies in support of his registration;
 - (b) the facts alleged in the application that he admits;
 - (c) the facts alleged in the application that he denies and his reasons, including any alternative version of events that he relies on; and
 - (d) the facts alleged in the application that he is unable to admit or deny.
- (2) The counter-statement, if filed, shall be accompanied by
- (a) evidence of the use made of the trade mark; or
 - (b) a statement giving reasons for non-use.

(3) The owner shall, at the same time as he files the counter-statement, send to the applicant a copy of the counter-statement, along with a copy of the evidence of use or statement giving reasons for non-use.

(4) Where the owner does not file a counter-statement or fails to provide the evidence or statement referred to in sub-rule (2) within the period specified in sub-rule (1), the Registrar may treat the application for revocation as unopposed by the owner.

Filing further evidence, and fixing hearing date.

51. (1) The Registrar may at any time, if he considers it appropriate so to do, give leave to the applicant or the owner to file further evidence on such terms as he thinks fit.

(2) The Registrar shall, if no further evidence is to be filed under sub-rule (1), fix a date, time and place for the hearing and shall notify the parties accordingly.

Application for revocation on grounds other than non-use. Schedule

52. (1) An application for any of the following shall be filed in Form TM8 of the Schedule:

(a) the revocation of the registration of a trade mark on any of the grounds mentioned in section 67 (2) (b), (c) or (d) of the Act;

(b) the revocation of the registration of a trade mark as a defensive trade mark on any of the grounds mentioned in section 76 (1) of the Act;

(c) the revocation of the registration of a certification trade mark on any of the grounds mentioned in paragraph 14 of Schedule 1 of the Act; and

(d) the revocation of the registration of a collective trade mark on any of the grounds mentioned in paragraph 12 of Schedule 2 of the Act.

(2) The application shall be accompanied by a statement outlining the grounds on which the application is made and evidence in support of the application.

(3) The applicant shall, at the same time as he files the application, send a copy of the application and statement of grounds, including any evidence in support of the application, to the owner of the registered trade mark, defensive trade mark, certification trade mark or collective trade mark in question.

Filing counter-statement. Schedule

53. (1) Within a period of two months after the date of receipt of the copy of the application, statement of grounds and evidence under rule 52, the owner may file a counter-statement in Form TM9 of the Schedule setting out

(a) the grounds on which he relies in support of his registration;

(b) the facts alleged in the application that he admits;

(c) the facts alleged in the application that he denies and his reasons, including any alternative version of events that he relies on; and

(d) the facts alleged in the application that he is unable to admit or deny.

(2) The owner shall, at the same time as he files the counter-statement, send to the applicant a copy of the counter-statement, along with a copy of the grounds and evidence referred to in sub-rule (1).

(3) Where the owner does not file a counter-statement or fails to provide any evidence within the period specified in sub-rule (1), the Registrar may treat the application for revocation as unopposed by the owner.

Application of rule 51. 54. Rule 51 shall apply, with necessary modifications, in relation to an application for revocation on grounds other than non-use.

Invalidity

Application for declaration of invalidity. Schedule 55. (1) An application for any of the following shall be filed in Form TM8 of the Schedule:

- (a) a declaration of invalidity of the registration of a trade mark on any of the grounds mentioned in section 69 of the Act;
- (b) a declaration of invalidity of the registration of a certification trade mark on any of the grounds mentioned in paragraph 14 of Schedule 1 of the Act; and
- (c) a declaration of invalidity of the registration of a collective trade mark on any of the grounds mentioned in paragraph 12 of Schedule 2 of the Act.

(2) The application shall be accompanied by a statement outlining the grounds on which the application is made and evidence in support of the application.

(3) The applicant shall, at the same time as he files the application, send a copy of the application and statement of grounds, including any evidence in support of the application, to the owner of the registered trade mark, certification trade mark or collective trade mark in question.

Application of rules 51,52 and 53. 56. Rules 51, 52 and 53 shall apply, with necessary modifications, in relation to an application for invalidity under rule 55.

Variation and Cancellation

Application for variation or cancellation. Schedule 57. (1) An application for any of the following shall be filed in Form TM8 of the Schedule:

- (a) the variation or cancellation of a trade mark under section 61 or 62

of the Act;

(b) the variation or cancellation of registration of a certification trade mark under section 63 of the Act; and

(c) the variation or cancellation of registration of a collective trade mark under section 64 of the Act.

(2) The application shall be accompanied by a statement outlining,

(a) the specific ground or grounds outlined in section 61 (2), 63 (1) or 64 (1) of the Act on which the application is made; and

(b) in the case of an application by an owner under section 62 (1) of the Act, the reasons for the application.

(3) The applicant shall, at the same time as he files the application, send a copy of the application and statement of grounds to the owner of the registered trade mark, certification trade mark or collective trade mark in question.

(4) Sub-rule (3) does not apply to an application made under section 62 (1) of the Act, unless if the owner, at the time of filing the application under sub-rule (1), is aware of a person who has an interest in the trade mark in question.

Duty of
Registrar.

58. (1) Where an application is filed under rule 57 (1), the Registrar shall publish a notice in the Gazette outlining,

(a) in the case of an application under section 61 of the Act,

(i) a description of the condition or conditions under which the trade mark is registered;

(ii) the condition or conditions contravened or not observed; and

(iii) the variation proposed to be made;

(b) in the case of an application for the variation or cancellation of the registration of a certification trade mark under section 63, the matters identified in subsection (2) of that section; and

(c) in the case of an application for the variation or cancellation of the registration of a collective trade mark under section 64, the matters identified in subsection (2) of that section.

(2) The notice published under sub-rule (1) shall indicate the period within which the owner may submit a counter-statement.

- (3) A counter-statement submitted pursuant to sub-rule (2)
 - (a) shall set out the reasons for opposing the application;
 - (b) may be accompanied by such evidence as may be considered fit; and
 - (c) shall be in Form TM9 of the Schedule.

Schedule

Application of rule 51. 59. Rule 51 shall apply, with necessary modifications, in relation to an application for variation or cancellation under rule 57.

Intervention. Schedule 60. (1) Any person claiming to have an interest in any proceedings under this Part may file an application in Form TM8 of the Schedule for leave to intervene, stating the nature of his interest.

(2) Upon receipt of an application filed under sub-rule (1), the Registrar may

(a) refuse to grant leave to intervene; or

(b) grant leave to intervene on such terms, including any undertaking as to costs, as he thinks fit.

(2) A person granted leave to intervene under sub-rule (2) (b) shall, subject to any terms imposed by the Registrar, be treated as a party to the proceedings.

(3) Any person applying for leave to intervene under this rule shall, at the same time as he files the application, send a copy of the application to each party to the proceedings.

PART IX REGISTRABLE TRANSACTIONS

Application or notice to register a registrable transaction. Schedule 61. (1) An application under section 81 of the Act to register particulars of a registrable transaction relating to a registered trade mark, or a notice under section 81 and 83 (3) of the Act to register particulars of a registrable transaction relating to an application for the registration of a trade mark, shall be filed in Form TM13 of the Schedule.

(2) Where the registrable transaction

(a) is an assignment, the application or notice shall either be signed by or on behalf of the assignor or be accompanied by such documentary evidence as suffices to establish the assignment;

- (b) relates to the grant of a licence or security interest, the application or notice shall either be signed by or on behalf of the grantor or be accompanied by such documentary evidence as suffices to establish the transaction;
- (c) relates to the making by personal representatives of an assent, the application or notice shall either be signed by or on behalf of the personal representative or be accompanied by such documentary evidence as suffices to establish the transaction; or
- (d) relates to an order of a court or an authority recognised by the Registrar as a competent authority, the application or notice shall be accompanied by such documentary evidence as suffices to establish the transaction.

Entry in the register of particulars of a registrable transaction.

62. (1) The particulars to be entered in the register in connection with a registrable transaction relating to a registered trade mark or an application for registration of a trade mark are as follows:

- (a) in the case of an assignment of the trade mark or application,
 - (i) the name and address of the assignee; and
 - (ii) the date of the assignment;
- (b) in the case of an assignment of any right in the trade mark or application,
 - (i) the name and address of the assignee;
 - (ii) the date of the assignment; and
 - (iii) a description of the right assigned;
- (c) in the case of a grant of a licence under the trade mark or application,
 - (i) the name and address of the licensee;
 - (ii) where the licence is an exclusive licence, that fact;
 - (iii) where the licence is limited, a description of the limitation; and
 - (iv) where the licence is for a fixed period or the duration of the licence is ascertainable as a fix period, the period of the licence;
- (d) in the case of the grant of any security interest over the trade mark or application, or over any right in or under the trade mark or application,

- (i) the name and address of the grantee;
 - (ii) the nature of the interest (whether fixed or floating); and
 - (iii) the extent of the security and the right in or under the trade mark or application that is secured;
- (e) in the case of the making by personal representatives of an assent in relation to the trade mark or application, or in relation to any right in or under the trade mark or application,
- (i) the name and address of the person in whom the trade mark or application, or any right in or under it, vests by virtue of the assent; and
 - (ii) the date of the assent; and
- (f) in the case of an order of a court or other competent authority transferring the trade mark or application, or transferring any right in or under the trade mark or application,
- (i) the name and address of the transferee;
 - (ii) the name of the court or other competent authority;
 - (iii) the date of the order; and
 - (iv) where the transfer is in respect of a right in the trade mark or application, a description of the right transferred.

(2) In each of the cases cited in sub-rule (1), the Registrar shall ensure that the date on which the entry is made is recorded in the register.

Request to amend or remove registered particulars.

63. (1) The Registrar may, on the filing of a request as prescribed in sub-rule (2), amend or remove any registered particulars relating to

- (a) a licence under a registered trade mark or application for the registration of a trade mark;
- (b) a security interest over a registered trade mark or application for the registration of a trade mark; or
- (c) a security interest over any right in or under a registered trade mark or application for the registration of a trade mark.

(2) A request relating to

Schedule (a) sub-rule (1) (a) shall be filed in Form 14 of the Schedule; and

Schedule (b) sub-rule (1) (b) or (c) shall be filed in Form 13 of the Schedule.

(3) Where the request relates to

(a) the alteration of the terms of a licence or security interest, it shall either be signed by or on behalf of both the grantor and grantee of the licence or security interest or be accompanied by such documentary evidence as suffices to establish the alteration; and

(b) the removal of registered particulars relating to a licence or security interest, it shall either be signed by or on behalf of the grantee of the licence or security interest or be accompanied by such documentary evidence as suffices to establish that the registered particulars have ceased to have effect.

(4) In the case of an alteration of the terms of a licence or security interest, the Registrar shall ensure that the date on which the entry is made in relation to the alteration is recorded in the register.

PART X PROCEEDINGS BEFORE THE REGISTRAR

Notice of hearing.
Schedule 64. (1) For purposes of giving a party to proceedings before the Registrar an opportunity to be heard, the Registrar shall send a notice to the party in Form TM15 of the Schedule informing him

(a) of the requirements of section 105 of the Act; and

Schedule (b) that, if he wishes to be heard, he must file a request for hearing in Form TM16 of the Schedule within one month after the date of the notice.

(2) Where under the Act or these Rules a period is specified within which a notice may be filed in relation to a hearing before the Registrar, that period shall apply and not the period specified in sub-rule (1) (b).

(3) The Registrar shall,

(a) in a case where a request for a hearing is filed within the specified period,

(i) fix a date, time and place for the hearing; and

Schedule

- (ii) send a notice in Form TM17 of the Schedule specifying the date, time and place fixed for the hearing to each party to the proceedings; and

(b) in any other case, on his own initiative,

- (i) fix a date, time and place for the hearing; and

Schedule

- (ii) send a notice in Form TM17 of the Schedule specifying the date, time and place fixed for the hearing to each party to the proceedings.

(4) A party to whom a notice is sent under sub-rule (3) (a) (ii) or (b) (ii) and who intends to appear at the hearing shall, within fourteen days after the date of the notice, notify the Registrar of his intention, and if he fails to do so he shall be treated as not intending to appear at the hearing and the Registrar may act accordingly.

(5) A notice sent to a party under this rule shall, unless it can be established to the satisfaction of the Registrar that

- (a) the notice did not bear the name of the person for whom it was intended, or

- (b) the address on the notice did not conform with the address of the person on the register,

be treated as having been received by the party for whom it was intended.

Cases where Registrar not required to hold hearing.

65. The Registrar may decide a matter without a hearing if

- (a) he reasonably believes that no party wishes to be heard; or

- (b) at least one of the following circumstances applies in relation to each party notified of the hearing in accordance with these Rules:

- (i) the party has not indicated to the Registrar that he intends to appear at the hearing; or

- (ii) the Party has informed the Registrar that he does not intend to appear at the hearing.

Representation at hearings.

66. (1) A party to any proceedings before the Registrar may

- (a) attend a hearing in person;

- (b) be represented by his trade mark agent or by a legal practitioner of his choice; or

(c) be represented by such means as the Registrar may allow.

(2) A party may make representations in writing before or during a hearing, save that the Registrar may not accept any representation after he has closed a hearing.

(3) At any stage of a hearing the Registrar may adjourn the hearing, and shall notify each party accordingly.

Power of Registrar to give directions.

67. (1) Subject to the Act and these Rules, the Registrar may either on his own initiative or at the request of a party and for the purpose of the proper and efficient conduct of proceedings before him, give such directions as he considers to be reasonably necessary for the conduct of, or in relation to, those proceedings.

(2) At any stage of any proceedings before him, the Registrar may direct that such documents, information or evidence as he may reasonably require shall be filed within such period as he may specify.

Hearings to be held in public.

68. (1) Subject to sub-rule (2), where the Registrar decides to hold a hearing, the hearing shall be held in public unless the Registrar, for any specific reason which shall be notified to the parties concerned and with the consent of all the parties, directs otherwise.

(2) Where the Registrar forms the opinion and after consulting with the parties concerned, that a hearing will or is likely to involve a discussion or revelation of a trade secret which might not be in the interest of any of the parties if the hearing were held in public, he may hold such hearing in private.

Language of hearing.

69. (1) Subject to sub-rule (2), the language of a hearing before the Registrar shall be in the English language.

(2) Where a party in a hearing before the Registrar wishes to call a witness or an expert to give evidence in a language other than the English language, he shall, at least fourteen days before the date fixed for the hearing, notify the Registrar and any other party to the hearing of that fact.

