

GOVERNMENT NOTIFICATION.—No. 384.

The following Rules, made by His Excellency the Officer Administering the Government in Executive Council, this 31st day of August, 1898, are published.

By Command,

T. SERCOMBE SMITH,  
*Acting Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 31st August, 1898.

TRADE MARKS RULES, 1898.

By virtue of the provisions of Ordinance No. 18 of 1898, His Excellency the Governor in Council doth hereby make the following Rules:—

PRELIMINARY.

1. These Rules may be cited as The Trade Marks Rules, 1898, and shall come into operation on the 1st day of September, 1898.

INTERPRETATION.

Interpretation. 2. In the construction of these Rules any words herein used defined by The Trade Marks Ordinance, 1898, shall have the meanings thereby assigned to them respectively.

FEEES.

Fees. 3. The fees to be paid as regards Trade Mark Matters shall be those specified in the First Schedule hereto. Such fees shall be paid to the Colonial Secretary for payment into the Treasury.

CLASSIFICATION OF GOODS.

Classification of goods. 4. For the purposes of trade marks registration and of these Rules, goods are classified in the manner appearing in the Second Schedule hereto.

If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the Colonial Secretary.

APPLICATION FOR REGISTRATION.

Application by firm, &c. 5. An application for registration of a trade mark, made by any firm or partnership, may be signed by some one or more members of such firm or partnership, as the case may be.

Where the firm consists of more than one person the names of all the partners must be stated.

If the application be made by a body corporate it may be signed by the Secretary or other principal officer of such body corporate.

An application for registration may be made by or through a solicitor or other agent of the applicant duly authorised to the satisfaction of the Colonial Secretary, but such application must be accompanied by a statutory declaration or affidavit as required by the Ordinance, in the form given in the Schedule to such Ordinance. Such statutory declaration or affidavit must be made by the applicant in person, or in the case of a firm or company may be made as provided by Rule 26 (d) or (e).

Application as to goods of more than one class. 6. Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications.

Foreign characters. 7. Where a Trade Mark contains a word or words in a language other than English a correct translation into English of the foreign words should accompany the application.

ADVERTISEMENT.

Advertisement. 8. Advertisement must be made of every application as directed by the Ordinance and shall be in the form given in the Schedule to such Ordinance.

OPPOSITION TO REGISTRATION.

Notice of opposition. 9. A notice of opposition must be addressed to the Colonial Secretary and must state the grounds on which the opponent intends to oppose the registration and must be signed by him or by his solicitor and must contain an address for service in Hongkong.

10. Where the ground, or one of the grounds, of opposition is that the applicant is applying for the registration of a trade mark identical with one already on the register with respect to the same goods or description of goods, or having such resemblance to a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive, the notice shall state the date of registration, and, if practicable, the number on the register of such trade mark already on the register.

Opposition on the ground of trade mark already on the register.

11. Within two months (unless the Colonial Secretary shall extend the time) from the date of the notice of opposition the opponent must forward to the Office of the Colonial Secretary such evidence, by way of statutory declaration, as he may desire to adduce in support of his opposition, and deliver a copy thereof to the applicant.

Opponent's evidence.

12. Within one month, (unless the Colonial Secretary shall extend the time) from the delivery of the opponent's copy of his statutory declarations the applicant shall forward to the Office of the Colonial Secretary his evidence, by way of statutory declaration, in answer and deliver to the opponent a copy thereof; and within fourteen days (unless the Colonial Secretary shall enlarge the time) from such delivery, the opponent must forward to the Office of the Colonial Secretary, his evidence by way of statutory declaration in reply, and deliver to the applicant a copy thereof. Such last-mentioned evidence shall be confined to matters strictly in reply.

Applicant's evidence.

Evidence in reply.

13. No further evidence shall be delivered on either side, except by leave of the Colonial Secretary, upon the written consent of the parties duly notified to him or by special leave of the Colonial Secretary given on an application made to him, of which application due notice shall be given by the party so applying to the opposite party, who shall be entitled to oppose the application.

