

Trade Marks Ordinance (New Version), 5732—1972
(of May 15, 1972)*

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Chapter I **Interpretation**

Definitions

1. In this Ordinance—

“mark” means letters, numerals, words, devices or other signs, or combinations thereof, whether two-dimensional or three-dimensional;

“trade mark” means a mark used, or intended to be used, by a person in relation to goods he manufactures or deals in; “registered trade mark” means a trade mark registered in the Register of Trade Marks under the provisions of this Ordinance;

“service mark” means a mark used, or intended to be used, by a person in relation to a service rendered by him;

“certification mark” means a mark intended to be used by a person, other than a person carrying on a business, to certify the origin of goods in which he is interested, their components, mode of manufacture, quality and any other characteristics, or to certify the nature, quality or type of a service in which he is interested;

“collective mark” means a trade mark or service mark belonging to a body of persons interested in the goods or service which the mark is intended to designate, and used, or intended to be used, by the members of that body in respect of such goods or service;

“infringement” means the use by a person not entitled thereto—

(1) of a registered trade mark, or of a mark resembling such a trade mark, in relation to goods in respect of which the trade mark is registered, or to goods of the same description;

(2) of a registered trade mark in advertising goods of the class in respect of which the mark is registered or goods of the same description;

“Union State” means a State which is a member of the Union for the Protection of Industrial Property under the Paris Convention for the Protection of Industrial Property and includes territories to which the Convention has been extended under Article 16*bis* of the Convention.^{**}

Applicability of Provisions to Service Marks

2. Save as otherwise provided, the provisions of this Ordinance which apply to trade marks shall apply mutatis mutandis to service marks, and every reference in this Ordinance to a trade mark or to goods shall be deemed to include a service mark or a service.

Provisions as to Certification Mark and Collective Mark

3. Subject to the provisions of sections 14 and 15, a certification mark and a collective mark shall be treated like a trade mark and a service mark, and every reference in this Ordinance to a trade mark or service mark shall be deemed to include a certification mark and a collective mark.

Chapter II **Register of Trade Marks**

Register and Contents Thereof

4. There shall be kept under this Ordinance a register for the registration of trade marks (hereinafter referred to as “the Register”). Registration shall be according to the following particulars:

- (1) the name, address and occupation of the proprietor of the mark;
- (2) notifications of assignments, transmissions and authorisations;
- (3) disclaimers;
- (4) conditions and limitations;
- (5) any such other particular relating to registered trade marks as may be prescribed.

The Registrar

5. The Minister of Justice shall appoint a Registrar of Trade Marks (hereinafter referred to as “the Registrar”), under whose control the Register shall be kept.

Register to Be Open to Public

6.—(a) The Register shall at all convenient times be open to inspection by the public in accordance with the regulations.

(b) A certified copy of any entry shall be given to any person requiring the same on payment of the prescribed fee.

Chapter III **Eligibility for Registration**

Exclusive Right to Trade Mark

7. A person desirous of having the exclusive right to use some mark as a trade mark may apply for the registration of such mark under the provisions of this Ordinance.

Marks Eligible for Registration

8.—(a) No mark is eligible for registration as a trade mark unless it is adapted to distinguish the goods of the proprietor of the mark from those of other persons (a mark so adapted being hereinafter referred to as a “distinctive mark”).

(b) In determining whether a trade mark is distinctive, the Registrar or the Court may, in the case of a trade mark in actual use, take into consideration the extent to which such use

has rendered such trade mark in fact distinctive for goods in respect of which it is registered or intended to be registered.

Limitation to Certain Colours

9. A trade mark may be limited in whole or in part to one or more specified colours, and in such case the fact that it is so limited shall be taken into consideration by the Registrar or Court having to decide on the distinctive character of such trade mark. If and so far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

Scope of Application of Registration

10.—(a) A trade mark must be registered in respect of particular goods or classes of goods.

(b) Any question as to the class within which any goods fall shall be determined by the Registrar, whose decision shall be final.