(3) The Registrar may require a party who gives notice under sub-rule (1) to make provision for interpretation into the English language and may, in that respect, give directions as to who should bear the costs of interpretation.

Filing evidence.

70. (1) Where under the Act or these Rules evidence may be admitted by the Registrar in any proceedings before him, the evidence shall be filed by way of a statutory declaration or affidavit.

(2) The Registrar may,

(a) in any particular case, take oral evidence in addition to any evidence filed by way of a statutory declaration or affidavit;

- (b) allow any witness to be cross-examined on his statutory declaration, affidavit or oral evidence; and
- (c) in giving directions under rule 67 and without prejudice to the generality of that rule,
 - (i) direct the issues on which evidence is required;
 - (ii) direct the way in which the evidence is to be placed before the Registrar;
 - (iii) make the directions subject to conditions; and
 - (iv) specify the consequences of failure to comply with the directions or conditions.

Statutory
declaration
and affidavit:
how made.

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of 2007
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71. (1) For the purposes of any proceedings before the Registrar, a statutory declaration or affidavit may be made and subscribed as follows:

(a) in the Virgin Islands, before a Commissioner for Oaths or a Notary Public authorized under the Commissioners for Oaths and Notaries Public Act, 2007 or by a Justice of the Peace duly appointed, or qualified as such, under section 7 of the Magistrate's Code of Procedure Act; and

(b) in any place outside the Virgin Islands, before any court, judge, magistrate, justice of the peace, notary, notary public, commissioner for oaths, consul or other person authorized by law to administer an oath or to exercise notarial functions in that place for the purpose of any legal proceedings.

(2) A person who signs a statutory declaration or affidavit shall state on the statutory declaration or affidavit the capacity in which he makes the declaration or affidavit.

(3) A document purporting to have affixed, impressed or subscribed to or on it the seal or signature of a person authorized by sub-rule (1) to take a statutory declaration or affidavit may be 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 or affidavit.

Photographs
of exhibits.

72. (1) A party to any proceedings before the Registrar who files a statutory declaration or affidavit under these Rules

(a) shall send a copy of the declaration or affidavit to each other party to the proceedings;

(b) may file a photograph of any exhibit to the statutory declaration or affidavit; and

(c) may send a copy of the photograph to each other party to the proceedings in lieu of filing the original of the exhibit or sending a copy of it to the other party.

(2) A photograph filed under sub-rule (1) shall be of sufficient size and clarity to properly depict any details of the exhibit referred to in the statutory declaration or affidavit.

(3) A party who files a photograph under sub-rule (1) shall, at the same time as he files the photograph, give a written undertaking to the Registrar that he will

(a) produce the original of the exhibit whenever required by the Registrar; and

(b) will make the original of the exhibit available for inspection by any other party to the proceedings if so requested by that other party.

(4) Unless otherwise directed by the Registrar, the original of any exhibit for which a photograph is filed under sub-rule (1) shall be produced at the hearing.

Leave to file evidence.

73. Where under any provision of these Rules evidence may be filed in any proceedings before the Registrar only with the leave of the Registrar, the Registrar may decline to grant such leave or grant leave on such terms as he thinks fit.

Substitution of parties.

74. (1) Where a party to any proceedings before the Registrar

(a) is a body corporate or other legal entity and the body corporate or other legal entity has been dissolved, struck-off, merged with another body corporate or other legal entity or acquired by any person, or

(b) assigns or otherwise disposes of any interest in a trade mark, an application or other thing that is the subject matter of the proceedings,

any person claiming to have an interest in the proceedings may apply to the Registrar for leave to be substituted for that party, stating the nature of his interest.

(2) A person granted leave under sub-rule (1) (a) or (b) shall, subject to any terms imposed by the Registrar, be treated as a party to the proceedings before the Registrar.

(3) For the purposes of sub-rule (1) (a), the Registrar may, as he deems fit, require that the person claiming to be substituted for a body corporate or other legal

entity that has been dissolved or struck-off pursuant to the BVI Business Companies Act, 2004 to first,

- (a) in the case of a company that has been dissolved, make an application to the Court to be restored to the register of companies, or
- (b) in the case of a company that has been struck-off, take necessary steps to restore the company into an active state,

before processing his application under this rule.

Power to
award costs.

75. (1) The Registrar may, in a filing in any of the following circumstances, require a person who neither resides nor carries on business in the Virgin Islands to give security for the costs of any proceedings before the Registrar, in such form and amount as the Registrar considers appropriate:

- (a) a notice of objection to the amendment of an application for the registration of a trade mark under rule 16;
- (b) a notice of opposition to the registration of a trade mark under rule 19;
- (c) a counter-statement under rule 20;
- (d) a notice of opposition to amend the register in relation to a certification trade mark or collective trade mark under rule 33 (3);
- (e) a notice of objection to a proposal to alter a registered trade mark under rule 40;
- (f) a notice of opposition to the amendment of an entry in the register under rule 48;
- (g) an application for the revocation of the registration of a trade mark for non-use under rule 49;
- (h) an application for the revocation of the registration of a trade mark, defensive trade mark, certification trade mark or collective trade mark under rule 52;
- (i) an application for a declaration of invalidity of the registration of a trade mark, certification trade mark or collective trade mark under rule 55;
- (j) an application for the variation or cancellation of the registration of a trade mark, certification trade mark or collective trade mark under rule 57;

- (k) an application for leave to intervene in proceedings before the Registrar under rule 60;
- (l) an application for leave to be substituted for a party under rule 74;
- (m) an application for the rectification of an error or omission under rule 81; or
- (n) a notice of opposition under section 10 of the repealed Act in relation to an application for the registration of a trade mark that is advertised on or after the commencement date.

(2) Where the Registrar requires security to be given by any person and that person fails to give the required security, the Registrar may treat the notice of objection, notice of opposition, counter-statement or application in question as abandoned or withdrawn.

(3) The Registrar may, at any stage of the proceedings before him but before giving his decision, require further security to be given.

(4) This rule is without prejudice to the Registrar's power under rule 60 (2) (b) to require an undertaking as to costs in relation to an application for leave to intervene.

Power to tax costs.

76. (1) The Registrar may tax costs awarded by him in any proceedings before him.

(2) In the event that an opposition to the registration of a trade mark is being uncontested by the applicant for registration the Registrar, in deciding whether costs should be awarded to the person making the opposition, shall consider whether proceedings might have been avoided if reasonable notice had been given by the person making the opposition before the notice of opposition was filed.

Case management conference.

77. (1) The Registrar may, at any stage of any proceedings before him, direct that the parties to the proceedings attend a case management conference in relation to

- (a) the future conduct of the proceedings;
- (b) the proposed exercise of any of the powers of the Registrar under these Rules; and
- (c) exploring the opportunities of a settlement between the parties.

(2) The Registrar shall give the parties at least fourteen days' notice of the date, time and place of the case management conference.

Pre-hearing review.

78. (1) Where the Registrar considers it necessary to hold a pre-hearing review of any matter before him, he shall direct the parties to the proceedings before him to attend such a pre-hearing review where he shall give such directions as to the conduct of the hearing as he thinks fit.

(2) The Registrar shall give the parties at least fourteen days' notice of the date, time and place of the pre-hearing review.

Power to stay proceedings.

79. Where the Registrar considers it appropriate to do so, he may stay any proceedings before him on such terms as he thinks fit and he may do so either on his own initiative or on the request of a party to the proceedings.

Decision of Registrar.

80. (1) Where the Registrar has made a decision in any proceedings before him, he shall send a notice to each party to the proceedings

(a) informing him of the decision; and

(b) providing a statement of the reasons for the decision.

(2) Where a statement of the reasons for the decision is not included in the notice, any party may, within one month after the date of the notice,

Schedule

(a) file a request in Form TM18 of the Schedule for a statement of the reasons for the decision; and

(b) send a copy of the request to each other party to the proceedings.

(3) Where the Registrar receives a request under sub-rule (2), he shall send a statement of the reasons for his decision to each party to the proceedings.

(4) For the purposes of an appeal against the decision of the Registrar, the decision shall be deemed to have been made,

(a) on the date on which the notice of decision is sent under sub-rule (1);
or

(b) in a case where the statement of reasons is sent under sub-rule (3), on the date on which the statement of reasons is sent.

PART XI
RECTIFICATION, CORRECTION, AMENDMENT, INSPECTION,
ETC. OF REGISTER AND OTHER DOCUMENTS

Rectification of Register

- Application for rectification of error or omission. Schedule
81. (1) An application for the rectification of an error or omission in the register under section 94 of the Act shall be filed in Form TM8 of the Schedule.
- (2) The application shall be accompanied by
- (a) a statement of the grounds on which the application is made; and
- (b) evidence in support of the application.
- (3) The applicant (if other than the owner of the registered trade mark) shall, at the same time as he files the application, send a copy of the application and statement of grounds, including any evidence in support of the application, to the owner of the registered trade mark.
- Application of rules 50 and 51.
82. Rules 50 and 51 shall apply, with necessary modifications, in relation to an application for rectification under rule 81.
- Rectification of irregularities.
83. Subject to the Act and these Rules, the Registrar may rectify any irregularity in procedure in or before the Registry on such terms as he may direct.

Effecting Corrections

- Request to change name or address. Schedule
84. (1) The Registrar may, on the filing of a request in Form TM19 of the Schedule, by
- (a) the owner of a registered trade mark,
- (b) a licensee of a registered trade mark, or
- (c) any person having an interest in or charge on a registered trade mark the particulars of which have been registered under rule 62 or 63,
- enter a change in his name or address, or in any other particulars identifying such person, as recorded in the register.
- (2) A request filed under sub-rule (1) shall be accompanied by reasons for and evidence in support of the request.
- Correction of errors or omissions.
85. (1) Where the Registrar proposes to correct an error or omission in the register under section 94 (6) of the Act, he shall send a notice of the proposed correction to any person who appears to him to be concerned.

Schedule

(2) A person to whom a notice is sent under sub-rule (1) may, within two months after the date of the notice, file a notice of objection in Form TM8 of the Schedule, stating the grounds of his objection.

(3) Where the person files objections within the period specified in sub-rule (2), the Registrar shall consider the objections and shall,

(a) if he is satisfied that the objections have merit, abandon the proposal to correct the error or omission in the register; or

(b) if he is satisfied that the objections are without merit, correct the register as proposed.

(4) Where no objections are filed within the period specified in sub-rule (2), the Registrar may proceed to make the proposed correction in the register.

Removal of matter from register.

86. (1) Where the Registrar proposes to remove any matter from the register under section 94 (8) of the Act, he shall,

(a) where he considers it appropriate to do so, publish a notice of the proposal for removal in the Gazette; and

(b) where any person appears to him as being likely to be affected by the proposed removal, send a notice of the proposal for removal to that person.

Schedule

(2) Where the Registrar publishes a notice under sub-rule (1) (a), a person claiming to be affected by the proposed removal (including a person to whom a notice is sent under sub-rule (1) (b)) may, within two months after the date of publication of the notice, file a notice of opposition in Form TM8 of the Schedule.

(3) The notice of opposition shall include a statement of the grounds of opposition.

(4) The person filing a notice of opposition shall, at the same time as he files the notice of opposition, send a copy of the notice of opposition to the owner of the registered trade mark in question.

(5) Where the Registrar is satisfied, after considering any opposition, that the matter has not ceased to have effect, he shall not remove the matter from the register.

(6) Where a notice of opposition

(a) is not filed within the period specified under sub-rule (2),

(b) has been determined against the person opposing,

the Registrar may, if he is satisfied that the matter or any part of it has ceased to have effect, remove the matter or that part of the matter from the register.

Amendment and Extension of Time

General power
to amend
documents.

87. (1) Subject to the provisions of the Act and these Rules relating to the amendment of applications for registration of trade marks and other documents, any document filed with the Registry may, if the Registrar thinks fit, be amended in such terms as he may direct.

(2) Where, in acting under sub-rule (1), the Registrar considers that the interests of an owner of a registered trade mark or other person with an interest in the trade mark may be adversely affected by his action, he shall give such owner or other person an opportunity to file a written objection to the Registrar, indicating the grounds of and reasons for the objection.

(3) For the purposes of sub-rule (2), the Registrar shall give such directions as he considers fit.

Extension of
time.

88. (1) Subject to any limitation of period and extension of time prescribed under the Act and these Rules in relation to the doing of anything, the Registrar may,

(a) in a case where no extension of time is prescribed, or

(b) in a case where he is empowered under the Act or these Rules to prescribe a time limit without any extension being specified,

Schedule

extend the time, upon a request filed in Form TM24 of the Schedule by a concerned party, for such period and on such terms as the Registrar may direct.

(2) Where a request is filed under sub-rule (1), the party seeking the extension shall, at the same time as he makes the request, send a copy of the request to every other party who may be concerned or have an interest in the matter of the request.

(3) Where a person fails to comply with a time limit imposed by the Act or these Rules and the Registrar is satisfied that the failure is attributable in whole or in part to an error or omission of the Registrar or the Registry, he may extend the time in question for such period as would appear to him reasonable to make up for the failure.

(4) Where the Registrar grants an extension of time in objection or opposition proceedings, he may, if he considers it fit and without hearing the party in whose favour the extension is granted, grant any reasonable extension of the time in which the other party may be required to take any subsequent step.

(5) A period of time may be extended under this rule either before or after the period in question has expired.

Extension of time in relation to interruptions.

89. (1) Where on any day there is an event or circumstance which causes an interruption in the normal operation of the Registry, the Registrar may notify the day as being one on which there is an interruption in the operations of the Registry.

(2) Where any period of time specified or extended under the Act or these Rules for the filing of a document or other thing with the Registrar expires on a day so notified, the period shall be extended to the first day next following, not being an excluded day, that is not so notified.

(3) A notification by the Registrar under this rule may be effected in such manner as the Registrar considers fit, having regard to the event or circumstance that has caused the interruption.

(4) In sub-rule (2), the term “excluded day” means a day that is not a business day of the Registry.

Inspection

Inspection of register and other documents.

90. (1) Subject to sub-rules (2) and (3), the Registrar shall, on the request of any person, permit that person to

(a) inspect the register;

(b) inspect a document in respect of which particulars have been recorded in the register; and

(c) inspect any other document filed or kept at the Registry in relation to a registered trade mark or, where an application for the registration of a trade mark has been published in the Gazette, in relation to that application.

(2) The Registrar is not obliged to permit the inspection of a document as mentioned in sub-rule (1) (b) until he has completed all procedures that he is required or authorised to carry out under the Act or these Rules in connection with that document.