Closing of evidence.

14. On completion of the evidence and on payment of the prescribed fee the matter shall be referred to the Attorney General who shall consider the evidence and report his opinion to the Colonial Secretary. If, however, the Attorney General desires to hear the parties before deciding, he shall appoint a time for such hearing and shall give the parties at least seven days' notice of such appointment.

Consideration of evidence by the Attorney General.

15. After receiving the Attorney General's report the Governor shall decide the matter and notify his decision, through the Colonial Secretary, to the parties. Such decision shall be final.

Decision.

#### REGISTER OF TRADE MARKS.

16. In case of the death of any applicant for a trade mark after the date of his application, and before the trade mark applied for has been entered on the register, the Governor, after the expiration of the prescribed period of advertisement, may, on being satisfied of the applicant's death, enter on the register, in place of the name of such deceased applicant, the name, address, and description of the person owning the good-will of the business, if such ownership be proved to the satisfaction of the Governor.

Death of applicant before registration.

17. Where a person becomes entitled to a registered trade mark by assignment, transmission, or other operation of law, a request for the entry of his name in the register as proprietor of the trade mark should be addressed to the Colonial Secretary signed by the person desiring to be registered as proprietor. In the case of a firm or corporation the provisions of rule 5 as to signatures shall apply.

Request by subsequent proprietor.

18. Every such request shall state the name, address, and description of the person claiming to be entitled to the trade mark (hereinafter called the claimant), and the particulars of the assignment, transmission, or other operation of law, by virtue of which he requires to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the trade mark has been assigned or transmitted, and so as to show further that it has been so assigned or transmitted in connexion with the good-will of the business concerned in the particular goods or classes of goods for which the trade mark has been registered.

Contents of request.

19. Every such request shall be accompanied by a statutory declaration to be thereunder written, verifying the several statements therein, and declaring that the par-

Declaration to accompany request.

ticulars above described comprise every material fact and document affecting the proprietorship of the trade mark as claimed by such request.

Further proof of title if required.

20. The claimant shall furnish to the Colonial Secretary such other proof of title and of the existence and ownership of such good-will as aforesaid as he may require for his satisfaction.

Body corporate.

21. A body corporate may be registered as proprietor by its corporate name.

Removal of mark from register.

22. Whenever a trade mark has been removed from the register for non-payment of any fee or otherwise and whenever the registration of any trade mark has been cancelled the Colonial Secretary shall cause to be entered in the register a record of such removal or cancellation and of the cause thereof.

Alteration of address in register.

23. If the registered proprietor of a trade mark sends to the Colonial Secretary together with the prescribed fee, notice of an alteration in his address the Colonial Secretary shall alter the register accordingly.

#### POWER TO DISPENSE WITH EVIDENCE.

Dispensing with evidence.

24. Where under these Rules any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Colonial Secretary or at the Colonial Secretary's Office, and it is shown to the satisfaction of the Colonial Secretary that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Colonial Secretary upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration, or evidence.

#### AMENDMENTS.

Amendment of documents.

25. Any document or drawing or other representation of a trade mark for the amending of which no special provision is made by Ordinance, may be amended, and any irregularity in procedure which, in the opinion of the Colonial Secretary may be obviated without detriment to the interests of any person, may be corrected, if the Colonial Secretary thinks fit, and on such terms as he may direct.

#### DECLARATIONS AND AFFIDAVITS.

Manner in which and persons before whom, declaration is to be taken.

26. Any statutory declarations or affidavits required by the said Ordinance and these Rules, or used in any proceedings thereunder, shall be made and subscribed as follows :—

- (a) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorized by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceedings ;
- (b) In Hongkong or in any other part of Her Majesty's dominions, before any Court, judge, justice of the peace, or any officer authorized by law to administer an oath there for the purpose of a legal proceeding ; and
- (c) If made out of Her Majesty's dominions, before a British Minister, or person exercising the functions of a British Minister, or a British Consular Officer, or a notary public, or before a judge or magistrate.
- (d) Where made on behalf of a firm or partnership, the declaration or affidavit may be made by any one or more members of such firm or partnership as the case may be.
- (e) Where made on behalf of a body corporate, the declaration or affidavit may be made by the Secretary or other principal officer of such body corporate.