Marks Incapable of Registration

11. The following marks are not capable of registration:

(1) a mark referring to some connection with the President of the State or his household or to presidential patronage or a mark from which any such connection or patronage might be inferred;

(2) flags and emblems of the State or its institutions, flags and emblems of foreign States or international organisations, and any mark resembling any of these;

(3) public armorial bearings, official signs or seals used by any State to indicate control or warranty, and any sign resembling any of these and any sign from which it might be inferred that its proprietor enjoys the patronage of or supplies goods or renders services to a head of State or a government, unless it is proved to the Registrar that the proprietor of the mark is entitled to use it;

(4) a mark in which any of the following words appear: —“Patent,” “Patented,” “By Royal Letters Patent,” “Registered,” “Registered design,” “Copyright,” “To counterfeit this is forgery” or words to like effect;

(5) a mark which is or may be injurious to public order or morality;

(6) a mark likely to deceive the public, a mark which contains a false indication of origin, and a mark which encourages unfair trade competition;

(7) a mark identical with or similar to emblems of exclusively religious significance;

(8) a mark on which the representation of a person appears, unless the consent of that person has been obtained; in the case of the representation of a deceased person, the Registrar

shall request the consent of his survivors unless, in his opinion, reasonable grounds exist for not doing so;

(9) a mark identical with one belonging to a different proprietor which is already on the register in respect of the same goods or description of goods, or so nearly resembling such a mark as to be calculated to deceive;

(10) a mark consisting of numerals, letters or words which are in common use in trade to distinguish or describe goods or classes of goods or which bear direct reference to their character or quality, unless the mark has a distinctive character within the meaning of section 8(b) or 9;

(11) a mark whose ordinary signification is geographical or a surname, unless represented in a special manner or unless having a distinctive character within the meaning of section 8(b) or 9.

Mark Identical with Name of Other Person

12. The Registrar may refuse an application for registration of a trade mark identical with or resembling the name or business name of another person, or containing a name identical or resembling as aforesaid, if the mark is likely to deceive the public or to cause unfair competition.

Name or Description of Goods

13. Where a mark contains also a name or description of any goods, the Registrar may refuse to register it in respect of other goods; but he may so register it if in actual use the mark varies according to the goods for which it is used and the applicant adds a note to such effect in his application.

Registration of Certification Mark

14.—(a) The Registrar may register a certification mark if he is satisfied that the proprietor of the mark is competent to certify the characteristics to be designated by the mark.

(b) A certification mark is capable of registration even if it lacks distinctiveness as required by section 8(a).

(c) A certification mark may be transferred only with the permission of the Registrar.

Registration of Collective Mark

15.—(a) The Registrar may register a collective mark if he is satisfied that it is intended for use by members of the body of persons concerned and that such body has control over the use of the mark by its members.

(b) For every purpose of this Ordinance, the use of a collective mark by a member of the body shall be deemed to be use thereof by the body, whether or not the body itself uses or intends to use it.

(c) A collective mark may be transferred only with the permission of the Registrar.

Registration of Marks Registered Abroad

16.—(a) Notwithstanding the provisions of sections 8 to 11, the Registrar shall not refuse to register a trade mark registered as a trade mark in its country of origin unless—

(1) registration of the mark in Israel will infringe rights acquired in Israel by another person; or

(2) the mark lacks distinctiveness; or

(3) the mark consists exclusively of signs or indications which may serve in trade to designate the kind, quality, quantity, place of origin, intended purpose, time of production or value of the goods; or

(4) the mark is customary in current language or in the *bona fide* and established trade practices in Israel; or

(5) the mark is contrary to public order or morality;

(6) the mark is likely to deceive the public.

(b) For the purpose of a trade mark whose registration under this section is applied for, “country of origin” means the Union State in which the applicant has an effective and serious industrial or commercial establishment or, if he has no such establishment within a State as aforementioned, the Union State in which he has his domicile or, if he has no domicile within a State as aforesaid, the Union State of which he is a national.

(c) Where the Registrar accepts for registration a mark which would not have been registered but for the provisions of subsection (a), such fact shall be indicated in the publication of the application and in the Register.