(3) A person’s ability to inspect a document does not apply to

(a) a document prepared in the Registry solely for the use of the Registry;

(b) a document sent to the Registry, whether at its request or otherwise, for inspection and subsequent return to the sender;

(c) a document received by the Registry which the Registrar considers should be treated as confidential; and

(d) a document in respect of which the Registrar issues directions under rule 92.

(4) Nothing in sub-rule (1) shall be construed as imposing on the Registrar a duty to make available for inspection

(a) a document or part of a document which, in the Registrar's opinion, disparages any person in a way that is likely to cause damage to that person;

(b) a document filed at or sent to the Registry before the commencement date; or

(c) a document filed at or sent to the Registry on or after the commencement date that relates to an application for the registration of a trade mark under the repealed Act.

Hours of inspection.

91. The period within which the register or other documents may be inspected at the Registry by the public shall be between 9:30am and 4:00pm during the business days of the Registry.

Confidential documents.

92. (1) Where a document, other than a Form filed in accordance with these Rules, is filed at the Registry and the person filing it requests at the time of filing that the document or a specified part of it be treated as confidential, giving reasons for the request, the Registrar may direct that

(a) the document or part of it, as the case may be, be treated as confidential; and

(b) the document shall not be open to public inspection while the matter is being determined by the Registrar.

(2) Where a direction has been given under sub-rule (1) and not withdrawn, nothing in this rule shall be construed to require or authorise any person to be allowed to inspect the document or part of it except with the leave of the Registrar.

(3) The Registrar shall not withdraw a 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 practicable or would be unreasonable having regard to all the circumstances.

(4) Where the Registrar considers that a document issued by the Registry should be treated as confidential, he may so direct and the document shall not be open to public inspection except with the leave of the Registrar.

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

Supply of copies of entries, etc. Schedule

93. The Registrar may, on the filing of an application in Form TM20 of the Schedule, supply the person filing the application with any of the following:

- (a) a certified or uncertified copy of an entry in the register pursuant to section 93 (1) of the Act;
- (b) a certified or uncertified extract from the register pursuant to section 93 (1) of the Act;
- (c) a certified or uncertified copy of any application for the registration of a trade mark filed under these Rules and kept by the Registry; or
- (d) a certificate for the purposes of section 101 (2) of the Act.

Supply of list of pending applications or registered trade marks.

94. The Registrar may, on the filing of a written request by any person, supply that person with a list of the numbers and the class or classes in the Nice Classification of

- (a) all applications made by any person identified in the request that are pending on the date of the request; or
- (b) all registered trade marks that are owned by a registered owner identified in the request.

Official search of records for certain trade marks.

95. (1) Any person may request the Registrar to cause a search to be made in respect of goods or services specified in the request and classified in any one or more classes of the Nice Classification to ascertain whether a trade mark is on record as at the date of the search (whether registered or pending registration) that resembles the trade mark in respect of which the request is made.

(2) A request under sub-rule (1) shall

Schedule

- (a) be filed in Form TM21 of the Schedule; and
- (a) be accompanied by a representation of the trade mark in respect of which the request is made.

(3) The Registrar shall, on receipt of a request under sub-rule (1),

- (a) cause the search to be made; and
- (b) provide the results of the search to the person making the request.

Seeking
Registrar's
opinion.

Schedule

96. (1) A person who wishes to obtain the opinion of the Registrar pursuant to section 98 of the Act with regard to whether a trade mark proposed for registration appears to the Registrar *prima facie* to be capable of distinguishing goods or services of one undertaking from those of other undertakings shall submit an application in Form TM21 of the Schedule.

(2) The application shall

(a) be accompanied by a representation of the trade mark in question; and

(b) specify the class or classes of goods or services of the Nice Classification in respect of which the trade mark is proposed to be registered.

PART XII ADDRESS FOR SERVICE, AND FILING AND SERVICE OF DOCUMENTS

Address for Service

Filing address
for service.

97. (1) For the purposes of any proceedings under the Act or these Rules, an address for service shall be filed by every person who files, or makes a written request or application in respect of, any matter pursuant to the Act or these Rules.

(2) A person may file an address for service,

(a) where the document in question is required to be filed in a form specified under these Rules or a form prescribed by the Registrar under section 97 of the Act and the form requires the person who completes it to provide an address for service, by filing that form with the address stated on the form; or

(b) in any other case, by notifying the Registrar.

(3) Where a document is filed in the name of two or more persons, the address for service filed in relation to that document shall be treated as the address for service of each of those persons.

(4) An applicant for the registration of a trade mark may use only one address for service for the purposes of all proceedings before the Registrar concerning that application.

(5) The owner of a registered trade mark may use only one address for service for the purposes of all proceedings before the Registrar concerning that registered trade mark.

(6) Subject to any filing to the contrary under this rule or rule 98, the address for service of the applicant for the registration of a trade mark shall, on the registration of the trade mark, be treated as the address for service of the owner of the registered trade mark for the purposes of all proceedings before the Registrar concerning that registered trade mark.

(7) Where a person files an address for service under this rule, that person may substitute a new address for service by notifying the Registrar.

(8) The address for service

(a) shall be a residential or business address in the Virgin Islands; and

(b) may be the address of a trade mark agent in respect of the registered trade mark concerned.

Change or
withdrawal of
address for
service.
Schedule

98. (1) A person may change or withdraw his address for service by so notifying the Registrar in Form TM19 of the Schedule.

(2) Where the address for service of the owner of a registered trade mark or of a party to proceedings before the Registrar

(a) ceases to be valid, the owner or the party, as the case may be, shall as soon as practicable change his address for service in the manner provided under sub-rule (1); or

(b) is the address of his trade mark agent and that address ceases to be valid, the trade mark agent shall notify the Registrar, and advise on the new address (if the registered trade mark agent continues to act for the owner).

Failure to file
address for
service.

99. (1) Where an address for service is not filed as required by rule 97, or where the Registrar is satisfied that the address for service of the owner of a registered trade mark or a party to any proceedings before the Registrar has ceased to be valid, the Registrar may send to the owner or person concerned (and to his trade mark agent where the agent's address is not the address of service) a notice to file an address for service.

(2) Where a person to whom a notice is sent under sub-rule (1) fails to file an address for service within two months after the date of the notice,

(a) any application, notice, request or other action filed by that person shall be treated as abandoned; and

(b) the person shall be deemed to have withdrawn from any proceedings before the Registrar of which he is a party.

Filing and Service of Documents

Filing documents.

100. (1) Any document or other thing that is required or authorised under the Act or these Rules to be filed with the Registrar shall be delivered by hand to the Registry during the business hours of the Registry or sent by post addressed to the Registrar.

(2) Sending a document or other thing by post shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document or other thing to the Registrar, and the document or other thing shall be deemed to have been received at the time when the letter is actually received by the Registrar.

(3) The filing of a document or other thing with the Registrar shall be deemed to be effected at such time as it is received by the Registrar and recorded as received.

Electronic filing.

101. (1) The Registrar may, as an alternative to

(a) the filing of a document or other thing in a paper or physical form, permit the filing of an electronic record of the document or other thing; and

(b) delivering or sending a document or other thing under rule 100, permit the delivery or sending of an electronic record of the document or other thing by electronic means to an information system designated or approved by the Registrar.

(2) The filing, or sending or delivery, of an electronic record by electronic means to the information system designated or approved under sub-rule (1) (b) shall be subject to such terms as the Registrar may specify

(a) generally by a notice published in the Gazette; or

(b) in any particular case by a notice to the person who desires to file or send a document or other thing by electronic means.

(3) Where a document or other thing in the form of an electronic record is sent by electronic means to the information system designated or approved under sub-rule (1) (b), the filing of the document or other thing shall be deemed to be effected at such time as the electronic record is accepted by the designated or approved information system.

Terms for electronic filing.

102. (1) Without prejudice to or limiting the generality of rule 101 (2), the Registrar may, in acting under that rule, specify terms

(a) for the approval by him of the process to be used to make or send an electronic record;

(b) for the approval by him of the format or media in which an electronic record must be recorded or stored;

- (c) with respect to the manner of authenticating an electronic record in circumstances where the document or other thing in question is required to be signed or sealed or authenticated in any manner;
- (d) requiring a document or other thing sent to the Registrar in the form of an electronic record to include or be accompanied by the electronic signature or digital signature of the person who sends it; and
- (e) with respect to the manner of filing a document or other thing in cases where there is an interruption in the operation of the information system designated or approved under rule 101 (1) (b).

(2) The Registrar may decline to accept or to register any document or other thing that is in the form of an electronic record if

- (a) the information contained in the electronic record is not capable of being displayed in a legible form;
- (b) the electronic record is not capable of being stored in the information system designated or approved under rule 101 (1) (b);
- (c) the electronic record appears to the Registrar to be altered, damaged or incomplete;
- (d) an electronic signature or digital signature or other kind of authentication accompanying or included with the electronic record appears to the Registrar to be altered or incomplete; or
- (e) any term specified by the Registrar pursuant to sub-rule (1) or rule 101 has been breached.

Designating
electronic
mail box.

103. (1) The Registrar may designate an electronic mail box within an information system for use by a person to communicate with the Registrar in relation to matters concerning the Act or these Rules, subject to such terms as the Registrar may specify

- (a) generally by a notice published in the Gazette; or
- (b) in any particular case by a notice to the person for whom the electronic mail box is designated.

(2) Where the Registrar designates an electronic mail box for a person under sub-rule (1), any document or other thing required or authorised by the Act or these Rules to be sent by the Registrar to that person shall be deemed to be properly sent if it is sent in the form of an electronic record to that person's designated electronic mail box.

(3) Sending a document or other thing in an electronic record to a designated electronic mail box shall be deemed to be effected at such time as the electronic record is accepted by the designated information system.

(4) Where an electronic record is sent to a designated electronic mail box, the electronic record shall be deemed to be received by the person to whom it is addressed at such time as the electronic record is accepted and recorded by the electronic mail box.

Service of documents.

104. (1) Save as provided by rules 100 to 103, where any document or other thing is required or authorised under the Act or these Rules to be sent to a person,

(a) the document or other thing may be left at, or sent by post to, the address for service of the person;

(b) if the person does not have an address for service, the document or other thing may be sent by post to the person's last known address.

(2) Sending any document or other thing by post shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document or other thing to the address for service of the person or, if the person does not have an address for service, at his last known address, and unless the contrary is shown, the document or other thing shall be deemed to have been received by the person at the time when the letter would be delivered in the ordinary course of post.

(3) For purposes of sub-rule (1), where a document or other thing is sent to the trade mark agent of the person, the document or other thing shall, unless the trade mark agent had resigned and had notified the Registrar of that fact, be deemed to be sent to the person and sub-rule (2) shall apply accordingly.

PART XIII TRADE MARK AGENTS

Application for approval as a trade mark agent.
Schedule

105. (1) A person who wishes to be approved by the Commission as a trade mark agent pursuant to section 33 of the Act shall file an application in Form TM22 of the Schedule.

(2) The application shall

(a) outline the capacity in which the person is applying (that is, whether as an individual, partnership, legal person or other capacity); and

(b) be accompanied by such documents and other evidence as would demonstrate the relevant qualifications outlined in section 34 of the Act.

(3) Except as otherwise provided by the Act or these Rules, any act that is required or authorised by the Act or these Rules to be done by or to a person in connection with the registration of a trade mark, or any procedure relating to a trade mark, may be done by or to a trade mark agent authorised by that person in writing.

Register of trade mark agents, and records to be kept.

106. (1) The Registrar shall maintain a register of trade mark agents which may be divided into such parts as the Registrar considers fit.
- (2) The Registrar shall record in the register,
- (a) the name and address of a trade mark agent who has been approved by the Commission to act as such;
 - (b) the date of approval of the trade mark agent to act as such;
 - (c) in the case of a partnership or a legal person, the name of the individual in the partnership or in the legal person that is fit and proper and has the additional qualifications outlined in section 34 (3) or (4) of the Act, as the case may be;
 - (d) in the case of an unincorporated body or association of persons other than a partnership, the name of the individual within the unincorporated body who meets the qualifications applicable in respect of a partnership under section 34 (3) of the Act; and
 - (e) such other matter as the Registrar considers fit.
- (3) A trade mark agent shall, in respect of a trade mark, maintain at his office records or copies of documents relating to
- (a) all applications, requests, declarations, notices and other matters filed under these Rules;
 - (b) all approvals and other decisions of the Commission and the Registrar;
 - (c) a representation of the trade mark;
 - (d) agreements entered into between owners of trade marks that relate to or are relevant to the registration of the trade mark under the Act or these Rules; and
 - (e) such other matters as would be consistent with the performance of the functions of the trade mark agent.

Application to
cancel or
revoke
approval.
Schedule

107. (1) A trade mark agent who has been approved as such may at any time file an application in Form TM23 of the Schedule requesting the cancellation or revocation of his approval.

(2) An application under sub-rule (1) shall specify the reasons for the request for cancellation or revocation of approval.

(2) Where the Commission is satisfied that the requirements of this rule for the cancellation or revocation of approval has been met, it shall cancel or revoke the approval if it is satisfied that the trade mark agent concerned

(a) does not have any pending matter for which he has responsibility as trade mark agent; or

(b) has made appropriate arrangements in relation to any pending matter and a cancellation or revocation will not prejudice any person in respect of those arrangements.

(3) The operation of this rule is without prejudice to the Commission's power to suspend, cancel or revoke an approval under section 33 (5) of the Act.

Duty to notify
of resignation.

108. (1) Where a trade mark agent intends to resign as the trade mark agent for the owner of a trade mark, he shall, at least sixty days before he resigns,

(a) notify the owner of his intention to resign as the trade mark agent for the owner; and

(b) notify the Registrar of his intention to resign and confirm that he has notified the owner of his intention, including the date of such notification.

(2) A notification of intention to resign as a trade mark agent under sub-rule (1) shall take effect,

(a) if an effective date is specified in the notification and is not less than sixty days from the date of receipt by the Registrar of the notification, on that date; and

(b) if no effective date is specified in the notification in accordance with paragraph (a), sixty days from the date of receipt by the Registrar of the notification.

(3) Where the owner of a trade mark is notified of the resignation of his trade mark agent under sub-rule (1), he may appoint another trade mark agent to act for him.

**PART XIV
MISCELLANEOUS PROVISIONS**

Form of records.