Notice of Seal of Officer taking declaration to prove itself.

27. Any document purporting to have affixed, impressed, or subscribed thereto or thereon, the seal or signature of any person hereby authorized to take such declaration or affidavit in testimony of such declaration or affidavit having been made and subscribed before him, may be admitted by the Governor without proof of the genuineness of any such seal or signature, or of the official character of such person or his authority to take such declaration or affidavit.

FIRST SCHEDULE.

F E E S.

1. On application to register a trade mark for one or more articles included in one class, .....\$ 5.00
2. For registration of a trade mark for one or more articles included in one class, .... 10.00
3. For registering "a series" of trade marks, (see section 11 of Ordinance No. 18 of 1898) for every additional representation after the first in each class, ..... 2.50
4. For publication in the Gazette of notice of due registration,..... 5.00
5. On notice of opposition for each application opposed by opponent, ..... 10.00
6. On hearing parties by the Attorney General by applicant and by opponent respectively,..... 10.00
7. On application to register a subsequent proprietor in cases of assignment or transmission, the first mark, ..... 10.00
8. For every additional mark assigned or transmitted at the same time, ..... 1.00
9. For continuance of mark on the register after the expiration of 14 years—
  - (a.) Where the mark was registered prior to 22nd August, 1898, ..... 2.50
  - (b.) Where the mark is registered on or after 22nd August, 1898, ..... 10.00

Where it is desired to continue the mark in respect of articles in more than one class, the above fee is to be paid in respect of each class in respect of which continuance is required.
10. Additional fee for restoration of trade mark where removed for non-payment of fee—
  - (a.) Where the mark was registered prior to 22nd August, 1898, ..... 2.50
  - (b.) Where the mark is registered on or after 22nd August, 1898, ..... 10.00
11. For altering address on the register, for every mark, ..... 2.50
12. For every entry in the register of a rectification thereof or an alteration therein at the request of a party and not otherwise charged,..... 5.00
13. For cancelling the entry or part of the entry of a trade mark upon the register, on the application of the owner of such trade mark, ..... 2.50
14. On request to the Colonial Secretary to permit amendment or correction under Rule 25, .... 2.50
15. For certificate of registration, ..... 5.00
16. For inspecting register for every half hour or part thereof, ..... 0.50
17. For office copy of documents, per folio of 72 words (but never less than \$1.00), ..... 0.25
18. For certifying office copies, manuscripts or printed, per folio of 72 words (but never less than \$1.00), ..... 0.25

SECOND SCHEDULE.

CLASSIFICATION OF GOODS.

For purposes connected with the registration of trade marks, goods shall be divided into the following classes.

GENERAL NOTE.

Any wares made of mixed materials (for example, of both cotton and silk) shall be included in such one of the classes appropriated to those materials as the Colonial Secretary may decide.

*Illustrations.*

*Note.*—Goods are mentioned in this column by way of illustration, and not as an exhaustive list of the contents of a class.

CLASS 1.

Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.

Such as—  
 Acids, including vegetable acids.  
 Alkalies.  
 Artists' colours.  
 Pigments.  
 Mineral dyes.