Chapter IV Registration Proceedings

Application

17. Any person claiming to be proprietor of a trade mark used or intended to be used by him who is desirous of registering the same shall apply in writing to the Registrar in the prescribed manner.

Powers of Registrar

18. Subject to the provisions of this Ordinance, the Registrar may refuse an application or accept it absolutely or subject to conditions, amendments or modifications, or to such limitations as to mode or place of use or otherwise as he may think right to impose.

Appeal

19. Where the Registrar refuses an application, his decision shall be subject to appeal to the Supreme Court.

Errors and Corrections

20. The Registrar or the Supreme Court may at any time, whether before or after acceptance, correct any error in or in connection with an application or may permit an applicant to amend his application upon such terms as they may think fit.

21.—(a) If a trade mark contains matter common to the trade or otherwise of a non-distinctive character, and it appears to the Registrar or the Supreme Court that the proprietor of the mark is not entitled to the exclusive use of such matter or of part thereof, they may, in deciding whether such trade mark shall be entered or shall remain upon the Register, as a condition thereof require that the proprietor disclaim any right to the exclusive use of such matter or make such other disclaimer as they consider necessary in order to define his rights under the registration.

(b) A disclaimer under this section shall not affect any rights of the proprietor of the trade mark except such as arise out of the registration of the mark.

Cancellation of Applications

22.—(a) Where the applicant has not complied with a demand of the Registrar within the time prescribed by him, and the Registrar has given the applicant notice in writing on the prescribed form, and three months have passed from the date of the notice and the applicant has still not complied with the demand, the Registrar may regard the application as void.

(b) The Registrar may extend the times prescribed under this section if he has been requested to do so in the manner and within the time prescribed by regulations and the applicant has given reasonable grounds for the request.

Advertisement

23. When an application has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as possible after such acceptance and at the expense of the applicant, advertise the application, as accepted, in the prescribed manner, specifying every condition and limitation subject to which it has been accepted.

Opposition

24.—(a) Any person may within three months, or within such other time as may be prescribed, from the date of the advertisement, file with the Registrar a notice of opposition to the registration of the mark.

(b) The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(c) The Registrar shall send a copy of the notice to the applicant.

(d) The applicant shall send to the Registrar, in the prescribed manner and within the prescribed time, a counterstatement to the opposition, setting forth the grounds on which he relies for his application.

(e) If the applicant does not send a counterstatement as aforesaid, he shall be deemed to have abandoned his application.

(f) If the applicant sends a counterstatement, the Registrar shall furnish a copy thereof to the person who has given notice of opposition and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions, registration is to be permitted.

Appeal

25.—(a) A decision of the Registrar under section 24(f) shall be subject to appeal to the Supreme Court.

(b) An appeal under this section shall be made within 30 days from the date of the decision of the Registrar.

(c) In the appeal the Court shall, if required to do so, hear the parties and the Registrar and shall give a judgement determining whether, and subject to what conditions, registration is to be permitted.

(d) During the hearing of the appeal any party may, either in the manner prescribed or by special leave of the Court, bring forward further material for the consideration of the Court.

(e) The opponent or the Registrar may take no further grounds of opposition other than those stated by the opponent in the notice of opposition save by leave of the court which hears the appeal. Where any grounds are taken by leave as aforesaid, the applicant on giving notice as prescribed may withdraw his application without payment of costs of the opponent.

(f) The Court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting its identity. A mark so modified shall be advertised in the prescribed manner before being registered.

Registration

26. When an application has been accepted and the time for notice of opposition has expired without there having been opposition or, there having been opposition, it has been decided in favour of the applicant, the Registrar shall on payment of the prescribed fee, unless the application has been accepted in error or unless the Court otherwise directs, register the trade mark.

Date of Registration

27. The date on which the application for registration of a trade mark was filed shall be entered as the date of registration thereof.

Certificate of Registration

28. On the registration of a trade mark, the Registrar shall issue to the applicant a certificate of registration in the prescribed form.