109. (1) The Registrar
- (a) shall determine the form in which the records and other things kept by the Registry are constituted and maintained; and
 - (b) may, subject to the Registration and Records Act, determine the period for which the records and other things kept by the Registry shall be maintained and the circumstances in which they may be destroyed or otherwise disposed of.

Cap. 67

(2) Where the Registrar keeps a record of a document or other thing in a form that differs from that in which the document or other thing was originally filed with, or originally generated by, the Registrar, the record of that document or other thing shall be presumed, unless the contrary is shown, to accurately represent the information contained in the document or other thing as originally filed or generated.

Publication of Court orders.

110. The Registrar may publish an order of the Court made under the Act for the rectification or correction of the register, if

- (a) he forms the opinion that the order should be published; and
- (b) the order does not contain any restriction prohibiting publication.

Filing of Court orders, etc.

111. (1) Where any order or declaration is made or any certificate is granted by the Court under the Act, the person in whose favour the order, declaration or certificate has been made or granted or, if there is more than one, such one of them as the Registrar may direct, shall file a certified copy of the order, declaration or certificate with the Registrar.

(2) A copy of an order, declaration or certificate is considered to be certified for the purposes of sub-rule (1) if the copy is certified by the judge who made or granted the order, declaration or certificate or by the Registrar or Deputy Registrar of the Court.

(3) Where, upon receipt of a certified copy of an order, declaration or certificate under sub-rule (1), the Registrar considers it appropriate that the register should be rectified or corrected, he shall rectify or correct the register accordingly.

Signature of documents by partnership, etc.

112. A document signed for or on behalf of

- (a) a firm shall be signed by a partner or by any other person of the firm who satisfies the Registrar that he is authorised to sign the document;
- (b) a body corporate shall be signed by a director, secretary or other principal officer of the body corporate or by any other person who satisfies the Registrar that he is authorised to sign the document;

- (c) an unincorporated body or association of persons other than a firm shall be signed by a director, manager, secretary or other similar officer of the body or association, or by any other person who satisfies the Registrar that he is authorised to sign the document.

Translation of documents.

113. (1) Save as otherwise provided in the Act or these Rules, where a document or part of a document that is not in the English language is filed with the Registrar, the document shall be accompanied by a translation of the document or that part of the document into the English language and the translation shall be verified to the satisfaction of the Registrar as corresponding to the original text.

(2) For the purposes of sub-rule (1), a translation may be verified to the satisfaction of the Registrar by

- (a) a statutory declaration or an affidavit and, for this purpose, rule 71 shall apply;
- (b) seeking the opinion of any person or authority who, in the opinion of the Registrar, has the knowledge and competence to compare the original document with the translated version to verify the accuracy of the translation; or
- (c) by such other means as appears satisfactory to the Registrar.

(3) The Registrar may, in respect of any document or part of a document to be used for the purposes of evidence in proceedings before the Registrar which is in a language other than the English language, give directions as to the filing of

- (a) the document or that part of the document in that other language; and
- (b) a translation of the document or that part of the document into the English language.

(4) Where a person is required by the Act or these Rules to provide his name on a document filed with the Registrar and his name is not in the English alphabet, the person shall provide a transliteration of the name in the English alphabet.

(4) In the case of an application for the registration of a trade mark that consists of or contains a word, letter or character that is not in the English alphabet, the application shall, subject to sub-rule (8), include a translation or transliteration of that word, letter or character to the satisfaction of the Registrar.

(5) Where, for the purposes of sub-rule (5), an application includes a translation or transliteration of a word, letter or character, the application shall also state the language to which the word, letter or character belongs.

(6) Where in any particular case a word, letter or character in an application for the registration of a trade mark is in a language other than the English language and is incapable of translation or transliteration into the English language, the Registrar may, if the application conforms to all other requirements for registration, accept the trade mark for registration if the applicant provides a statutory declaration or an affidavit in accordance with rule 71

- (a) attesting to the language in which the word, letter or character belongs;
- (b) attesting that the word, letter or character is incapable of translation or transliteration into the English language; and
- (c) confirming that the word, letter or character
 - (i) is not offensive and is not of a nature that would satisfy a ground for refusal of registration under section 17 of the Act;
 - (ii) does not represent a word, letter or character of a known existing trade mark as could be passed off for that existing trade mark; and
 - (iii) is not contrary to any provision of the Act and these Rules.

(7) The Registrar may give directions specifying the periods within which translations or transliterations of documents or parts of documents are to be provided by a party to proceedings before the Registrar.

Pending applications for registration.

114. (1) Where an application for the registration of a trade mark under the repealed Act is advertised in accordance with section 9 of that Act on or after the commencement date,

- (a) the period within which a notice of opposition may be filed is the one-month period beginning on the date of the advertisement; and
- (b) if the notice of opposition is filed, the applicant shall file the counter-statement within one month after the date of receipt by the applicant of the copy of the notice of opposition.

(2) The Registrar may, on a request filed by

Schedule

- (a) a person in Form TM24 of the Schedule within the time specified in sub-rule (1) (a), extend the time for filing a notice of opposition for a period not exceeding three months; and

Schedule

- (b) the applicant in Form TM24 of the Schedule within the time specified in sub-rule (1) (b), extend the time for filing the counter-statement for

a period not exceeding two months.

Conversion of pending application. Schedule

115. Where an applicant wishes to give notice to the Registrar pursuant to paragraph 10 (1) of Schedule 4 of the Act to have the registrability of a trade mark determined in accordance with the Act, the notice shall be filed in Form TM25 of the Schedule to these Rules.

Payment of fees as a precondition to doing anything. S.I. No. of 2014

116. (1) Any matter to be carried out or in any way to be dealt with under these Rules which requires the payment of a fee under the Financial Services (Trade Marks) Regulations, 2014 shall not be processed unless the Registrar is satisfied that the applicable fee has been paid.

Preparing and issuing guidelines. Schedule

117. (1) The Registrar may, for the purpose of ensuring

- (a) the proper completion of any of the Forms in the Schedule,
- (b) the security and restricted use of personal data,
- (c) that evidence or data not required by these Rules are not filed,
- (d) the timely processing of applications, notices, requests and other matters under these Rules, and
- (e) the protection of any material which may be filed with the Registry,

prepare and issue such written guidelines as he considers to be appropriate.

(2) Any guidelines prepared under sub-rule (1) may be issued along with a relevant Form or issued separately and in such manner as the Registrar may determine.

Revocation. S.I.18 of 1937 S.I.1 of 1947

118. The Trade Marks Rules, 1937 and Registration of United Kingdom Trade Marks Rules, 1947 are revoked.

SCHEDULE

FORM TM1

[Rules 6(1), 30 (1) & 97 (2) (a)]

APPLICATION FOR THE REGISTRATION OF A TRADE MARK, INCLUDING A DEFENSIVE TRADE MARK, CERTIFICATION TRADE MARK AND COLLECTIVE TRADE MARK

Notes to person filling this Form:

Before filling this Form, please read rule 113 of the Trade Marks Rules in relation to the translation and transliteration of documents not in the English language. Accordingly, if your name is in an alphabet, or a letter or character other than in the English alphabet, you are required to provide a translation of your name into the English alphabet. This applies whether you're applying as an individual, a firm, a legal entity or an unincorporated body. However, if you claim that your name is incapable of translation or transliteration, you must fully comply with the requirements of rule 113 (7) of the Trade Marks Rules, 2014.

If you wish to claim a right of priority pursuant to the Trade Marks Act, 2013 and the Trade Marks Rules, 2014, you must state that claim. Please note that you may claim multiple priority dates with respect to different goods and/or services and in relation to different countries, territories or other geographical areas.

Goods and services are classified in accordance with the Nice Classification. You may obtain a copy of the Nice Classification via the internet site of the World Intellectual Property Organisation or the website of the Financial Services Commission at www.bvifsc.vg.

You must fully complete Part A of the Form. In addition, you must fill Part B if your application relates to a defensive trade mark, certification trade mark or collective trade mark, or if you claim a 3-dimensional shape or colour as a trade mark or an element of a trade mark, or if you wish to include a disclaimer, territorial limitation, or other condition or limitation. In addition, if you claim colour(s) as a trade mark or as element(s) of a trade mark, you must ensure that the representation of your trade mark is in the colour(s) for which the claim is made.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

If your application relates to a certification trade mark or collective trade mark, you must ensure compliance with paragraphs 6 and 7 of Schedule 1 or paragraphs 5 and 6, as the case may be, of the Trade Marks Act, 2013 and rules 31 and 32 of the Trade Marks Rules, 2014.

If your application relates to a defensive trade mark, you must file the requisite statutory declaration or affidavit in accordance with rule 30 (1) of the Trade Marks Rules, 2014.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

PART A

1. Name of applicant making request for registration of a trade mark.

.....

2. Address of applicant making request for registration of a trade mark.

.....

3. Name of trade mark agent acting for applicant

.....

4. Address of trade mark agent acting for applicant

.....

5. Prior to submitting this application, did you seek the opinion of the Registrar under section 98 of the Trade Marks Act, 2013 in accordance with rule 95 of the Trade Marks Rules, 2014? *(Please place a mark (X) in the applicable box opposite your answer)*

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO

If you answered “YES”, please indicate:

(a) the date the opinion was sought
(dd/mm/yyyy)

(b) the date the opinion was received
(dd/mm/yyyy)

(c) whether the opinion is pending

6. In relation to the trade mark for which registration is sought, does it consist of or contain a word, letter or character that is not in the English alphabet? *(Please place a mark (X) in the applicable box opposite your answer)*

	YES
	NO

If you answered “YES”, please provide the following:

- (a) The non-English word, letter or character:

- (b) Translation provided:

- (c) Transliteration provided:

- (d) Language in which the word, letter or character is depicted:

7. Insert a representation of your trade mark in the space provided below:



8. Does the request relate to a series of trade marks? *(Please place a mark (X) opposite the applicable answer)*

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO

If you answered “YES”, please indicate below the number of trade marks in the series (not exceeding 6):

.....
(dd/mm/yyyy)

9. Do you claim priority in relation to your trade mark?

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO

If you answered “YES”, please provide particulars of the claim below:

(a) Priority date(s) claimed (*dd/mm/yyyy*)

(b) Country/Territory/ Other geographical area

(c) Application number(s) (if known)

10. Goods and/or services covered by this application (*please list the class number(s) in consecutive numerical order and the goods or services that are appropriate to that class*):

Class Number(s)	Specification of goods and/or services
Total number of class(es)	

11. Declaration of use of the trade mark (*please confirm by placing a mark (X) in the box below after the declaration*):

The trade mark is being used by the applicant or with his consent in relation to the goods and/or services indicated in paragraph 10 above, OR the applicant honestly intends to use the trade mark or allow the trade mark to be used in relation to those goods and/or services.

12. Address for service in the Virgin Islands:

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

13. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

PART B

Note: *You must fill this Part if your request relates to an application for a defensive trade mark, certification trade mark or collective trade mark, or a sound or smell trade mark, or if you claim a 3-dimensional shape or colour(s) as a trade mark or element(s) of a trade mark, or if you wish to include a disclaimer, territorial limitation or other condition or limitation.*

14. This request relates to (please place a mark (X) opposite the applicable trade mark):

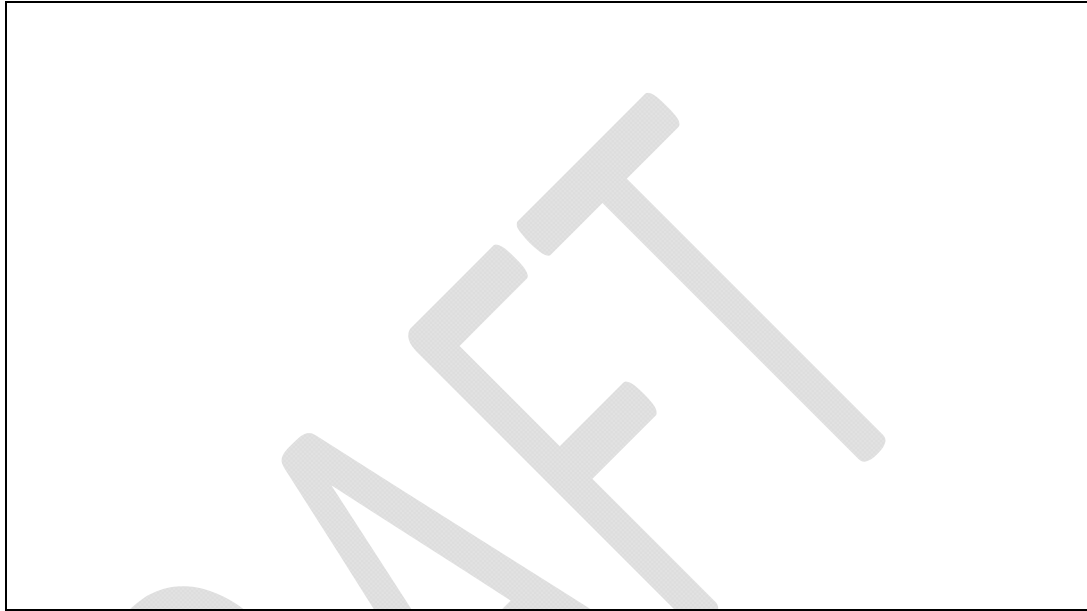
	Defensive trade mark
	Certification trade mark
	Collective trade mark

15. This request relates to (please place a mark (X) opposite the relevant nature of trade mark):

	3-Dimensional shape
	Colour
	Sound

	Smell
--	--------------

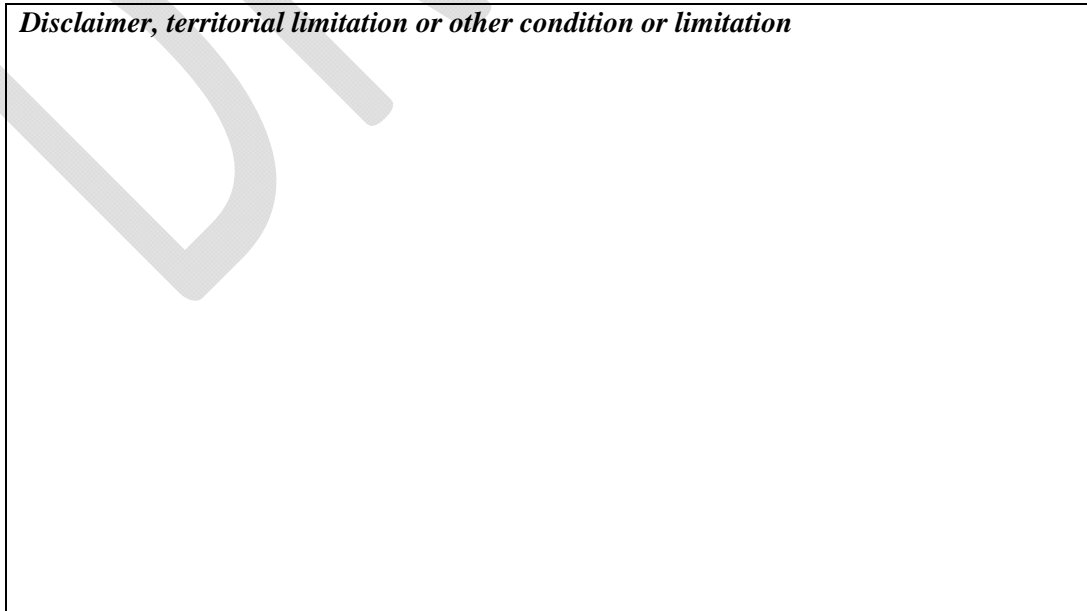
16. If you are claiming colour(s) or 3-dimensional shape as a trade mark or an element of a trade mark, or if the trade mark consists wholly or in part of a sound or smell, please provide a statement of that fact and a description of the trade mark in the box below:



17. Notice of Disclaimer:

If you wish to disclaim the right to the exclusive use of any part of your trade mark or to limit your use of the trade mark, please provide details thereof in the box below:

Disclaimer, territorial limitation or other condition or limitation



18. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (please do not fill this part)

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

FORM TM2

[Rule 15 (2)]

REQUEST TO AMEND APPLICATION FOR REGISTRATION

Notes to person filling this Form:

In making a request to amend an application, it should be noted that a separate Form should be used for each separate application that is affected. However, a single Form may be filed for multiple requests in relation to the same application (for instance, with respect to a request for the amendment of a specification and withdrawal of a claim to right of priority).

