



Trade Marks Registry

WORK MANUAL

CHAPTER 1 INTRODUCTION

This manual is intended for the guidance and instruction of the staff in the Trade Marks Registry. Its terms in no way fetter the discretion given to the Registrar under the Trade Marks Act 1938. All cases dealt with by the Registry will be decided under the Act on their own facts and within the guidance of the Courts and the Registrar's discretion, where appropriate.

INTRODUCTION - THE WORK MANUAL

1-1 This Manual is intended for the guidance and instruction of the staff of the Trade Marks Registry. Its terms in no way fetter the discretion given to the Registrar under the Trade Marks Act 1938. All cases dealt with by the Registry will be decided under the Act on their own facts and within the guidance of the Courts and the Registrar's discretion, where appropriate.

1-2 This Work Manual is a revised edition of, and from the date of issue supersedes, the Manual issued in January 1959. (Ref IPCD 39239). It incorporates and supersedes the "Memoranda on Trade Mark Practice", also issued in 1959 in collated form, and Memoranda since issued, as far as still relevant, and also the Manual on Assignments.

1-3 This Manual deals solely with the functions of the Registry and with the procedures and practice for executing these functions. It does not deal with any personnel matters, such as Conditions of Service (General or Local), or any internal administrative matters, such as Accommodation. Nor does it include any detailed job descriptions for individual posts in the Registry.

1-4 Copies of this Manual are distributed to all members of the staff of the Registry of EO grade or higher. The training officer is responsible for the issue of all amendments and keeps stocks of the Manual.

1-5 Officers must incorporate amendments in their copy of the Manual as soon as received. When officers leave the Registry on retirement or otherwise their copy of the Manual should be passed to their successor or returned to the training officer.

1-6 Officers responsible for supervision of Sections of the Registry need to consider carefully whether any proposed changes in official procedures or practice are at variance with anything set out in this Manual. Officers initiating changes in procedure or practice, at the same time, should submit for approval appropriate draft amendments of the Manual. It is necessary to consider carefully whether it is desirable, for general information pending issue of the amendment, to prepare a Trade Mark Circular (TMC) for issue to all members of the staff. TMCs may not only give advance information to the staff immediately concerned, but can also usefully emphasise and amplify the effect of changes in practice and procedure, and can explain the circumstances prompting such changes. All members of the staff should be watchful for errors or

omissions in the Manual, particularly as regards their own work, and should not hesitate to suggest corrections or additions.

1-7 Amendments normally take the form of fresh pages for insertion in the Manual, with amended or new matter sidelined. Copies of amendments and of Trade Mark Circulars are issued on the same basis as copies of the Manual (see paragraphs 1-3).

1-8 to 1-9

INTRODUCTION - STATUTORY AUTHORITY

1-10 The authority for all decisions and proceedings is derived from powers and duties of the Registrar of Trade Marks (one of the designations of the Comptroller-General of Patents, Designs and Trade Marks - see Chapter 2), provided for in the Trade Marks Act, 1938 and in Rules (Trade Marks Rules, 1938, as amended from time to time) made by the Board of Trade (now part of the Department of Trade and Industry) in accordance with the provisions of the Act, subject to the sanction of the Treasury as regards fees. In some instances, the Registrar's course of action is definitely prescribed, but in many the effect of the Act and Rules is to confer a discretion upon the Registrar (eg by use of the phrase "the Registrar may" rather than "the Registrar shall"). Where there is a discretion whether it is proper or expedient to accede to any application or request or to take any action, there must be considered not only the legal rights of the person or persons concerned, but also the general public interest and the rights of any other persons. The Registry should always be able to refer to a statutory provision governing decisions and actions taken, or conferring a discretion to take such decisions and actions, referring also if possible to a decision of the Courts on the legal interpretation of the statutory provision.

1-11 Hereafter in this Manual references to 'the Act' and 'the Rules' are references to the Act and Rules cited in paragraphs 1-10, unless otherwise expressly indicated.

1-12 to end