Rival Claims to Identical Marks

29. Where separate claims are made by different persons to be registered as proprietors respectively of identical or similar trade marks in respect of the same goods or description of goods, the Registrar may refrain from registering any such persons until their rights have been determined by agreement between them approved by the Registrar. In the absence of such agreement, the Registrar shall refer the dispute to the Supreme Court.

Concurrent Use

30.—(a) Where it appears to the Registrar that there is honest concurrent use, or where there are other special circumstances which in his opinion justify the registration of identical or similar trade marks for the same goods or description of goods by more than one proprietor, the Registrar may permit such registration subject to such conditions and limitations, if any, as he may think fit.

(b) A decision of the Registrar under subsection (a) shall be subject to the Supreme Court. The appeal shall be filed within 30 days from the date of the decision of the Registrar. In the appeal, the Court shall have all the powers conferred upon the Registrar under subsection (a).

Chapter V **Duration and Renewal of Registration**

Period of Validity of Registration

31. The registration of a trade mark shall be valid for seven years from the date of filing of the application and may be extended thereafter in accordance with the provisions of sections 32 to 35.

Renewal of Registration

32. The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of such trade mark for a period of 14 years from the date of expiration of the original registration or the last renewal of registration (such date hereinafter referred to as “expiration date”).

Notice of Expiration

33.—(a) At the prescribed time before the expiration date, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date at which the registration will expire and the conditions as to payment of fees and other matters upon which registration will be renewed.

(b) if the fee is not paid within six months after the expiration date, the Registrar shall remove the trade mark from the Register; however—

(1) if the fee is paid within the said six months, it shall be increased by a prescribed amount;

(2) if the Registrar is satisfied that it is just to do so, he may restore the registration, on such conditions as he may think fit, upon payment of the unpaid fee and the prescribed additional fee.

Unrenewed Trade Mark

34. Where a trade mark has been removed from the register for non-payment of the fee for renewal, such trade mark shall nevertheless, for the purpose of any application for registration during one year after such removal, be deemed to be a registered trade mark.

Restrictions on Renewal

35. The provisions of section 34 shall not apply where the Registrar is satisfied either—

(1) that there has been no *bona fide* trade use of the trade mark during the two years preceding its removal; or

(2) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any previous use of the trade mark which has been removed.

Chapter VI **Changes and Cancellations**

Change in Registration at Proprietor's Request

36.—(a) The Registrar may, on request made in the prescribed manner by the registered proprietor—

- (1) correct any error in his name or address;
- (2) enter any change in his name or address;
- (3) strike out any goods or classes of goods from those for which the trade mark is registered;
- (4) enter in respect of the trade mark any disclaimer or any memorandum which does not in any way extend the rights given by the existing registration;
- (5) cancel the entry of the trade mark in the Register

(b) Any decision of the Registrar under subsection (a) shall be subject to appeal to the Supreme Court.

Alteration of Mark at Proprietor's Request

37.—(a) The registered proprietor of any trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter such trade mark in a manner not substantially affecting its identity.

(b) The Registrar may refuse leave or grant it subject to such conditions and limitations as he may think fit. Any such refusal or conditional or limited permission shall be subject to appeal to the Supreme Court.

(c) If leave is granted, the trade mark as altered shall be advertised in the prescribed manner.

Rectification of Register

38.—(a) Subject to the provisions of this Ordinance, any person aggrieved by the non-insertion or omission from the Register of any entry, or by any entry made in the Register without sufficient cause, or by any entry wrongly remaining on the Register, or by any error or defect in any entry in the Register, may make application in the prescribed manner to the Supreme Court or may, at his option, make such application in the first instance to the Registrar.

(b) The Registrar may, at any stage of the proceedings, refer the application to the Supreme Court, or he may, after hearing the parties, determine the question between them subject to appeal to the Supreme Court.

(c) The Supreme Court may, in any proceeding under this section, decide any question that it may be necessary or expedient to decide in connection with the rectification of the Register.

(d) In the case of fraud in the registration, assignment or transmission of a registered mark, the Registrar may himself apply to the Court under the provisions of this section.