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of applicant making request for amendment of application of trade mark

- (b) Address of applicant making request for amendment of application of a trade mark

2. (a) Name of trade mark agent acting for applicant

- (b) Address of trade mark agent acting for applicant

3. Please indicate the trade mark application number to which this request relates

--

4. Name of applicant for registration of trade mark (if different from paragraph 1 above)

--

5. Details of the particulars to be amended:

(a) ***Class number(s) and/or specification of goods and/or services:***

List the class number(s) in consecutive numerical order and the goods or services appropriate to that class.

<u>Class No(s):</u>	<u>Specification of goods and/or services under the Nice Classification:</u>

(b) ***If the proposed amendment involves correcting the class number(s) for any goods or services covered by the original application and the correct class number(s) is/are not covered by the original application, please provide the following information*** (for instance, if the original application relates to a class 9 specification covering “computers, computer software, computerized toys, printers, computer manuals”, the applicant may correct the class number(s) by adding class 16 (for computer manuals) and class 28 (for computerized toys). The resulting classes would be 9, 16 and 28. Accordingly, the total number of

“class(es) added” and “class No(s). added will be “2”, and “16 and “28” respectively.):

(i) Total number of class(es) added:

(ii) Class No(s). added:

(c) Addition of the following disclaimer, territorial limitation or other condition or limitation:

(d) Withdrawal of a claim to a right to priority:

(e) Amendment for the purpose of correcting errors of wording or of copying or obvious mistakes:

6. Address for service in the Virgin Islands

(a) Name:

(b) Address:

(c) Your reference:

(d) Telephone No.:

(e) Facsimile No.:

(f) Email address:

7. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

(a) Number of sheets used:

(b) Sequential numbers of the sheets:

8. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

(a) Signature:

(b) Name & Official Capacity of Signatory:

(c) Date:
 (dd/mm/yyyy)

For Official Use Only (please do not fill this part)

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

FORM TM3

[Rules 15 (2) and 29 (1)]

REQUEST TO AMEND REPRESENTATION OF TRADE MARK

REQUEST TO DELETE TRADE MARK IN SERIES

Notes to person filling this Form:

If you intend to amend the representation of a trade mark in respect of which an application for registration has been made, you must note the provisions of section 49 of the Act and Part II of these Rules.

A representation of a registered trade mark may be added to the trade mark of an application for registration if

- (a) at the time of filing of this Form, the registered trade mark is registered in the name of the applicant;*
- (b) the goods or services for which the registered trade mark is registered are identical or similar to the goods or services covered by this application; and*
- (c) the date of registration of the registered trade mark is earlier than the date of application for registration of the trade mark in question.*

Where a registered trade mark consists of or contains the owner's name or address, that name or address may be altered if the alteration would not substantially affect the identity of the trade mark in question.

This Form may be used to delete a trade mark from a series of trade marks or from a registered series of trade marks. Please note that if the request in this Form relates to the deletion of a trade mark from a series of trade marks, you must indicate the number of trade marks in the amended series.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of applicant/owner* making request for amendment/deletion* (**please cross out the one that is not applicable*)

- (b) Address of applicant/owner* making request for amendment/deletion* (**please cross out the one that is not applicable*)

2. (a) Name of trade mark agent acting for applicant/owner* (**please cross out the one that is not applicable*)

- (b) Address of trade mark agent acting for applicant/owner* (**please cross out the one that is not applicable*)

3. Please indicate the application number of trade mark

4. Please indicate the registration number of trade mark

5. Insert below a new representation of the trade mark

6. Indicate the number of trade marks in the series (if applicable)

7. Address for service in the Virgin Islands

(a) Name:

(b) Address:

(c) Your reference:

(d) Telephone No.:

(e) Facsimile No.:

(f) Email address:

8. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

(a) Number of sheets used:

(b) Sequential numbers of the sheets:

9. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (please do not fill this part)

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

FORM TM4

[Rule 33 (1)]

**REQUEST TO AMEND REGULATIONS OF CERTIFICATION AND
COLLECTIVE TRADE MARKS**

Notes to person filling this Form:

If you intend to amend the regulations of a certification trade mark or collective trade mark, you must note the provisions of Schedule 1 and Schedule 2 of the Trade Marks Act, 2013 respectively and comply accordingly. For any amendment of regulations to be effective, they must first be filed with and accepted by the Registrar.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of applicant/owner* making request for amendment of regulations*
(*please cross out the one that is not applicable)

- (b) Address of applicant/owner* making request for amendment of regulations*
(*please cross out the one that is not applicable)

2. (a) Name of trade mark agent acting for applicant/owner* (*please cross out the one that is not applicable)

(b) Address of trade mark agent acting for applicant/owner* (**please cross out the one that is not applicable*)

--

3. Indicate the application number of the certification trade mark/collective trade mark* (**please cross out the one that is not applicable*)

--

4. Indicate the registration number of the certification trade mark/collective trade mark* (**please cross out the one that is not applicable*)

--

5. (a) Indicate below the name(s) of the person(s) who is/are authorized to use the certification trade mark/collective trade mark* (**please cross out the one that is not applicable*)

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

(b) Indicate whether the person(s) identified in paragraph (a) above have been notified of the proposed amendment of the regulations by placing a mark (X) in the applicable box below:

	YES
	NO

6. Provide below the amendment(s) proposed:

Regulation Number(s)	Proposed Amendment(s)

7. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

8. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

9. Signature (by applicant/owner/trade mark agent acting for and on behalf of applicant/owner):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

DRAFT

FORM TM5

[Rule 24 (1)]

REQUEST TO DIVIDE APPLICATION FOR REGISTRATION

Notes to person filling this Form:

A request to divide an application for the registration of a trade mark may be at any time before the trade mark is registered. Once a trade mark is registered, it cannot be divided.

It is not acceptable to divide both a specification of goods or services and a series of trade marks on the same Form. If the application relates to the division of a series of trade marks, please fill and file Form TM7. For a division of specification of goods or services, you may choose to divide the classes and specification in a multi-class application or the specification in a single-class application.

You must indicate the proposed number of applications upon division. For instance, if the original application consists of classes 9, 16, 35 and 42 of the Nice Classification and the application is to be divided into two applications – one with classes 9, 16 and 35, and the other with class 42 alone, the number of the divisional application will be 2.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

- 1. (a) Name of applicant making request for division of application of trade mark**

- (b) Address of applicant making request for division of application of trade mark**

2. (a) Name of trade mark agent acting for applicant

(b) Address of trade mark agent acting for applicant

3. Please indicate the trade mark application number(s) to which this request relates

4. Indicate whether this request relates to the division of specification of goods or services, or to a division of a series of trade marks (*in the case of the latter, please fill Form TM12*) by placing a mark (X) opposite the relevant reference:

	Specification of goods or services
	Series of trade marks

5. Indicate the number of divisional applications in this request.

6. Goods and/or services covered by each divisional application (*List the class number(s) in consecutive numerical order and the goods and/or services appropriate to that class*)

Divisional application 1	Class No(s):	Specification of goods and/or services

Divisional application 2	Class No(s):	Specification of goods and/or services
Divisional application 2	Class No(s):	Specification of goods and/or services

6. If you claimed priority in your original application for registration, please indicate the details in respect of each divisional application:

Divisional application 1	Priority date(s) claimed (dd/mm/yyyy)	Country/Territory/Geographical Area	Application No(s). (if known)
Divisional application 2	Priority date(s) claimed (dd/mm/yyyy)	Country/Territory/Geographical Area	Application No(s). (if known)

Divisional application 3	Priority date(s) claimed <i>(dd/mm/yyyy)</i>	Country/Territory/Geographical Area	Application No(s). (if known)

7. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

8. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

9. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

DRAFT

FORM TM6

[Rules 25 (1) and 26 (1)]

REQUEST TO MERGE APPLICATIONS FOR TRADE MARKS

REQUEST TO MERGE SEPARATE APPLICATIONS

Notes to person filling this Form:

Where an applicant has filed separate applications for the registration of a trade mark, he or she may have those applications merged at any time before publication if all the applications satisfy the following requirements:

- (a) they are in respect of the same trade mark;*
- (b) they bear the same filing date;*
- (c) they are, at the time of the request, in the name of the same person; and*
- (d) they have equal protection under the Act.*

Please note that the specification(s) outlined in this Form will be merged. Should you wish to exclude from this process any of your goods or services, you must first effect the change by filing Form TM 2 (request to amend application for registration) prior to filing this Form.

The owner of two or more registrations of a trade mark may effect a filing to merge the registrations into a single registration on the basis that the registrations

- (a) are in the name of the same owner;*
- (b) are in respect of the same trade mark; and*
- (c) have equal protection under the Act.*

It is possible to merge registered trade marks even if the registration dates are different; the new merged registration will be given the latest of those dates of registration.

Please note that registrations cannot be merged with applications for the registration of a trade mark.

It should be further noted that the specification(s) outlined in this Form will be merged; Should you wish to surrender any of your goods or services, you must first effect the change by filing Form TM12 before filing this request.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of applicant/owner* making request for merger of applications or registrations (**please cross out the one that is not applicable*)

--

- (b) Address of applicant/owner* making request for merger of applications or registrations (**please cross out the one that is not applicable*)

--

2. (a) Name of trade mark agent acting for applicant/owner* (**please cross out the one that is not applicable*)

--

- (b) Address of trade mark agent acting for applicant/owner* (**please cross out the one that is not applicable*)

--

3. Please indicate the application numbers to be merged

--	--	--	--	--

4. Please indicate the registration numbers to be merged

--	--	--	--	--

5. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

6. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

7. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

DRAFT

FORM TM7

[Rule 28 (1)]

REQUEST TO DIVIDE A SERIES OF TRADE MARKS

Notes to person filling this Form:

A request to divide an application for the registration of a series of trade mark may be at any time before the trade mark is registered. Once the trade mark is registered, it cannot be divided.

The representation of the trade mark in each divisional application must be included in this Form (use a separate Form TM7 for each divisional application).

It is not acceptable to divide a series of trade marks on the same Form. Each divisional application relating to a division of series of trade marks must be accompanied by a single Form (TM7). For example, if the original application consists of trade marks A, B, C and D in a series and the request relates to a division into two applications – one with trade marks A, B and C and the other with trade mark D alone, you must fill and file two Forms, one containing trade marks A, B and C and the other containing trade mark D.

You must indicate the proposed number of applications upon division.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of applicant making request for division of application of series of trade mark

- (b) Address of applicant making request for division of application of series of trade mark

2. (a) Name of trade mark agent acting for applicant

--

(b) Address of trade mark agent acting for applicant

--

3. Goods and/or services covered by each divisional application (*List the class number(s) in consecutive numerical order and the goods and/or services appropriate to that class*)

Divisional application 1	Class No(s):	Specification of goods and/or services
Divisional application 2	Class No(s):	Specification of goods and/or services
Divisional application 2	Class No(s):	Specification of goods and/or services

4. Indicate the number of the application to be divided

5. Divisional application No.:

Trade mark

A large, empty rectangular box intended for the registration of a trade mark. A large, light gray watermark reading "DRAFT" is diagonally overlaid across the box.

6. Indicate the total number of class(es) applied for in the original application for registration:

7. Insert a representation of the trade mark in the space provided below:

8. If you claimed priority in your original application for registration, please indicate the priority details in respect of each divisional application:

Priority date(s) claimed (dd/mm/yyyy)	Country/Territory/Geographical Area	Application No(s). (if known)
Priority date(s) claimed (dd/mm/yyyy)	Country/Territory/Geographical Area	Application No(s). (if known)
Priority date(s) claimed (dd/mm/yyyy)	Country/Territory/Geographical Area	Application No(s). (if known)

9. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

10. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

11. Signature (by applicant or trade mark agent acting for and on behalf of applicant):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date request filed:	
Time of filing:	
Signature of recipient of filing:	
Approved:	
Not approved:	
Date decision communicated:	
Remarks:	

DRAFT

FORM TM8

[Rules 16 (1), 19 (1), 33 (1), 48 (1), 40 (1)
49 (1), 52 (1), 55 (1), 57 (1), 60 (1),
81 (1), 85 (2), and 86 (2)]

- 1. NOTICE OF OBJECTION/OPPOSITION**
- 2. APPLICATION FOR REVOCATION, DECLARATION OF INVALIDITY, CANCELLATION OR VARIATION OF TRADE MARK REGISTRATION, OR RECTIFICATION OF ERROR OR OMISSION IN THE REGISTER**
- 3. APPLICATION FOR INTERVENTION IN PROCEEDINGS FOR REVOCATION, DECLARATION OF INVALIDITY, CANCELLATION, VARIATION OR RECTIFICATION**

Notes to person filling this Form:

Please note that this notice/application must relate to one trade mark application or registration only. If the notice/application is in relation to more than one trade mark application or registration, you must fill and file a separate notice/application in respect of each trade mark. Please pay careful attention to the relevant provision of the Act or these Rules that apply in respect of the notice/application concerned and comply with the requirements of those provisions.

