

Trade Marks (Amendment) Rules 2005

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No. S 852

TRADE MARKS ACT
(CHAPTER 332)

TRADE MARKS (AMENDMENT) RULES 2005

In exercise of the powers conferred by section 108 of the Trade Marks Act, the Minister for Law, after consulting with the Intellectual Property Office of Singapore, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Trade Marks (Amendment) Rules 2005 and shall come into operation on 1st January 2006.

Deletion and substitution of rule 7

2. Rule 7 of the Trade Marks Rules (R 1) (referred to in these Rules as the principal Rules) is deleted and the following rule substituted therefor:

“Service of documents

7.—(1) Where the Act or these Rules authorise or require any document to be given or sent to, filed with or served on the Registrar or Registry, the giving, sending, filing or service may be effected on the Registrar or Registry —

(a) by sending the document by post; or

(b) where there is no fee payable to the Registrar or Registry for the giving, sending, filing or service of the document, by sending the document by facsimile transmission.

(2) Where the Act or these Rules authorise or require any document to be given or sent to or served on any party other than the Registrar or Registry, the giving, sending or service may be effected on that party by sending the document by post.

(3) Where the Act or these Rules authorise or require any notice or other document to be given or sent to or served on any party by the Registrar or Registry, the Registrar or Registry may effect the giving, sending or service on the party —

(a) by sending the notice or other document by post; or

(b) by sending the notice or other document by facsimile transmission.

(4) Where any notice or other document is sent by post under paragraph (2) or (3), the giving, sending or service, as the case may be, of the notice or other document shall, until the contrary is proved, be treated as having been effected at the time at which the document would have been delivered in the ordinary course of post.

(5) For the purposes of paragraphs (2) and (3), a notice or other document is sent to a party by post if the notice or other document is sent by pre-paid post to the party at his address for service referred to in rule 9 or 10.

(6) Where any person has attempted to send any document by facsimile transmission under paragraph (1) —

(a) if any part or all of the document received by the Registrar or Registry is illegible or if any part of the document is not received by the Registrar or Registry, the document shall be treated as not having been submitted; and

(b) the burden of proving the legibility and completeness of the document lies with the person who has attempted to send the document.

(7) Paragraph (1)(b) shall not apply to the following matters:

(a) the filing of a request for an extension of time to file a notice of opposition under rule 29(3);

(b) the filing of a statutory declaration under rule 32(1), 33(1) or 34(1).”.

Amendment of rule 9

3. Rule 9 (4) of the principal Rules is amended —

- (a) by deleting the words “Form TM 4, TM 9, TM 19 , TM 22 or TM 24” in sub-paragraph (a) and substituting the words “Form TM 4 or TM 22”;
- (b) by deleting the word “and” at the end of sub-paragraph (a);
- (c) by deleting “TM 14,” in sub-paragraph (b); and
- (d) by deleting the full-stop at the end of sub-paragraph (b) and substituting the word “; and”, and by inserting immediately thereafter the following sub-paragraph:

“(c) where the address for service is filed on Form TM 19 or TM 24, the filing of the address for service shall be effective for the purposes of all renewal applications or proceedings in respect of the trade mark in relation to which that form is filed.”.

Deletion and substitution of rule 21

4. Rule 21 of the principal Rules is deleted and the following rule substituted therefor:

“Deficiencies in application

21.—(1) Where an application for registration of a trade mark does not satisfy any requirement under section 5(2) or (3) of the Act, the Registrar may send the applicant a notice requiring the applicant to remedy the deficiency.

(2) Where the Registrar has sent the applicant a notice under paragraph (1), the applicant shall remedy all deficiencies set out in the notice within 2 months from the date of the notice.

(3) In accordance with section 5(4) of the Act, an application for registration of a trade mark shall not be treated as made unless —

- (a) all the requirements under section 5(2) of the Act have been satisfied; and
- (b) all the fees payable under section 5(3) of the Act —
 - (i) have been paid; or
 - (ii) are treated by the Registrar as paid.

(4) Subject to paragraph (1), where an application for registration does not comply with rule 15(1) or 19(2)(a), the Registrar shall send the applicant a notice requiring the applicant to remedy the deficiency.

(5) If the applicant fails to remedy all deficiencies set out in the notice under paragraph (4) within 2 months from the date of the notice, the application shall be treated as withdrawn.”.

Amendment of rule 22

5. Rule 22 of the principal Rules is amended by deleting paragraph (3A).

Amendment of rule 24

6. Rule 24 of the principal Rules is amended by deleting paragraphs (1), (2) and (2A) and substituting the following paragraphs:

“(1) If, in the course of an examination of an application for registration, it appears to the Registrar that the requirements for registration are not met or that additional information or evidence is required to meet those requirements, the Registrar shall give a written notice of this to the applicant.

(2) If, within 4 months from the date of the written notice of the Registrar, the applicant fails to —

- (a) make representations in writing;
- (b) apply to the Registrar for a hearing;
- (c) apply to amend the application; or
- (d) furnish the additional or any other information or evidence,

the application shall be treated as withdrawn.

(2A) If the applicant wishes to have an extension of time to do any act referred to in paragraph (2)(a), (b), (c) or (d), he shall file with the Registrar a request for extension in Form TM 49 before the expiry of —

- (a) the period of 4 months; or
- (b) any extended period previously allowed by the Registrar,

whichever is the later.”.

Deletion and substitution of rules 32, 33 and 34