



# Trade Marks Act 1938

## 1938 CHAPTER 22

### REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE PROVISIONS.

#### *Manchester Branch*

#### **39 Trade marks for textile goods**

- (1) The Manchester Branch of the Trade Marks Registry of the Patent Office (in this section referred to as " the Manchester Branch ") shall be continued under a chief officer, who shall be styled " the Keeper of the Manchester Branch " and shall act under the direction of the Registrar.
- (2) The rules shall specify certain of the classes for the time being established for the purposes of the registration of trade marks (being such of those classes as consist of, or appear to the Board of Trade to relate materially to, any of the following goods, that is to say, goods included immediately before the appointed day in any of the classes numbered twenty-three to thirty-five and thirty-eight respectively and similar goods made from artificial silk or from other artificial fibres) as being classes to which this section applies.

In this section the expression " textile goods " means goods of any of the classes for the time being so specified other than goods of a kind as to which it may be provided by the rules that this section is not to apply thereto.

- (3) The rules for prescribing the manner in which applications for the registration of trade marks are to be made shall make provision for the sending of an application for the registration of a trade mark in respect of textile goods to the Registrar either at the Patent Office or at the Manchester Branch, at the option of the applicant.
- (4) The Keeper of the Manchester Branch shall furnish the Registrar with a report on every application for the registration of a trade mark sent to the Manchester Branch, and, before deciding under subsection (2) of section seventeen of this Act on any such application, the Registrar shall consider the report.
- (5) In respect of textile goods being piece goods—
  - (a) no mark consisting of a line heading alone shall be registrable as a trade mark;

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*Status: This is the original version (as it was originally enacted).*

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- (b) a line heading shall not be deemed to be adapted to distinguish or capable of distinguishing ;
  - (c) the registration of a trade mark shall not give any exclusive right to the use of a line heading.
- (6) There shall be kept at the Manchester Branch for the purposes of this Act a record called the Manchester Record wherein shall be entered copies of all entries in the register relating to trade marks registered in respect of textile goods on or after the appointed day and, as soon as may be, copies of all entries relating to trade marks so registered before the appointed day and for the time being subsisting, and the Manchester Record shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed.
- (7) The right of inspection conferred by the last foregoing subsection shall extend to and include the right to inspect all applications whatsoever for registration that were made to the Manchester Branch, between the passing of the Trade Marks Registration Act, 1875, and the appointed day, in respect of cotton goods, whether registered, refused, lapsed, expired, withdrawn, abandoned, cancelled or pending.
- (8) Refused marks which, immediately before the appointed day, were included in the collection of refused marks kept under rules one hundred and twelve to one hundred and sixteen of the Trade Marks Rules, 1920, and are at the time of the application for the registration of a trade mark included in that collection under the rules shall be treated for the purposes of subsections (1) and (2) of section twelve of this Act, but for no other purpose, as if they had been registered trade marks.
- (9) Before making any rule, or prescribing any form, that is to deal specially with trade marks registered or proposed to be registered in respect of textile goods other than clothing, the Board of Trade shall send a draft thereof to the Trade and Merchandise Marks Committee of the Manchester Chamber of Commerce, and shall, if the said committee so request, give them an opportunity of being heard.
- (10) The Registrar, or the Keeper of the Manchester Branch, may consult the said committee where it appears to him to be expedient so to do with respect to any circumstances peculiar to the cotton trade arising on an application to register a trade mark in respect of textile goods other than clothing.
- (11) A certificate purporting to be under the hand of the Keeper of the Manchester Branch as to any copy entered in the Manchester Record of an entry in the register shall be prima facie evidence of the entry having been made in the register and of the contents thereof.
- (12) The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to a trade mark registered or proposed to be registered pursuant to an application sent to the Manchester Branch, where the registered proprietor or the proposed registered proprietor is within, or submits to, the jurisdiction of that Court, have the like jurisdiction under this Act as His Majesty's High Court of Justice in England, and the expression " the Court " in this Act shall be construed and have effect accordingly :

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this subsection shall be subject to the like appeal as decisions of that Court in other cases.