Every notice of objection/opposition must be filed within the prescribed time frame outlined under the Act or these Rules. If the notice/application falls outside the prescribed time frame and the applicant/owner/other interested party is not entitled to an extension of time, or is entitled to an extension of time but has not been granted such an extension, the notice/application will not be accepted.

Before filling this Form, please read rule 113 of the Trade Marks Rules in relation to the translation and transliteration of documents not in the English language. Accordingly, if the name of the person applying/objecting/opposing is in an alphabet, or a letter or character other than in the English alphabet, this notice/application must contain a translation of the name into the English alphabet. This applies whether one is applying as an individual, a firm, a legal entity or an unincorporated body. However, if any one claim that his or her name is incapable of translation or transliteration, the notice/application must fully comply with the requirements of rule 113 (7) of the Trade Marks Rules, 2014.

It is a requirement that at the same time as this notice/application is filed, a copy thereof must be served on the applicant for registration/owner of registered trade mark at his or her address for service.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a

physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

- 1. (a) Name of person providing notice/application**

- (b) Address of person providing notice/application**

- 2. Indicate the name of the applicant for registration of trade mark/owner of registered trade mark* (*please cross out the one that is not applicable)**

- 3. (a) Name of trade mark agent acting for applicant/owner (if applicable)**

- (b) Address of trade mark agent acting for applicant/owner (if applicable)**

- 4. Indicate the application number to which this notice/application relates**

- 5. Indicate the registration number to which this notice/application relates**

6. (a) Does this notice/application relate to all classes of the application or registration specified? *(Please place a mark (X) opposite the applicable answer)*

	YES
	NO

- (b) If you answered “NO”, please specify the class number(s) covered by this notice/application in the column(s) outlined below:

--	--	--	--	--	--	--	--	--	--	--

7. This notice/application relates to *(please mark one box only)*

(a)

	Objection
	Specify applicable rule

(b)

	Opposition
	Specify applicable rule

(c)

	Revocation on grounds of non-use
<i>(dd/mm/yyyy)</i>	Specify the date from which you wish the revocation to take effect

(d)

	Revocation on grounds other than non-use
<i>(dd/mm/yyyy)</i>	Specify the date from which you wish the revocation to take effect

(e)

	Declaration of invalidity
--	----------------------------------

(f)

	Cancellation
	By owner
	By person other than the owner

(g)

	Variation
	By owner
	By person other than the owner

(h)

	Rectification
	By owner
	By person other than the owner

(i)

	Intervention in proceedings before the Registrar
	Identify the specific proceedings

(j)

	Amendment of certification trade mark
	Amendment of collective trade mark

8. Provide below a statement of the grounds of objection/opposition/revocation/invalidation/cancellation/variation/rectification/state ment of the nature of interest by applicant for intervention* (**please cross out the ones that are not applicable*)

<p style="text-align: center; font-size: 48px; opacity: 0.3; transform: rotate(-30deg);">DRAFT</p>
--

9. Is evidence (if applicable) provided to accompany this notice/application? *(Please place a mark (X) opposite the applicable answer)*

	YES
	NO

10. (a) Has a copy of this application/ notice of objection/notice of opposition* (**please cross out the ones that are not applicable*) been served on the person or persons referred to in the relevant rule? *(Please place a mark (X) opposite the applicable answer)*

	YES
	NO

(b) If you answered YES, please indicate the date of service

<i>(dd/mm/yyyy)</i>

11. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

12. If you have used additional sheets of paper with this notice/application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

13. Signature (by applicant/person objecting or opposing, or trade mark agent acting for and on behalf of such applicant or person):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (please do not fill this part)

Date application/notice filed:	
Time of filing:	
Signature of recipient of filing:	
Remarks:	

FORM TM9

[Rules 20 (1), 50 (1), 53 (1),
56, 58 (3) (c), and 82]

COUNTER-STATEMENT

Notes to person filling this Form:

Please note that separate Forms must be filed if a counter-statement relates to more than one trade mark application or registration. A combined filing in a single Form will not be accepted. Please pay careful attention to the relevant provision of the Act or these Rules that apply in respect of the filing concerned and comply with the requirements of those provisions.

Every counter-statement must be filed within the prescribed time frame outlined under the Act or these Rules. If the filing of the counter-statement falls outside the prescribed time frame and there is no entitlement to an extension of time, or there is an entitlement to an extension of time but no extension has been granted, the filing of this Form will not be accepted by the Registry.

Before filling this Form, please read rule 113 of the Trade Marks Rules in relation to the translation and transliteration of documents not in the English language. Accordingly, if the name of the person applying/objecting/opposing is in an alphabet, or a letter or character other than in the English alphabet, this notice/application must contain a translation of the name into the English alphabet. This applies whether one is applying as an individual, a firm, a legal entity or an unincorporated body. However, if any one claims that his or her name is incapable of translation or transliteration, the notice/application must fully comply with the requirements of rule 113 (7) of the Trade Marks Rules, 2014.

It is a requirement that at the same time as this notice/application is filed, a copy thereof must be served on the applicant for registration/owner of registered trade mark at his or her address for service.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of person filing counter-statement

(b) Address of person filing counter-statement

2. Indicate the name of the applicant for registration of trade mark/owner of registered trade mark* (**please cross out the one that is not applicable*)

3. (a) Name of trade mark agent acting for person filing counter-statement (if applicable)

(b) Address of trade mark agent acting for person filing counter-statement (if applicable)

4. Indicate the application number to which this filing relates

5. Indicate the registration number to which this filing relates

6. Basis of counter-statement (*Please place a mark (X) opposite the applicable answer*)

(a)

	Objection
	Specify applicable rule

(b)

	Opposition
	Specify applicable rule

(c) In relation to:

	Revocation
--	------------

	Invalidity
--	------------

	Cancellation
--	--------------

	Variation
--	-----------

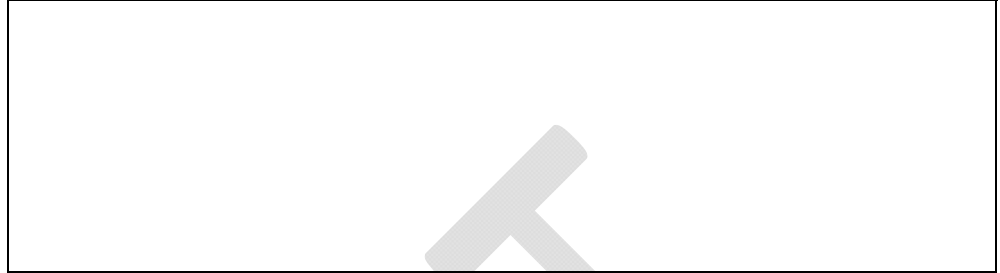
	Rectification
--	---------------

7. (a) Provide below the grounds relied on in support of the counter-statement

A large rectangular box with a thin black border, intended for providing grounds for a counter-statement. The box contains a large, light gray, diagonal watermark that reads "DRAFT".

(b) State the facts in the notice of objection/opposition or application for revocation / declaration of invalidity / cancellation / variation / rectification* (**please delete the ones that are not applicable*) that you

(i) admit;

A large, empty rectangular box with a black border, intended for the user to provide details for the 'admit' option.

(ii) deny, stating reason(s) (and if you intend to put forward an alternative version of events, that version); and

A large, empty rectangular box with a black border, intended for the user to provide details for the 'deny' option. A large, light gray watermark reading 'DRAFT' is overlaid diagonally across the page, passing through this box.

(iii) are unable to admit or deny.

--

8. Is evidence (if applicable) provided to accompany this counter-statement? *(Please place a mark (X) opposite the applicable answer)*

	YES
	NO

9. (a) Has a copy of this counter-statement been served on the person or persons referred to in the relevant rule? *(Please place a mark (X) opposite the applicable answer)*

	YES
	NO

(b) If you answered YES, please indicate the date of service

<i>(dd/mm/yyyy)</i>

10. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

11. If you have used additional sheets of paper with this Form, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

12. Signature (by applicant/person objecting or opposing, or trade mark agent acting for and on behalf of such applicant or person):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date counter-statement filed:	
Time of filing:	
Signature of recipient of filing:	
Remarks:	

FORM TM10

[Rule 36]

NOTICE FOR RENEWAL OF REGISTERED TRADE MARK

1. (a) Name of trade mark owner

(b) Address of trade mark owner

2. (a) Name of trade mark agent for owner of trade mark (if applicable)

(b) Address of trade mark agent for owner of trade mark (if applicable)

3. Trade mark registration number

4. Expiration date of trade mark

5. Fees payable for renewal of trade mark

Amount in figures	Amount in words
<input type="text"/>	<input type="text"/>

6. Please take notice that the registration of the trade mark specified herein will be removed from the register of trade marks when the current period of registration expires on the date stated in paragraph 4 above, unless you take the necessary steps to renew the registration.

7. Address for service (of owner of trade mark) in the Virgin Islands

(a) Name:

(b) Address:

8. Date service effected

(dd/mm/yyyy)

Signed by the Registrar this Day of in the year

Registrar's signature:

Registrar's Seal:

--

For Official Use Only (*please do not fill this part*)

Date Notice issued:	
Time recorded:	
Date Notice communicated:	
Remarks:	

DRAFT

FORM TM10

[Rules 37 (1) and 38 (1) (a)]

- 1. REQUEST FOR RENEWAL OF TRADE MARK REGISTRATION**
- 2. REQUEST FOR RESTORATION AND RENEWAL OF TRADE MARK REGISTRATION**

Notes to person filling this Form:

A request for the renewal of registration of a trade mark must be filed with the Registry before the expiry of the current registration. If the registration expires before a request for renewal is filed, the owner of the trade mark may file a request to restore the registration and accordingly renew that registration. However, restoration may only be done if the request for restoration is filed within a period of six months after the expiration of the registration.

This Form may be used for renewal of registration or for restoration and renewal of registration of a trade mark. A separate Form must be filled and filed for the renewal of each trade mark.

If your address for service has changed, you must provide a new address for service by filing Form TM19 either before or at the same time as the filing of this Form. In that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

- 1. (a) Name of trade mark owner**

- (b) Address of trade mark owner**

- 2. (a) Name of trade mark agent for owner of trade mark**

(b) Address of trade mark agent for owner of trade mark

--

3. Trade mark registration number

--

4. Total number of classes of trade marks covered by this request (*if the request relates only to some of the classes in the registration, you must complete Form TM12 to surrender those classes that are not being renewed*)

--

5. Expiration date of trade mark

(dd/mm/yyyy)

6. This request relates to: (*Please place a mark (X) in the applicable box*)

	Renewal of registration
	Restoration of registration

7. (a) The following renewal fee(s) accompanies this request

Amount in figures	Amount in words
\$	

(b) The following renewal fee and applicable penalty accompany this request (for restoration request only)

Renewal Fee	Amount in figures	Amount in words
\$		
Penalty	Amount in figures	Amount in words
\$		

8. Signature (of owner of trade mark or trade mark agent acting for and on behalf of owner):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (please do not fill this part)

Date request filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM12

[Rule 42 (1)]

NOTICE OF SURRENDER OF REGISTERED TRADE MARK

Notes to person filling this Form:

This Form is to be used for the surrender of all goods or services or some of the goods or services in a single registered trade mark. A separate application must be filed for each registered trade mark.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of trade mark owner

(b) Address of trade mark owner

2. (a) Name of trade mark agent for owner of trade mark

(b) Address of trade mark agent for owner of trade mark

3. Trade mark registration number

4. (a) Indicate the goods and/or services to be surrendered (*please place a mark (X) in the applicable box*):

	All the goods and/or services for which the trade mark is registered are surrendered
	Some of the goods and/or services for which the trade mark is registered are surrendered (details of which are provided below)

- (b) List the class number(s) in consecutive numerical order and the goods or services appropriate to the class:

Class Number(s)	List of goods and/or services to be surrendered

5. If there is any person who has a registered interest or any other right in the trade mark, please provide the details below:

Name(s)	Address(es)

6. Certification (*please place a mark (X) in the applicable box*):

	I/We certify that no person has a registered interest or other right in the trade mark.
	I/We certify that the person(s) with a registered interest or other right in the trade mark has/have been sent notice of the owner's intention to surrender the registration at least three months prior to this Form being filed, or is/are not affected or, if affected, the person(s) consent to the surrender.

7. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

8. If you have used additional sheets of paper with this Form, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

9. Signature (by owner or trade mark agent acting for and on behalf of owner):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
-
-
-
- (c) Date:

(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date Notice filed:	
Time of filing:	
Recipient of filing:	
Remarks:	

DRAFT

FORM TM13

[Rules 61 (1) and 63 (2) (b)]

- 1. APPLICATION OR NOTICE TO REGISTER REGISTRABLE TRANSACTION (OTHER THAN A LICENCE)**
- 2. REQUEST TO AMEND OR REMOVE REGISTERED PARTICULARS OF SECURITY INTEREST**

Notes to person filling this Form:

This form may be used for purposes of filing more than one application and/or registration if they are covered by the same transaction. However, for each registrable transaction, a separate Form must be filled and filed.

It is important to note that a co-owner of a trade mark may not assign his or her share in the trade mark unless he or she has the consent of each other co-owner. Please refer to the Act for details.

