

ACT No. XXVII OF 1941.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th November, 1941.)

An Act to amend the Trade Marks Act, 1940.

V of 1940.

WHEREAS it is expedient to amend the Trade Marks Act, 1940, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. This Act may be called the Trade Marks (Amendment) Act, 1941. Short title.

V of 1940.

2. In sub-section (1) of section 4 of the Trade Marks Act, 1940 (hereinafter referred to as the said Act),— Amendment of section 4, Act V of 1940.

(a) for the words "Trade Mark Registry" the words "Trade Marks Registry" shall be substituted;

(b) after the words "all registered trade marks" the words "except those entered in the Bombay register under Chapter IX" shall be inserted.

3. In sub-section (1) of section 53 of the said Act, after the words "to the Registrar" the words "or the Bombay Registrar, as the case may be" shall be inserted. Amendment of section 53, Act V of 1940.

4. For section 63 of the said Act the following sections shall be substituted, namely :— Substitution of new sections for section 63, Act V of 1940.

"63. (1) For the purpose of facilitating the registration of trade marks in respect of textile goods there shall be established at Bombay a separate Trade Marks Registry (in this Act referred to as the Bombay Registry) and a separate Register of Trade Marks (in this Act referred to as the Bombay register) shall be kept thereat wherein shall be entered, in the manner provided by section 4, all registered trade marks which are under the provisions of this Chapter to be registered by the Bombay Registrar. Separate Trade Marks Registry at Bombay.

(2) Subject

1

Price Anna 1 or 1½d.

Applied to all the partially excluded areas of the Province of Orissa with effect from 15.1.43. Vide Orissa Govt. G.O. No. 15009-Gen (C) of 23-12-42.

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- (2) Subject to the superintendence and direction of the Central Government, the Bombay register shall be kept under the control and management of an officer appointed by the Central Government who shall be called the Registrar of Textile Trade Marks at Bombay (in this Act referred to as the Bombay Registrar).
- (3) In all proceedings under this Act in relation to trade marks, applications for the registration of which lie under the provisions of this Chapter to the Bombay Registrar, the Bombay Registrar shall exercise and discharge the powers and functions of the Registrar to the exclusion of the Registrar, and, in interpreting the provisions of this Act in relation to any such proceedings or any such trade marks, references, except in sub-sections (1) and (2) of section 4 and this Chapter and section 85, to the Patent Office or the Trade Marks Registry shall be construed as references to the Bombay Registry, and references to the Registrar and to the register shall be construed as references to the Bombay Registrar and the Bombay register, respectively :

Provided that the Central Government may, for the purpose of resolving a conflict or preventing an overlap of jurisdiction between the Registrar and the Bombay Registrar, direct by which of the two any particular matter arising out of this Act or out of any proceeding thereunder shall be disposed of.

Jurisdiction of
Bombay Registrar and
Registrar in
respect of trade
marks used in
relation to
textile goods.

- 63A. (1) When the applicant for registration of a trade mark used or proposed to be used in relation to textile goods is a person having his principal place of business situated in any one of the following Provinces, namely, Madras, Bombay, the Punjab, the Central Provinces and Berar, the North-West Frontier Province or Sind, the application shall lie only to the Bombay Registrar.
- (2) When once an application for registration of a trade mark used in relation to textile goods has been made to the Registrar or the Bombay Registrar, no subsequent change in the location of the principal place of business of the applicant shall divest the Registrar or the Bombay Registrar, as the case may be, of any of his powers or functions under this Act in relation to such trade mark."

5. For

5. For section 65 of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 65, Act V of 1940.

“ 65. (1) The Registrar shall supply a copy of every entry in the register relating to trade marks registered in respect of textile goods to the Bombay Registrar, who shall maintain a permanent record of the copy so received which shall be called the Calcutta Textile Marks Record.

Calcutta and Bombay Textile Marks Records and Refused Textile Marks Lists.

(2) The Bombay Registrar shall supply a copy of every entry in the Bombay register to the Registrar who shall maintain a permanent record of the copy so received which shall be called the Bombay Textile Marks Record.

(3) Trade marks in respect of textile goods of which registration has been refused shall be entered by the Registrar and the Bombay Registrar in separate lists which shall be called the Calcutta Refused Textile Marks Lists and the Bombay Refused Textile Marks Lists, respectively ; a copy of the Calcutta List shall be kept at the Bombay registry and a copy of the Bombay List at the Trade Marks Registry at the Patent Office as permanent records.

(4) The Textile Marks Records and the Refused Textile Marks Lists shall at all convenient times be open to the inspection of the public, subject to such conditions and restrictions as may be prescribed.”

6. In sub-section (2) of section 66 of the said Act, for the words “ or the Deputy ” the words “ and the Bombay ” shall be substituted.

Amendment of section 66, Act V of 1940.

7. In section 69 of the said Act, after the word “ Registrar ” the words “ or the Bombay Registrar ” shall be inserted.

Amendment of section 69, Act V of 1940.

8. In sub-section (1) of section 75 of the said Act, for the words “ proof of production ” the words “ proof or production ” shall be substituted.

Amendment of section 75, Act V of 1940.

9. In sub-section (1) of section 76 of the said Act, for the words “ or Deputy ” the words “ or the Bombay ” shall be substituted.

Amendment of section 76, Act V of 1940.

10. In

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Amendment of
section 84, Act
V of 1940.

10. In sub-section (2) of section 84 of the said Act,—

- (a) in clause (e), for the word "Record" the word "Records" and for the word "List" the word "Lists" shall be substituted;
- (b) in clause (g), the words and figures "or under section 63" shall be omitted;
- (c) after clause (g) the following clause shall be added, namely:—
 - "(r) make such provisions as are necessary to ensure uniformity of practice between the Registrar and the Bombay Registrar in all matters arising out of the registration of trade marks in respect of textile goods."