Removal of Mark from Register

39.—(a) An application under section 38 for the removal of a trade mark from the Register on the ground that it is not eligible for registration under sections 7 to 11 of the Ordinance, or on the ground that the mark creates an unfair competition in respect of the applicant's rights in Israel, must be made within five years of the issue of the certificate of registration under section 28.

(b) Notwithstanding the provisions of subsection (a):

(1) a trade mark of a non-resident registered in the country of origin shall not be removed from the Register save on grounds which under section 16 preclude registration;

(2) a trade mark of a non-resident which is not eligible for registration under the provisions of sections 8 to 11 and which has been registered under the provisions of section 16 may be removed from the Register at any time on any of the grounds precluding its registration under the provisions of sections 8 to 11 when it is no longer registered in the country of origin; nothing in this provision shall prevent the proprietor of the mark from proving that at the time of application for removal the mark would have been eligible for registration upon application by a resident of Israel.

Procedure for Rectification of Register

40. Where the court orders the rectification of the Register, it shall direct that notice of the rectification shall be served upon the Registrar by the successful party, and the Registrar shall, upon receipt of the notice, rectify the Register in accordance with the order.

Cancellation of Registration on Grounds of Non-Use

41.—(a) Without prejudice to the generality of the provisions of sections 38 to 40, application for the cancellation of the registration of a trade mark may be made by any person interested on the ground that there was no *bona fide* intention to use the trade mark in connection with the goods for which it is registered and that there has been in fact no *bona fide* use of the trade mark in connection with those goods, or that there had not been any such use during the two years preceding the application for cancellation.

(b) The provisions of subsection (a) shall not apply where it is proved that the non-use is due to special circumstances in the trade and not to any intention not to use, or to abandon, the mark in respect of the said goods.

(c) For the purposes of this section, there shall be deemed not to have been *bona fide* use of the trade mark in the event of any of the following:

(1) use of the trade mark in Israel in advertising only, whether in the local press or in foreign newspapers reaching Israel unless there are special circumstances which, in the opinion of the Court or the Registrar, justify the non-use of the mark on goods manufactured or sold in Israel;

(2) cancellation of an authorisation to use the mark, given to a manufacturer in Israel under section 50, unless the authorisation is cancelled following an infringement of conditions or because the person who gave the authorisation intends himself to manufacture the goods for which the mark is to be used or to grant the authorisation to another manufacturer in Israel.

(d) Application for cancellation may be made in the prescribed manner either to the Supreme Court or, at the option of the applicant, may be made in the first instance to the Registrar.

(e) The Registrar may at any stage of the proceedings refer the application to the Supreme court, or he may, after hearing the parties, determine the question between them subject to appeal to the Supreme Court.

Registrar to Have Notice of Proceeding for Rectification

42.—(a) In any legal proceeding in which the relief sought includes alteration or rectification of the Register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court.

(b) Unless otherwise directed by the Court, the Registrar, in lieu of appearing and being heard, may submit to the Court a statement in writing signed by him giving particulars of the proceedings before him or of the grounds of any decision given by him in relation to the matter at issue or of the practice and procedure of the office in like cases or of such other matters relevant to the issue, and within his knowledge as Registrar, as he shall think fit, and a statement as aforesaid shall be deemed to be evidence in the proceeding.

Regulations as to Adaptation of Entries to New Classification

43. The Registrar may, with the approval of the Minister of Justice, make such regulations, prescribe such forms and generally do such things as he thinks expedient for empowering him to amend the Register, whether by making or expunging or varying entries therein, so far as may be requisite for the purpose of adapting the designation therein of the goods or classes of goods in respect of which trade marks are registered to any substituted or amended classification that may be prescribed.

Adaptation of Entries

44.—(a) The Registrar shall not, in exercise of any power conferred on him by section 43, make any amendment of the Register that would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made, or of antedating the registration of a trade mark in respect of any goods.