The address for service of the new owner of trade mark provided in this Form will effectively substitute the current address for service of the applicant for registration/owner of all the trade marks listed in the Form. Accordingly, all future correspondence and notices on matters relating to these trade marks will be sent to the new address for service. Should you wish to change this address, you must file Form TM 19. The address for service must be a physical address and only such address will be accepted. Similarly, a trade mark agent filing this Form must provide his or her physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

- 1. (a) Name of applicant for registration / owner of registered trade mark / grantor of security interest* (*please cross out the one that is not applicable)**

- (b) Address of applicant for registration / owner of registered trade mark / grantor of security interest* (*please cross out the one that is not applicable)**

2. (a) Name of trade mark agent for applicant for registration / owner of registered trade mark / grantor of security interest* applicant for registration/ owner of registered trade mark / grantor of security interest* (**please cross out the one that is not applicable – if at all applicable*)

- (b) Address of trade mark agent for applicant for registration / owner of registered trade mark / grantor of security interest* applicant for registration/ owner of registered trade mark / grantor of security interest* (**please cross out the one that is not applicable – if at all applicable*)

3. Indicate the application number to which this filing relates

4. Indicate the registration number to which this filing relates

5. In respect of assignment/transfer, assent or order of court or other competent authority, please

- (a) provide the details of the new owner:

Name	Address

- (b) confirm that the new owner is an individual or entity that is legally capable of holding assets in its own name by placing a mark (X) in the following box:

- (c) provide, in the case of an order of a court or competent authority transferring a trade mark or application or transferring any right in or under the trade mark or application, the name of the court or other competent authority:

- (d) provide the date of assignment/transfer or assent or order of court or other competent authority:

(dd/mm/yyyy)

- (e) provide, for partial assignment only, a description of the right transferred if the change of ownership is in respect of a right in or under the application(s) or registration(s):

6. In respect of a security interest, please

- (a) provide the details of the grantee:

Name	Address

(b) indicate, by placing a mark (X) opposite the applicable box, whether this request is for:

	registering particulars of grant of security interest
	amendment of particulars
	removal of particulars

(c) indicate, in the case of a grant of a security interest,

(i) the nature of the interest (whether fixed or floating):

--

(ii) the extent of the security interest:

--

(iii) the right in or under the trade mark (s) or application(s) that is secured:

--

(d) provide, in the case of amendment or removal of any registered particulars relating to a security interest, the details of the amendment or removal:

--

7. (a) Documentary evidence is not required in respect of a registrable transaction outlined in the first column below if the requirement specified in the second column is satisfied (*please place a mark (X) in the applicable box*). Otherwise appropriate documentary evidence must accompany this request.

Assignment	This Form is signed by or on behalf of the assignor	
Assent	This Form is signed by or on behalf of the personal representative making the assent	
Grant of security interest	This Form is signed by or on behalf of the grantor of the security interest	
Amendment of registered particulars of security interest	This Form is signed by or on behalf of both the grantor and the grantee of the security interest	
Order or court or other competent authority	This Form is accompanied by a copy of the order of the court or competent authority	

- (b) If the requirement for the applicable registrable transaction in paragraph (a) above is not satisfied, is this application/notice/request accompanied by appropriate documentary evidence? (*Please place a mark (X) in the applicable box*)

	YES
	NO

8. Signature

- (a) of applicant/owner/personal representative/grantor of security interest* (**please cross out the one that is not applicable*)

--

(b) of registered agent for applicant/owner/personal representative/grantor of security interest* (**please cross out the one that is not applicable*)

(c) date

(dd/mm/yyyy)

9. Signature

(a) of new owner/grantee of security interest* (**please cross out the one that is not applicable*)

(b) of registered agent for new owner/grantee of security interest* (**please cross out the one that is not applicable*)

(c) date

(dd/mm/yyyy)

10. (a) Address for service in the Virgin Islands of new owner/grantee of security interest

- (i) Name:
- (ii) Address:
- (iii) Your reference:
- (iv) Telephone No.:
- (v) Facsimile No.:
- (vi) Email address:

(b) If a new trade mark agent has been appointed, please fill and file Form TM22 separately. If this has been done or is being done along with the filing of this Form, please place a mark (X) in the box below:

11. If you have used additional sheets of paper with this Form, please number them sequentially and state the number of sheets used and attached to this Form:

(a) Number of sheets used:

(b) Sequential numbers of the sheets:

12. Signature (*complete ONLY if this Form is filed by a person other than any of those specified in paragraphs 8 and 9*):

(a) Signature:

(b) Name & Official Capacity of Signatory:

.....

.....

(c) Date:

(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date request/notice filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM14

[Rule 63 (2) (a)]

- 1. APPLICATION OR NOTICE TO REGISTER A LICENCE**
- 2. REQUEST TO AMEND OR REMOVE REGISTERED PARTICULARS OF A LICENCE**

Notes to person filling this Form:

This Form may be used for purposes of a licence between the same parties in relation to one or more trade mark application(s) or registration(s). However, for each licence, a separate Form must be filled and filed.

The relevant address for service as required in this Form must be provided. Should you wish to change this address in due course, you must file Form TM 19. The address for service must be a physical address and only such address will be accepted. Similarly, a trade mark agent filing this Form must provide his or her physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

- 1. (a) Name of applicant for registration / amendment or removal of registered particulars of licence* (*please cross out the one that is not applicable)**

- (b) Address of applicant for registration / amendment or removal of registered particulars of licence* (*please cross out the one that is not applicable)**

- 2. (a) Name of trade mark agent of applicant for registration / amendment or removal of registered particulars of licence* (*please cross out the one that is not applicable)**

- (b) Address of trade mark agent of applicant for registration / amendment or removal of registered particulars of licence* (**please cross out the one that is not applicable*)

--

3. Indicate the application number to which this filing relates

--

4. Indicate the registration number to which this filing relates

--

5. Provide the name and address of the applicant for registration / owner of registered trade mark / grantor of sub-licence* (**please cross out the one that is not applicable*)

Name	Address

6. Provide the name and address of the licensee / sub-licensee* (**please cross out the one that is not applicable*)

Name	Address

7. (a) Indicate what this request relates to (*please place a mark (X) in the applicable box*):

	Registration	
	Removal	
	Amendment	

(b) Details of amendment:

--

8. Provide the particulars of the licence / sub-licence* (**please cross out the one that is not applicable*):

(a) Duration:

- (i) Commencement date:
- (ii) Expiration date (where a fixed period applies):

(b) Is the licence / sub-licence exclusive? (*Please place a mark (X) in the applicable box*)

	YES
	NO

(c) (i) Is the licence / sub-licence in respect of all goods or services? (*Please place a mark (X) in the applicable box*)

	YES
	NO

- (ii) If you answered “NO”, please outline below the specific goods and/or services covered by the licence / sub-licence:

Class Number(s)	Specification of goods and/or services

- (d) If there are other limitations to which this licence / sub-licence is subject, please outline them below:

--

9. (a) Documentary evidence is not required in respect of a request outlined in the first column below if the requirement specified in the second column is satisfied (*please place a mark (X) in the applicable box*). Otherwise appropriate documentary evidence must accompany this request.

Registration of a licence	The request is signed by or on behalf of the grantor of the licence	
Removal of a licence	The request is signed by or on behalf of the grantee of the licence	
Amendment of a licence	The request is signed by or on behalf of both the grantor and grantee of the licence	

- (b) If the requirement in respect of a request in paragraph (a) above is not satisfied, is this request accompanied by appropriate documentary evidence? (*Please place a mark (X) in the applicable box*)

	YES
	NO

10. Signature

- (a) of applicant for registration/owner of registered trade mark/grantor of sub-licence* (**please cross out the one that is not applicable*)

- (b) of registered agent of applicant for registration/owner of registered trade mark/grantor of sub-licence* (**please cross out the one that is not applicable*)

- (c) date

(dd/mm/yyyy)

11. Signature

- (a) of licensee/sub-licencee* (**please cross out the one that is not applicable*)

- (b) of registered agent for licensee/sub-licencee* (**please cross out the one that is not applicable*)

- (c) date

(dd/mm/yyyy)

12. (a) Address for service in the Virgin Islands of applicant for registration/owner of registered trade mark/grantor of sub-licence* (**please cross out the one that is not applicable*)

- (i) Name:
- (ii) Address:
- (iii) Your reference:
- (iv) Telephone No.:
- (v) Facsimile No.:
- (vi) Email address:

(b) Address for service in the Virgin Islands of licensee/sub-licensee* (**please cross out the one that is not applicable*)

- (i) Name:
- (ii) Address:
- (iii) Your reference:
- (iv) Telephone No.:
- (v) Facsimile No.:
- (vi) Email address:

(c) If a new trade mark agent has been appointed, please fill and file Form TM22 separately. If this has been done or is being done along with the filing of this Form, please place a mark (X) in the box below:

13. If you have used additional sheets of paper with this Form, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

14. Signature (*complete ONLY if this Form is filed by a person other than any of those specified in paragraphs 10 and 11*):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:.....
.....
.....
- (c) Date:
(*dd/mm/yyyy*)

For Official Use Only (*please do not fill this part*)

Date request/notice/application filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM15

[Rule 64 (1) (a)]

NOTICE TO MAKE REPRESENTATION

In the Matter of Trade Mark Application/Registration No. ... of

1. (a) Name of party notice directed to

- (b) Address of party notice directed to

2. (a) Name of trade mark agent of party (if applicable)

- (b) Address of trade mark agent of party (if applicable)

3. *Please take notice that by virtue of section 105 of the Trade Marks Act, 2013 (Act No. of 2013), you are entitled to make such representations to the Registrar in relation to the above Matter before the Registrar takes a decision thereon. If you wish to make any representations, you may do so by filing Form TM15 within one month after the date indicated in this Notice. Please note that a representation may be in writing addressed to the Registrar, a written request to be heard in person before the Registrar, or both.*

Please take further notice that if you fail to respond to this Notice within the specified period or give an indication that you do not wish to make a representation, the Registrar shall conduct the proceedings in relation to the Matter concerned and give his/her decision which shall be final.

4. Date of service of this Notice

(dd/mm/yyyy)

5. Signed by the Registrar this day of in the year

Registrar's signature:

Registrar's Seal:

--

For Official Use Only (please do not fill this part)

Date Notice issued:	
Time recorded:	
Person receiving Notice:	
Remarks:	

FORM TM16

[Rule 64 (1) (b)]

REQUEST FOR HEARING BEFORE THE REGISTRAR

In the Matter of Trade Mark Application/Registration No. ... of

To the Registrar

1. (a) Name of party filing this request

- (b) Address of party filing this request

2. (a) Name of trade mark agent of party (if applicable)

- (b) Address of trade mark agent of party (if applicable)

3. Please place a mark (X) in the appropriate box below

<input type="checkbox"/>	I/We would like to make a representation in the above stated Matter
<input type="checkbox"/>	I/We have no intention of making a representation in the above stated Matter

4. (a) If you would like to make a representation, please state the nature of representation(s) *(please place a mark (X) in the appropriate box)*:

	Written representation
	Appearance in person before the Registrar
	Written representation and appearance before the Registrar

- (b) If you opt for written representation(s) (whether with or without an appearance before the Registrar), please indicate the representation(s) in the box below:

5. It is important that a copy of this request be served on all the parties interested in the Matter of the application or registration concerned.
 Has a copy of this request been served on all interested parties? *(Please place a mark (X) opposite the applicable answer)*

YES	
-----	--

NO	
----	--

If you answered YES, please indicate the date of service

<i>(dd/mm/yyyy)</i>

6. (a) If you opt to appear in person before the Registrar, please indicate whether you will be represented by a legal practitioner or some other person by placing a mark (X) in the appropriate box below.

	I/We will be represented by a legal practitioner
	I/We will be represented by a person other than a legal practitioner

- (b) Please indicate the name and address of the legal practitioner/other person in the appropriate box below:

Name of legal practitioner	Address of legal practitioner
Name of other person	Address of other person

- (c) Indicate the number of legal practitioners/other persons appearing:

7. (a) Will you be calling any witness(es)? *Please place a mark (X) in the box opposite the applicable answer)*

	YES
	NO

- (b) If you answered “YES”, please indicate the number of witnesses you expect to call:

8. (a) Will all your witnesses be testifying or giving evidence in the English language?
Please place a mark (X) in the box opposite the applicable answer)

	YES
	NO

- (b) If you answered “NO”, please indicate below the language in which the witness(es) is/are expected to testify:

- (c) In relation to paragraph (b) above, will you be making arrangements for an interpreter? *(Please note rule 69 of the Trade Marks Rules, 2014 and place a mark (X) in the box opposite the applicable answer)*

	YES
	NO

9. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

10. If you have used additional sheets of paper with this Form, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

11. Signature:

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date notice filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM17

[Rule 64 (3) (a) (ii) and (b) (ii)]

NOTICE OF HEARING BY REGISTRAR

In the Matter of Trade Mark Application/Registration No. ... of

1. (a) Name of party notice directed to

- (b) Address of party notice directed to

2. (a) Name of trade mark agent of party (if applicable)

- (b) Address of trade mark agent of party (if applicable)

3. ***Please take notice that the Registrar has received a request/decided on his or her own initiative* (please cross out the one that is not applicable) to hold a hearing in the above stated Matter as follows:***

Date of hearing	(dd/mm/yyyy)
Time of hearing	
Place of hearing	

4. If you intend to appear at the hearing before the Registrar you are required to so notify the Registrar in writing within fourteen days after the date of service of this Notice. If you fail to notify the Registrar within the specified period, you shall be treated as not intending to appear at the hearing and the Registrar shall proceed accordingly without you.

5. Date of service of this Notice

(dd/mm/yyyy)

6. Signed by the Registrar this day of in the year

Registrar's signature:

Registrar's Seal:

--

For Official Use Only (please do not fill this part)

Date Notice issued:	
Time recorded:	
Person receiving Notice:	
Remarks:	

FORM TM18

[Rule 80 (2) (a)]

REQUEST FOR A STATEMENT OF REASONS

In the Matter of Trade Mark Decision Application/Registration No. ... of

To the Registrar

Notes to person filling this Form

Following a decision in any proceedings before him/her, the Registrar is required to send to each of the parties to the proceedings a notice advising of his/her decision and providing a statement of the reasons for his/her decision. In the event, however, that the reasons for the Registrar's decision are not included in the notice, any party to the proceedings concerned may file this Form requesting a statement of the reasons for the decision.

A request made pursuant to this Form must be filed within a period of one month after the date of the Registrar's decision. Please note that the Registrar's decision is deemed to have been made on the date on which he/she sent the parties a notice advising of his/her decision. However, where a request for reasons has been requested, the Registrar's decision is deemed to have been made on the date on which the statement of reasons was sent.

A copy of this request must be sent to all parties to the proceedings.

1. (a) Name of party filing this request

(b) Address of party filing this request

2. (a) Name of trade mark agent of party (if applicable)

(b) Address of trade mark agent of party (if applicable)

--

3. Trade mark application/registration number to which this request relates

--

4. Date of Registrar's decision

<i>(dd/mm/yyyy)</i>

5. (a) Has a copy of this request been sent to each of the parties to the proceedings?
(Please place a mark (X) in the appropriate box)

	YES
	NO

(b) If you answered "YES", please indicate the date the request was sent

<i>(dd/mm/yyyy)</i>

(c) Provide the names of the parties to whom the request has been sent

1.	
2.	
3.	
4.	
5.	
6.	