- CLASS 2.
- Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.
- CLASS 3.
- Chemical substances prepared for use in medicine and pharmacy.
- CLASS 4.
- Raw or partly prepared vegetable, animal, and mineral substances used in manufactures, not included in other classes.
- CLASS 5.
- Unwrought and partly wrought metals used in manufacture.
- CLASS 6.
- Machinery of all kinds, and parts of machinery, except agricultural and horticultural machines included in Class 7.
- CLASS 7.
- Agricultural and horticultural machinery, and parts of such machinery.
- CLASS 8.
- Philosophical instruments, scientific instruments, and apparatus for useful purposes. Instruments and apparatus for teaching.
- Such as—  
Artificial manure.  
Cattle medicines.  
Deodorisers.  
Vermin destroyers.
- Such as—  
Cod liver oil.  
Medicated articles.  
Patent medicines.  
Plasters.  
Rhubarb.
- Such as—  
Resins.  
Oils used in manufactures and not included in other classes.  
Dyes, other than mineral.  
Tanning substances.  
Fibrous substances (*e.g.*, cotton, hemp, flax, jute).  
Wool.  
Silk.  
Bristles.  
Hair.  
Feathers.  
Cork.  
Seeds.  
Coal.  
Coke.  
Bone.  
Sponge.
- Such as—  
Iron and steel, pig or cast  
Iron, rough.  
" bar and rail, including rails for railways.  
" bolt and rod.  
" sheet, and boiler and armour plates.  
" hoop.  
Lead, pig.  
" rolled.  
" sheet.  
Wire.  
Copper.  
Zinc.  
Gold, in ingots.
- Such as—  
Steam engines.  
Boilers.  
Pneumatic machines.  
Hydraulic machines.  
Locomotives.  
Sewing machines.  
Weighing machines.  
Machine tools.  
Mining machinery.  
Fire engines.
- Such as—  
Ploughs.  
Drilling machines.  
Reaping machines.  
Thrashing machines.  
Churns.  
Cyder presses.  
Chaff cutters.
- Such as—  
Mathematical instruments.  
Gauges.  
Logs.  
Spectacles.  
Educational appliances.

## CLASS 9.

Musical instruments.

## CLASS 10.

Horological instruments.

## CLASS 11.

Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.

Such as—  
Bandages.  
Friction gloves.  
Lancets.  
Fleams.  
Enemas.

## CLASS 12.

Cutlery and edge tools.

Such as—  
Knives.  
Forks.  
Scissors.  
Shears.  
Files.  
Saws.

## CLASS 13.

Metal goods not included in other classes.

Such as—  
Anvils.  
Keys.  
Basins (metal).  
Needles.  
Hoes.  
Shovels.  
Corkscrews.

## CLASS 14.

Goods of precious metals (including aluminium, nickel, Britannia metal, &c.) and jewellery, and imitations of such goods and jewellery.

Such as—  
Plate.  
Clock cases and pencil cases of such metals.  
Sheffield and other plated goods.  
Gilt and ormolu work.

## CLASS 15.

Glass.

Such as—  
Window and plate glass.  
Painted glass.  
Glass mosaic.  
Glass beads.

## CLASS 16.

Porcelain and earthenware.

Such as—  
China.  
Stoneware.  
Terra Cotta.  
Statuary porcelain.  
Tiles.  
Bricks.

## CLASS 17.

Manufactures from mineral and other substances for building or decoration.

Such as—  
Cement.  
Plaster.  
Imitation marble.  
Asphalt.

## CLASS 18.

Engineering, architectural, and building contrivances.

Such as—  
Diving apparatus.  
Warming apparatus.  
Ventilating apparatus.  
Filtering apparatus.  
Lighting contrivances.  
Drainage contrivances.  
Electric and pneumatic bells.

## CLASS 19.

Arms, ammunition, and stores not included in Class 20.

Such as—  
Cannon.  
Small-arms.  
Fowling pieces.  
Swords.  
Shot and other projectiles.  
Camp equipage.  
Equipments.

## CLASS 20.

Explosive substances.	Such as— Gunpowder. Gun-cotton. Dynamite. Fog-signals. Percussion caps. Fireworks. Cartridges.
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## CLASS 21.

Naval architectural contrivances and naval equipments not included in Classes 19 and 20.	Such as— Boats. Anchors. Chain cables. Rigging.
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## CLASS 22.

Carriages.	Such as— Railway carriages. Waggons. Railway trucks. Bicycles. Bath chairs.
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## CLASS 23.

- (a) Cotton yarn, and sewing cotton not on spools or reels.  
(b) Sewing cotton on spools or reels.

## CLASS 24.

Cotton piece goods of all kinds.	Such as— Cotton shirtings. Long cloth.
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## CLASS 25.