(b) The provisions of subsection (a) shall not have effect in relation to goods as to which the Registrar is satisfied that compliance with the said provisions would involve undue complexity and that the addition or the antedating would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

Procedure for Adaptation of Entries

45.—(a) The Registrar shall notify any proposal for the amendment of the Register by virtue of his power under section 44 to the registered proprietor of the trade mark affected, and the registered proprietor may appeal against such proposal to the Supreme Court. The proposal, with any modifications, shall be advertised.

(b) A person who considers himself aggrieved by the proposed amendment may oppose it before the Registrar on the ground that it contravenes the provisions of section 44, and the decision of the Registrar on the opposition shall be subject to appeal to the Supreme Court.

Chapter VII **Rights of Proprietor of Trade Mark**

Right to Exclusive Use

46.—(a) Subject to any condition or limitation entered in the Register, the valid registration of a person as proprietor of a trade mark shall give him the right to the exclusive use of such trade mark upon, and in every matter relating to, the goods in respect of which it is registered.

(b) Where several persons are registered proprietors of the same (or substantially the same) trade mark in respect of the same goods, each of them shall have the same rights as if he were the sole registered proprietor of such trade mark, but no rights of exclusive use of such trade mark shall be acquired by any one of such persons as against any other by the registration thereof, except in so far as their respective rights have been defined by the Registrar or the Supreme Court.

Saving of Genuine Use

47. Registration under this Ordinance shall not prevent any genuine use by a person of his own name or of the name of his place of business or the name of the place of business of

any of his predecessors in business or the use by any person of any genuine description of the character or quality of his goods.

Transfer of Trade Mark

48.—(a) A registered trade mark may be assigned by the proprietor thereof, or pass by operation of law, either with or without the goodwill of the business concerned in the goods for which it has been registered. However, the Registrar may refuse to register a transfer as aforesaid if, in his opinion, the use of the mark by the transferee is likely to deceive the public or if, in his opinion, the transfer is contrary to public order.

(b) For the purpose of subsection (a), a trade mark for the registration of which an application is pending shall be deemed to be a registered trade mark.

Registration of Transfer

49.—(a) Where a person becomes entitled to a registered trade mark by assignment or by operation of law, he shall apply to the Registrar to register his title and the Registrar shall, on proof of title to his satisfaction, register him as the proprietor of the trade mark and shall make an entry in the Register, in the manner prescribed, of the transfer or of any instrument relating to the title.

(b) Any decision of the Registrar under this section shall be subject to appeal to the Supreme Court.

(c) Except in cases of appeals under this section, a document or instrument in respect of which no entry has been made in the Register under this section shall not be admitted in evidence in any court in proof of the title to a trade mark unless the Court otherwise directs.

Authorisation to Use Mark

50.—(a) The proprietor of a registered trade mark may authorise another person (in this section referred to as “authorised person”) to use such trade mark in relation to all or any of the goods in respect of which it is registered.

(b) An authorisation shall not be valid unless it has been registered under the provisions of this section, and the Registrar may register it subject to such conditions and limitations as he may think fit.

(c) So long as the authorised person uses the mark in relation to the goods, in the course of his business, in accordance with the authorisation and subject to any conditions and limitations attached thereto, his use of the mark shall be deemed to be exclusive use thereof by the proprietor thereof.

(d) The Registrar may register an authorisation if it has been proved to his satisfaction that the use of the trade mark in relation to the goods in respect of which registration is applied for is not contrary to public order and is not likely to deceive.

Application for Registration of Authorisation

51.—(a) An application, in the prescribed form, for the registration of an authorisation shall be submitted by the proprietor of the mark and by the person to be registered as the authorised person and shall indicate, *inter alia*—

(1) the relationship between the proprietor of the mark and the person to be registered as the authorised person, including the extent of the control of the proprietor of the mark over the use thereof by the authorised person;

(2) the goods in respect of which the authorisation is sought;

(3) the conditions or limitations which are to apply to the use of the mark by virtue of the authorisation if the same is registered;

(4) the period of validity of the authorisation if its registration is requested for a determinate period.

(b) The Registrar may demand any document, evidence or particular which appear to him to be useful in determining the application.

