

# Act No. 17 of 1994

[L.S.]

AN ACT to amend the Trade Marks Act, Chap. 82:81

[Assented to 8th September, 1994]

## Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:—

## Short title

1. This Act may be cited as the Trade Marks (Amendment) Act, 1994.

## Chap. 82:81

2. In this Act, “the Act” means the Trade Marks Act

## Application of Act to trade marks for services

3. The provisions of the Act with respect to trade marks relating to goods apply *mutatis mutandis* to trade marks relating to services.

## Section 2 amended

4. [Section 2](#) of the Act is amended—

(a) in [subsection \(1\)](#)—

- (i) by deleting the definitions of “limitations” and “mark” and substituting the following definitions:

“ ‘limitation’ means a limitation of the exclusive right to the use of a trade mark given by the registration of a person as proprietor of the trade mark, including a limitation of that right as to mode of use or as to use relating to—

- (a) goods to be exported to any market outside of Trinidad and Tobago; or
- (b) services for use or available for acceptance in any country outside of Trinidad and Tobago;

‘mark’ in relation to—

- (a) goods includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof;
- (b) services includes a device, name, signature, word, letter, numeral or any combination thereof;”;

- (ii) by inserting in the appropriate sequence the following definition:

“provision” in relation to services, means the provision of services, whether or not for valuable consideration;

(b) by deleting [subsection \(2\)](#) and substituting the following subsection:

“ (2) A reference in this Act to the use of a trade mark shall be construed as a reference to the use of a printed or other visual representation of the trade mark and—

(a) in relation to goods, shall be construed as a reference to the use of the trade mark upon, or in physical or other relation to goods; and

(b) in relation to services, shall be construed as a reference to—

(i) the use of the trade mark; or

(ii) part of a statement about the use of the trade mark,

at or near the place where the services are available for acceptance or are performed or otherwise in relation to services.”

## Section 4 amended

5. [Section 4](#) of the Act is amended by deleting the words “goods as the goods of another person”.

## Section 5 amended

6. [Section 5\(3\)](#) of the Act is amended—

(a) by deleting the word “or” at the end of [paragraph \(a\)](#);

(b) by deleting the full-stop at the end of [paragraph \(b\)](#) and substituting a semicolon;

(c) by adding after [paragraph \(b\)](#) the following paragraphs:

“(c) in relation to services to which the proprietor or registered user of the trade mark conforming to the permitted use has applied the trade mark, where the purpose and effect of the use of the trade mark is to indicate that those services have been performed by the proprietor or a registered user of the trade mark;

(d) in relation to services the provision of which is connected in the course of trade with the proprietor or a registered user of the trade mark, where the proprietor or registered user has at any time expressly or impliedly consented to the use of the trade mark; or

(e) in relation to services available for use with other services in relation to which the trade mark has been used without infringement of the right given by registration or might for the time being be so used, if—

(i) the use of the trade mark is reasonably necessary in order to indicate that the services are available for such use; and

(ii) neither the purpose nor the effect of the use of the trade mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the provision of those services”.

7. [Section 17](#) of the Act is amended—

## Section 17 amended

- (a) in [subsection \(1\)](#), by deleting the words “or substance”, and substituting the words “,substance or activity”;
- (b) in [subsection \(2\)](#)—
  - (i) in [paragraph \(a\)](#), by deleting the words “not being use” and substituting the words “not being used”;
  - (ii) by deleting the words “or substance” wherever they occur and substituting the words “,substance or activity”;
- (c) in [subsection \(3\)\(a\)](#), [\(b\)](#) and [\(c\)\(i\)](#), by deleting the words “or substance” wherever they occur and substituting the words “,substance or activity”.

## Section 20 amended

8. [Section 20](#) of the Act is deleted and substituted by the following section:

### “Advertisement of acceptance

20. (1) Subject to [subsection \(2\)](#), where an application for registration of a trade mark is accepted, the Registrar shall—

- (a) give notice in writing of the acceptance to the applicant;
- (b) require the applicant, within sixty days from the receipt of the notification of acceptance, to pay the prescribed fee for the publication of the application; and
- (c) upon payment of the prescribed fee, cause to be published in the prescribed manner, an advertisement which shall state the limitations and conditions upon which the application was accepted.

(2) The Registrar may cause an application to be advertised in the prescribed manner before its acceptance where—

- (a) the application is made under [section 10\(1\)\(e\)](#); or
- (b) it appears to him to be expedient to do so by reason of exceptional circumstances.

(3) Where an application is advertised under [subsection \(2\)](#), the Registrar may advertise that application again in the prescribed manner upon acceptance of the application”.

## Section 68 amended

9. [Section 68\(b\)](#) of the Act is amended by deleting the words “an article” and substituting the words “any goods”.

Passed in the Senate this 19th day of July, 1994.

R. CUMBERBATCH

*Acting Clerk of the Senate*

Passed in the House of Representatives this 19th day of August, 1994.

N. COX

*Acting Clerk of the House*

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