7.	
8.	
9.	
10.	

6. This request is for a statement of the reasons for the Registrar's decision in the above stated Matter. *(Please place a mark (X) in the appropriate box)*

	YES
	NO

7. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

8. Signature:

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
-
-
-
- (c) Date:
- (dd/mm/yyyy)*

For Official Use Only *(please do not fill this part)*

Date request filed:	
Time filed:	
Signature of recipient of filing:	
Date reason(s) given:	
Date reason(s) communicated	

DRAFT

FORM TM19

[Rules 84 (1) and 98 (1)]

REQUEST FOR CHANGE OF NAME, ADDRESS, ADDRESS FOR SERVICE OR TRADE MARK AGENT'S ADDRESS

Notes to person filling this Form

This Form may be filed in respect of multiple applications and/or registrations relating to the change of the same details by the same applicant for registration, or by the owner of a registered trade mark, or by a licensee or trade mark agent or other person who has an interest in the trade mark.

The address for service provided in this Form will effectively substitute the current address for service of the applicant/owner of all the trade marks listed in the Form, including the trade mark agent and other relevant person. Accordingly, all future correspondence and notices on matters relating to any trade marks will be sent to the new address for service. The address for service must be a physical address and only such address will be accepted. Similarly, a trade mark agent filing this Form must provide his or her physical address in the Virgin Islands.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of person filing this request

- (b) Address of person filing this request

2. (a) Name of trade mark agent of person filing this request (if applicable)

(b) Address of trade mark agent of person filing this request (if applicable)

--

3. Indicate below the trade mark application number(s) to be affected by the proposed change

--	--	--	--	--

4. Indicate below the trade mark registration number(s) to be affected by the proposed change

--	--	--	--	--

5. Provide below the name on the register that is sought to be changed

--

6. Provide the details of the change that is sought in the box provided below:

(a) Change of current name on the register to:

--

(b) Is the person named in paragraph (a) the same person before and after the change of name? *(Please place a mark (X) opposite the applicable answer in the box below)*

	YES
	NO

(c) Change of current address on the register to:

--

(d) Change of address for service to:

Name	
Address	

(e) Change of trade mark agent's address to:

--

7. If the change requested relates to an applicant, owner of a registered trade mark or licensee, indicate below the reasons for and evidence in support of the request (*if necessary separate evidence may accompany this Form*):

--

8. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

9. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

10. Signature (person filing this request):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:
(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date request filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

DRAFT

FORM TM20

[Rule 93]

REQUEST FOR CERTIFIED/UNCERTIFIED COPY OR EXTRACT

To the Registrar

Notes to person filling this Form

A certificate signed by the Registrar certifying a matter under the Trade Marks Act, 2013 or the Trade Marks Rules, 2014 constitutes prima facie evidence of the matter so certified. It is therefore important that a request for a certified copy of a matter sets out clearly the details of the request as provided in this Form.

A single request may be made in this Form for multiple copies or extracts of documents or entries in a register. Once the request is filed, it cannot be amended to include additional matters; a separate Form must be filled and filed in respect of the additional matters required.

1. (a) Name of person filing this request

- (b) Address of person filing this request

2. (a) Name of trade mark agent of person filing this request (if applicable)

- (b) Address of trade mark agent of person filing this request (if applicable)

3. Indicate what specifically the request relates to by filling the relevant details below:

(a) Documents requested:

(i) Application:

Application Number(s)	Number of Copies	Number of Certified Copies

(ii) Registration:

Registration Number(s)	Number of Copies	Number of Certified Copies

(b) Copy of extract from the register:

(i) Application:

Application Number(s)	Specify the Extract(s) Requested	Number of Copies	Number of Certified Copies

(ii) Registration:

Registration Number(s)	Specify the Extract(s) Requested	Number of Copies	Number of Certified Copies

(c) Copy of an application for registration:

State Application number(s)	Number of copies	Number of certified copies

(d) Certificate Issued by the Registrar Pursuant to Section 101 (2) of the Trade Marks Act, 2013:

(i) Application:

Application Number(s)	Specify Details of Request	Number of Certificates Requested

(ii) Registration:

Registration Number(s)	Specify Details of Request	Number of Certificates Requested

4. Address to which requested information should be sent:

- (a) Name:
- (b) Address:
- (c) Telephone No.:
- (d) Facsimile No.:
- (e) Email address:

5. If you have used additional sheets of paper with this request, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

6. Signature (person filing this request):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
.....
.....
- (c) Date:

(dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date application filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

DRAFT

FORM TM21

[Rules 95 (2) (a) and 96 (1)]

- 1. REQUEST FOR SEARCH OF RECORDS**
- 2. REQUEST FOR REGISTRAR'S OPINION**

To the Registrar

Notes to person filling this Form

A person who wishes the Registrar to cause a search in respect of goods or services or to provide preliminary advice in relation to the registrability of a proposed trade mark should provide the necessary details in this Form. In order to facilitate a search or the provision of opinion, it is important that details provided are as clear and specific as possible.

- 1. (a) Name of person filing this request**

- (b) Address of person filing this request**

- 2. (a) Name of trade mark agent of person filing this request (if applicable)**

- (b) Address of trade mark agent of person filing this request (if applicable)**

3. This request relates to *(please place a mark (X) in the appropriate box that relates to the request)*

	Search of records
	Registrar's opinion on registrability

4. Trade mark to which request relates:

- (a) Place a representation of the trade mark concerned in the box below:



- (b) If the request relates to a series of trade marks, please indicate the number of trade marks in the series (being not more than six) in the box below:

5. (a) In respect of a 3-dimensional shape, colour, sound or smell (if applicable), please place a mark (X) in the appropriate applicable box below:

	3-Dimensional shape
	Colour
	Sound
	Smell

- (b) If a 3-dimensional shape or colour(s) is/are claimed as a trade mark or as an element of the trade mark, or if the trade mark consists wholly or partly of a sound or smell, please provide a statement of that fact and a description of the trade mark in the box below:

--

6. If the trade mark consists of or contains a word, letter or character that is not in the English language, please provide the transliteration and/or translation of the word, letter or character in the appropriate boxes below:

Non-English word, letter or character	
Language	
Transliteration	
Translation	

7. In respect of goods and/or services covered by this request, please list the class number(s) in consecutive numerical order and the goods and/or services appropriate to the class:

Class number(s)	Specification of goods and/or services

8. Address to which requested information should be sent:

- (a) Name:
- (b) Address:
- (c) Telephone No.:
- (d) Facsimile No.:
- (e) Email address:

9. If you have used additional sheets of paper with this request, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

10. Signature (person filing this request):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date application filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM22

[Rule 105 (1)]

**APPLICATION FOR APPROVAL AS REGISTERED TRADE
MARK AGENT**

To the Financial Services Commission

Notes to person filling this Form

Before filling this Form, please ensure that you have read and understood the requirements and functions relative to the office of a registered trade mark agent. Your application will be assessed against the requirements outlined in sections 33 – 35 of the Trade Marks Act, 2013.

The fitness and propriety of an applicant will be assessed against the provisions of Schedule 1A of the Regulatory Code, 2009. A copy of the Code may be accessed on the Internet site of the Financial Services Commission at www.bvifsc.vg.

The question regarding whether an applicant has an appreciable knowledge of trade mark law or is competent to perform the duties of a trade mark agent is a matter to be determined by the Financial Services Commission at its sole discretion.

Please note that a trade mark agent may be an individual, a partnership or a legal person. Your application must clearly outline the capacity in which you wish to be approved.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted. Similarly, the trade mark agent filing this Form must provide his physical address in the BVI.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used. Other accompanying documents, such as certificates of qualification, must be similarly numbered.

1. (a) Name of applicant for approval

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(b) Address of applicant for approval

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2. Indicate the capacity in which approval is sought by placing a mark (X) in the appropriate box below:

	Individual <i>(if trading as sole proprietorship, please provide trade name as well)</i>
	Partnership <i>(please provide partnership name)</i>
	Company <i>(please provide company name)</i>

3. (a) If the applicant is a partnership, please place a mark (X) in the box below:

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(b) If the applicant is a company, please place a mark (X) in the appropriate box below that applies:

	The company is licensed by the Financial Services Commission as a registered agent under the Banks and Trust Companies Act, 1990
	The company is incorporated/continued as a company under the BVI Business Companies Act, 2004 to perform functions of trade mark agent

4. If the application is in relation to a partnership or a company, please provide in the box below the name of at least one individual within the partnership or company, as the case may, who meets the fitness and propriety qualification in accordance with Schedule 1A of the Regulatory Code, 2009 and any required additional qualification:

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5. Evidence must be provided of the qualifications of the individual who is fit and proper and has an appreciable knowledge of trade mark law. Is this application accompanied by evidence of the individual's qualifications? *(Please place a mark (X) opposite the applicable box below)*

	YES
	NO

6. Address for service:

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

7. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

8. Signature (person filing this application):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date application filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM23

[Rule 107 (1)]

**REQUEST FOR CANCELLATION OR REVOCATION OF
APPROVAL AS TRADE MARK AGENT**

To the Financial Services Commission

Notes to person filling this Form

A person who has been approved by the Financial Services Commission as a registered trade mark agent may at any time after such approval request that his or her approval be cancelled or revoked by filing this Form. The application must state the reason(s) for the request.

It should be noted that the Commission may on its own motion suspend, cancel or revoke the approval of a registered trade mark agent and shall, in such circumstance, provide reason(s) for its decision.

You must indicate the date on which you wish the cancellation/revocation of your approval to take effect. If you do not specify a date, then cancellation/revocation of your approval will take effect from the date the cancellation/revocation is approved.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2014. The address for service must be a physical address and only such address will be accepted.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of registered trade mark agent

- (b) Address of trade mark agent

2. Indicate your trade mark agent registration number in the box below:

3. Indicate what this application relates to by placing a mark (X) in the appropriate box below:

	Cancellation
	Revocation

4. Provide the reason(s) for the application in the box below:

5. If you wish the cancellation/revocation to take effect from a particular date, please indicate the date in the box below:

(dd/mm/yyyy)

7. If your address for service has changed in relation to this application, please indicate where a response may be sent to:

- (a) Name:
- (b) Address:
- (c) Telephone No.:
- (d) Facsimile No.:
- (e) Email address:

7. Signature (person filing this application):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date application filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

FORM TM24

[Rules 88 (1) and 114 (2)]

REQUEST FOR EXTENSION OF TIME

Notes to person filling this Form

A request made in this Form must relate to a single trade mark application for registration at the time of or after the commencement of the Trade Marks Act, 2013. The request would effectively relate to an application for registration under the repealed Act and with respect to an opposition or counter-statement thereunder.

It should be noted that an extension of time in relation to a notice of opposition cannot exceed three months; the maximum period of extension in relation to a notice of counter-statement is two months. A request must therefore be very specific as to the period of extension required. However, the decision as regards what period of extension (if any) is to be granted is that of the Registrar acting in his or her own discretion.

Every request for an extension of time must be notified to each party to the proceedings. Failure to do so may delay the processing of a request for extension of time.

Unless the filing of this Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used.

1. (a) Name of party filing this request

(b) Address of party filing this request

2. (a) Name of trade mark agent of party (if applicable)

(b) Address of trade mark agent of party (if applicable)

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3. Indicate in the relevant box below the number of the application/registration of the trade mark concerned:

Application Number	
Registration Number	

4. Indicate what this request relates to by placing a mark (X) in the applicable box below:

	Application for registration
	Opposition
	Counter-statement
	Other proceedings (please specify)

5. Indicate in the box below the provision(s) pursuant to which this request is filed:

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6. Indicate in the box below the period of extension requested:

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7. Indicate in the box below your reason(s) for requesting an extension of time:

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8. Have you given notice to every person who is a party to the proceedings? *(Please place a mark (X) in the box opposite to your answer)*

	YES
	NO

9. Address for service in the Virgin Islands

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

10. If you have used additional sheets of paper with this application, please number them sequentially and state the number of sheets used and attached to this Form:

- (a) Number of sheets used:
- (b) Sequential numbers of the sheets:

11. Signature (of person filing this request):

(a) Signature:

(b) Name & Official Capacity of Signatory:
.....
.....
.....

(c) Date:
(dd/mm/yyyy)

For Official Use Only (*please do not fill this part*)

Date request filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved (<i>extension period granted</i>):	
Not approved:	
Date decision communicated	

FORM TM25

[Rule 115]

NOTICE FOR CONVERSION OF PENDING APPLICATION

To the Registrar

Notes to person filling this Form

This Form relates to an application for the registration of a trade mark under the repealed Act which has not been advertised as provided under that repealed Act prior to the commencement of the Trade Marks Act, 2013. Under such circumstance an applicant may give notice claiming to have the registrability of the trade mark in question determined in accordance with the Trade Marks Act, 2013 by filling and filing this Form.

Please note that a notice by virtue of this Form must be given within a period of six months after the date of commencement of the Trade Marks Act, 2013 and the Trade Marks Rules, 2014.

1. (a) Name of party filing this request

- (b) Address of party filing this request

2. (a) Name of trade mark agent of party (if applicable)

- (b) Address of trade mark agent of party (if applicable)

3. Provide below the details of the application made under the repealed Trade Marks Act (Cap. 158):

Application Number(s)	Trade Mark	Class Number(s)

4. *I give notice claiming to have the registrability of the trade mark outlined in paragraph 3 above determined in accordance with the provisions of the Trade Marks Act, 2013. I acknowledge that this notice is irrevocable and has the effect that the application for registration is to be treated as if it were made on the commencement of the Trade Marks Act, 2013.*

5. Address for service:

- (a) Name:
- (b) Address:
- (c) Your reference:
- (d) Telephone No.:
- (e) Facsimile No.:
- (f) Email address:

6. Signature (person filing this notice):

- (a) Signature:
- (b) Name & Official Capacity of Signatory:
-
-
-
- (c) Date:
- (dd/mm/yyyy)

For Official Use Only *(please do not fill this part)*

Date notice filed:	
Time filed:	
Signature of recipient of filing:	
Date decision taken:	
Approved:	
Not approved:	
Date decision communicated	

DRAFT