
STATUTORY INSTRUMENTS

2018 No. 825

The Trade Marks Regulations 2018

PART 2

Amendments to the 1994 Act

Relative grounds for refusal of registration

- 5.—(1) Section 5(1) is amended as follows.
- (2) After subsection (3), insert—
- “(3A) Subsection (3) applies irrespective of whether the goods and services for which the trade mark is to be registered are identical with, similar to or not similar to those for which the earlier trade mark is protected.”.
- (3) In subsection (4)(a), for “trade, or” substitute “trade, where the condition in subsection (4A) is met,”.
- (4) In subsection (4), after paragraph (a) insert—
- “(aa) by virtue of any provision of EU law, or any enactment or rule of law, providing for protection of designations of origin or geographical indications, where the condition in subsection (4B) is met, or”.
- (5) In subsection (4)(b)—
- (a) after “paragraph (a)” insert “or (aa)”; and
- (b) omit “, design right or registered designs” and substitute “or the law relating to industrial property rights”.
- (6) After subsection (4), insert—
- “(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.
- (4B) The condition mentioned in subsection 4(aa) is that—
- (a) an application for a designation of origin or a geographical indication has been submitted prior to the date of application for registration of the trade mark or the date of the priority claimed for that application, and
- (b) the designation of origin or (as the case may be) geographical indication is subsequently registered.”.
- (7) After subsection (5) insert—
- “(6) Where an agent or representative (“R”) of the proprietor of a trade mark applies, without the proprietor’s consent, for the registration of the trade mark in R’s own name, the application is to be refused unless R justifies that action.”.

(1) Section 5 was amended by [S.I. 2004/946](#), regulations 3 and 7(1), [S.I. 2004/2332](#), regulations 2 and 3, [S.I. 2011/1043](#), article 4(1) and [S.I. 2016/299](#), the Schedule, paragraph 1.

Status: *This is the original version (as it was originally made).*