Cotton goods not included in Classes 23, 24, or 28.	Such as— Cotton lace. Cotton braids. Cotton tapes.
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## CLASS 26.

Linen and hemp yarn and thread.

## CLASS 27.

Linen and hemp piece goods.

## CLASS 28.

Linen and hemp goods not included in Classes 26, 27, and 50.

## CLASS 29.

Jute yarns and tissues, and other articles made of jute not included in Class 50.

## CLASS 30.

Silk, spun, thrown, or sewing.

## CLASS 31.

Silk piece goods.

## CLASS 32.

Other silk goods not included in Classes 30 and 31.

## CLASS 33.

Yarns of wool, worsted, or hair.

## CLASS 34.

Cloths and stuffs of wool, worsted, or hair.

## CLASS 35.

Woollen and worsted and hair goods not included in Classes 33 and 34.

## CLASS 36.

Carpets, floor-cloth, and oil-cloth. Such as—  
 Drugget.  
 Mats and matting.  
 Rugs.

## CLASS 37.

Leather, skins unwrought and wrought, and articles made of leather not included in other classes. Such as—  
 Saddlery.  
 Harness.  
 Whips.  
 Portmanteaus.  
 Furs.

## CLASS 38.

Articles of clothing. Such as—  
 Hats of all kinds.  
 Caps and bonnets.  
 Hosiery.  
 Gloves.  
 Boots and shoes.  
 Other ready-made clothing.

## CLASS 39.

Paper (except paperhangings), stationery, and bookbinding. Such as—  
 Envelopes.  
 Sealing wax.  
 Pens (except gold pens).  
 Ink.  
 Playing cards.  
 Blotting cases.  
 Copying presses.

## CLASS 40.

Goods manufactured from india-rubber and gutta-percha not included in other classes.

## CLASS 41.

Furniture and upholstery. Such as—  
 Paper hangings.  
 Papier-mâché.  
 Mirrors.  
 Mattresses.

## CLASS 42.

Substances used as food, or as ingredients in food. Such as—  
 Cereals.  
 Pulses.  
 Olive oil.  
 Hops.  
 Malt.  
 Dried Fruits.  
 Tea.  
 Sago.  
 Salt.  
 Sugar.  
 Preserved meats.  
 Confectionery.  
 Oil cakes.  
 Pickles.  
 Vinegar.  
 Beerclarifiers.

## CLASS 45.

Fermented liquors and spirits. Such as—  
 Beer.  
 Cyder.  
 Wine.  
 Whisky.  
 Liqueurs.

## CLASS 44.

Mineral and aerated waters, natural and artificial, including ginger-beer.

## CLASS 45.

Tobacco, whether manufactured or unmanufactured.

## CLASS 46.

Seeds for agricultural and horticultural purposes.

## CLASS 47.

Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches, and starch, blue, and other preparations for laundry purposes.

Such as—  
Washing powders.  
Benzine collas.

## CLASS 48.

Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).

## CLASS 49.

Games of all kinds and sporting articles not included in other classes.

Such as—  
Billiard tables.  
Roller Skates.  
Fishing nets and lines.  
Toys.

## CLASS 50.

Miscellaneous—

- (1.) Goods manufactured from ivory, bone, or wood, not included in other classes.
- (2.) Goods manufactured from straw or grass, not included in other classes.
- (3.) Goods manufactured from animal and vegetable substances, not included in other classes.
- (4.) Tobacco pipes.
- (5.) Umbrellas, walking sticks, brushes, and combs.
- (6.) Furniture cream, plate powder.
- (7.) Tarpaulins, tents, rickeloths, rope, twine.
- (8.) Buttons of all kinds, other than of precious metal or imitations thereof.
- (9.) Packing and hose of all kinds.
- (10.) Goods not included in the foregoing classes.

Such as—  
Coopers' wares.

J. G. T. BUCKLE,  
*Clerk of Councils.*

COUNCIL CHAMBER,  
HONGKONG.