(c) Particulars as referred to in subsections (a) and (b), other than particulars to be registered, shall not be open to inspection by the public.

Variation and Cancellation of Registration of Authorisation

52.—(a) The Registrar may, on application by the proprietor of the mark in the prescribed form, vary the registration of an authorisation, in regard to any matter relating to the goods to which the authorisation applies and to the conditions and limitations to which it is subject.

(b) The Registrar may cancel the registration of an authorisation on application by the authorised person in the prescribed form.

(c) The Registrar may cancel the registration of an authorisation if he has been requested so to do and it has been proved to his satisfaction that the existence of the authorisation, or the use of the trade mark by the authorised person, is contrary to public order or is likely to deceive.

(d) Before cancelling an authorisation or varying the conditions thereof under this section, the Registrar shall give every interested party an opportunity to be heard.

(e) Where the registration of a mark has been cancelled or removed from the Register, any authorisation given in respect thereof shall be void.

(f) The provisions of this section shall not derogate from the provisions of sections 38 to 49.

Right of Appeal

53. Decisions by the Registrar under sections 50 to 52 shall be subject to appeal to the Supreme Court.

Chapter VIII
Registration of Foreign Trade Marks

Protection by Virtue of Mutual Agreement

54.—(a) If the Government has signed an agreement with the government of a foreign State for mutual protection of trade marks, and the Minister of Foreign Affairs has notified such fact, then, so long as the agreement is in force, any person who has applied for protection for a trade mark in that State, or his legal representative or assignee, shall be entitled to registration of his trade mark under this Ordinance in priority to other applicants, provided he filed his application within six months from the date on which he applied for protection in the foreign State.

(b) The provisions of subsection (a) shall not entitle the proprietor of the trade mark to recover damages for infringements which occurred prior to the date on which his trade mark was actually registered in Israel.

(c) The registration of a trade mark shall not be invalidated by reason only of its use in Israel during the six-month period referred to in subsection (a).

Protection by Virtue of Paris Convention

55.—(a) A person who has filed an application for the registration of a trade mark in a Union State, or the legal successor of such a person, may apply for the registration of the mark in Israel under the provisions of this section, and his application shall have priority over any application for registration filed after the date of filing of the application abroad.

(b) An application for registration under subsection (a) shall be filed within six months from the date of filing of the first application for registration of the mark.

(c) The provisions of this section shall not confer a right to damages for an infringement committed before the date of filing of the application for registration of the mark in Israel.

Filing of Application

56. An application for registration of a trade mark under section 54 or 55 shall be made in the same manner as an ordinary application under this Ordinance.

Chapter IX Infringement

Action for Infringement

57.—(a) The proprietor of a registered trade mark may bring an action for infringement; the Court shall not entertain an action for infringement in respect of an unregistered trade mark.

(b) The provisions of this section shall not derogate from the provisions of section 59 of the Civil Wrongs Ordinance (New Version).

Usages to Be Evidence

58. In an action for infringement, evidence shall be admitted of the usages of the trade in respect of the get-up of the goods for which the trade mark is registered and of any trade marks or get-up legitimately used in connection with such goods by other persons.

Relief

59. In an action for infringement, the plaintiff shall be entitled to relief by way of injunction, and to damages in addition to any other relief which the court dealing with the case is competent to grant.

Chapter X Penalties

Offences

60. A person who with intent to deceive commits or attempts to commit or aids or abets any other person in committing any of the following acts shall be liable to imprisonment for a term of one year or a fine of 1,500 pounds:

(1) not being the proprietor thereof makes use of a registered trade mark or of an imitation of such a mark upon the same class of goods as that in respect of which the mark is registered.

(2) sells, stores for the purpose of sale, or exposes for sale, goods bearing a mark the use of which is an offence under paragraph (1);

(3) uses for the purpose of advertising goods, in the press or in some other manner, a mark duly registered by another person in respect of goods in the same class;

(4) makes, engraves, prints or sells any plate, die, block or other representation a duly registered mark or any other imitation thereof for the purpose of enabling any person other than the registered proprietor of such mark to make use of such mark or an imitation thereof in connection with goods of the same class as those for which it is registered;

(5) makes or causes to be made a false entry in the Register, or a writing falsely purporting to be a copy of an entry in the Register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false.

