

Trade Marks (Border Enforcement Measures) (Amendment) Rules 2004

Table of Contents

Enacting Formula

- 1 Citation and commencement
- 2 New rule 10
- 3 Deletion and substitution of Schedule

No. S 371

TRADE MARKS ACT (CHAPTER 332)

TRADE MARKS (BORDER ENFORCEMENT MEASURES) (AMENDMENT) RULES 2004

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 (Border Enforcement Measures) (Amendment) Rules 2004 and shall come into operation on 1st July 2004.

New rule 10

2. The Trade Marks (Border Enforcement Measures) Rules (R 2) are amended by inserting, immediately after rule 9, the following rule:

“Prescribed period under section 93A (3) of Act

10. For the purposes of section 93A(3) of the Act, the prescribed period shall

be —

- (a) 48 hours after the Director-General has given the proprietor of the registered trade mark the written notice referred to in section 93A(2) of the Act; or
- (b) where —
 - (i) the detained goods are goods that are to be exported from Singapore or goods in transit that are consigned to a person with a commercial or physical presence in Singapore; and
 - (ii) the proprietor of the registered trade mark has complied with section 93A(3)(b)(iii) of the Act within the period referred to in paragraph (a),

10 working days after the Director-General has given the proprietor of the registered trade mark the written notice referred to in section 93A(2) of the Act.”.

Deletion and substitution of Schedule

3. The Schedule to the Trade Marks (Border Enforcement Measures) Rules is deleted and the following Schedule substituted therefor:

“THE SCHEDULE

Rule 3

NOTICE UNDER SECTION 82 (1) OF THE TRADE MARKS ACT

Please read these instructions before completing the notice

1. This notice may only be given by the proprietor or licensee of a registered trade mark.
2. Unless otherwise indicated, the notice must provide sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.
3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.
4. A fee of \$200 is payable on giving the notice.
5. A copy of the certificate of registration for the trade mark, as well as the certificate of renewal (where applicable), is to be enclosed with the notice.
6. You are required to provide the Director-General of Customs with security (whether by way

of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —

(a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and

(b) compensate any person suffering damage as a result of the seizure,

in accordance with section 83 of the Trade Marks Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.

7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that _____⁽²⁾ —

(a) is the _____⁽³⁾ of a trade mark registered in Singapore, a representation of which is set out in Appendix 1; and

(b) objects to the import into Singapore of the goods described in Appendix 2.

2. To the best of my knowledge and belief —

(a) the importer of the goods is _____⁽⁴⁾; and

(b) the particulars of the time when and place where the goods are expected to be imported into Singapore are as follows:⁽⁵⁾

3. The goods are infringing goods because _____⁽⁶⁾.

4. The goods are not goods in transit because _____⁽⁷⁾.

5. I hereby request that the said goods be dealt with in accordance with Part X of the Trade Marks Act.

Date:

Signature:

Designation:⁽⁸⁾

Explanatory Notes

(1) State the name and address of the person giving the notice.

(2) State the name and address of the proprietor or licensee on whose behalf the notice is given.

(3) State “proprietor” or “licensee”, as applicable.

- (4) State the name and address of the importer.
- (5) State —
- (a) the estimated date of arrival of the goods;
 - (b) the name of the port, airport or checkpoint by which the goods are expected to be imported into Singapore;
 - (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the goods are expected to be imported into Singapore; and
 - (d) where available —
 - (i) the country of origin of the goods; and
 - (ii) any other information which may indicate the actual time when and place where the goods will be imported into Singapore.
- (6) State the grounds on which it is claimed that the goods are infringing goods within the meaning of section 3 of the Trade Marks Act read with sections 27, 28 and 29 of that Act.
- (7) State the grounds on which it is claimed that the goods are not goods in transit within the meaning of section 81 of the Trade Marks Act.
- (8) State the designation of the person giving the notice, i.e. “proprietor”, “licensee”, “agent of proprietor” or “agent of licensee”. If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Representation of Registered Trade Mark.

APPENDIX 2

Provide sufficient information to describe and identify the goods, including, where available, particulars of —

- (a) the quantity and value of the goods;
- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or air waybill; and
- (e) any relevant consignment reference number.”.

Made this 24th day of June 2004.

YONG YING-I
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW 18/001/003 V5; AG/LEG/SL/332/2002/1 Vol. 2]