Injunction

61. After a conviction for an offence under section 60, the Court may, in lieu of or in addition to the prescribed penalties, issue an injunction against a repetition of the offence.

Order for Forfeiture or Destruction

62. The Court before which any person charged under section 60 is brought may order the forfeiture or destruction of any goods, wrapping, packing or advertising material, or blocks, dies and other apparatus and material for printing the mark or other materials in respect of which the offence was committed.

False Representation of Mark

63. A person who represents a trade mark as registered which is not so registered shall be liable to a fine of 750 pounds for every offence. A person shall be deemed, for the purposes of this section, to represent that a trade mark is registered if he uses in connection with the trade mark the word “registered” or any word expressing or implying that registration has been obtained for the trade mark.

Chapter XI
Evidence and Procedure

Registration to Be Evidence of Validity

64. In all legal proceedings relating to a registered trade mark the fact that a person is registered as proprietor of such trade mark shall be *prima facie* evidence of the validity of the original registration of such trade mark and all subsequent assignments and transmissions of the same.

Certificate of Registrar

65. A certificate purporting to be under the hand of the Registrar as to any entry or as to any thing which he is authorised by this Ordinance or regulations made thereunder to do shall be *prima facie* evidence of the entry having been made and of the contents thereof, and of the thing having been done or not done.

Hearing of Applicant

66. Where any discretionary or other power is given to the Registrar by this ordinance or regulations made thereunder, he shall not exercise that power adversely to the applicant for

registration or the registered proprietor of the trade mark without, if required by him within the prescribed time so to do, giving him an opportunity to be heard.

Evidence Before Registrar

67. Subject to any regulation under this Ordinance, evidence in proceedings before the Registrar shall be by affidavit under section 15 of the Evidence Ordinance (New Version), 5731—1971, or by declaration made abroad under the law of the place where it is made, so long as the Registrar does not otherwise direct; but the Registrar may, if he thinks fit, take oral testimony in lieu of or in addition to written evidence, and may permit the deponent or declarant to be cross-examined.

Powers of Registrar with Regard to Witnesses

68. The Registrar shall have the powers of a magistrate as to compelling a witness to attend before him and as to hearing his testimony.

Costs

69. In every proceeding before him, the Registrar may award to a party such costs as he may consider reasonable.

Chapter XII
Fees and Regulations

Fees

70. There shall be paid in respect of applications, registrations and other matters under this Ordinance such fees as may be prescribed by the regulations.

Regulations by Minister

71. The Minister of Justice may make regulations prescribing procedure in appeals, oppositions, applications and references to the Supreme Court, under this Ordinance.

Regulations by Registrar

72. Subject to the provisions of this Ordinance, the Registrar may, with the approval of the Minister of Justice, make regulations, prescribe forms, and generally do such things as he may think expedient—

- (1) for regulating the Practice under this Ordinance;
- (2) for prescribing the fees payable under this Ordinance;
- (3) for classifying goods for the purpose of registration of trade marks;

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- (4) for making or requiring duplicates of trade marks and other documents;
- (5) for securing and regulating the publishing and selling or distributing in such a manner as the Registrar thinks fit, of copies of trade marks and other documents;
- (6) for regulating every other item of the business of the office in relation to trade marks and every other matter placed by this Ordinance under the control of the Registrar.
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* *English title.*

Entry into force: June 1, 1972.

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Note: This text is the Authorised Translation from the Hebrew, prepared at the Ministry of Justice; it is reproduced here with the permission of the Israeli authorities.

** This reference is to the Lisbon Act of the Paris Convention and corresponds to Article 24 of the Stockholm Act of 1967. Israel became bound by the Stockholm Act on either April 26 or May 19, 1970, in respect of the substantive provisions, and on April 26, 1970, in respect of the administrative provisions (*Editor's note*).