

## APPENDIX-10

RULES TO REGULATE THE PROCEDURE OF ALL PROCEEDINGS UNDER THE  
TRADE MARKS ACT, 1940

IN THE HIGH COURT OF JUDICATURE IN ASSAM

The 6th March 1956

No. HC.XI-3/53/1319-RC.— In exercise of the powers conferred by Article 225 of the Constitution of India read with Article 6 of the Assam High Court Order, 1948, the High Court of Assam is pleased to make the following rules under Section 77 of the Trade Marks Act, 1940, to regulate the procedure of all proceedings under that Act before it. The rule will come into effect from the date of publication in the Assam Gazette.

1. In these rules-

(a) "The Act" means the Trade Marks Act, 1940 as amended from time to time.

(b) "Registrar" means the Registrar, Trade Marks.

2. Applications, affidavits and proceedings under the Act shall be described under the title and in the matter of the Act and in the matter of Trade Mark.

3. Every application and Petition of appeal under the Act shall be drawn up in the manner prescribed by the Rules for other applications and appeals and shall be presented to the Registrar of the High Court.

4. The petition of appeal shall be registered if it is found to satisfy the requirements and posted in the first instance for admission before a Bench consisting of not less than two Judges. The Bench so constituted may admit or reject the petition of appeal or may make such orders as the circumstances of the case may require.

5. If the appeal is admitted a date shall be fixed for hearing the notice thereof shall be given to the opposite party with a copy of the memorandum of appeal which should be furnished by the appellant within a week from the date of the order of admitting the appeal or within such further date as may be granted by the Court.

6. All applicants to the Court under the Act whether by way of appeal or otherwise shall be served on the Registrar who shall have a right to appeal and he heard and shall also appear if the Court so directs.

7. Where any application or appeal is made to the High Court under the Act, while a suit or other proceedings concerning the Trade Mark is pending before any District Court, the High Court may stay such suit or proceeding until the disposal of the said application or appeal.

8. Where the Registrar makes a reference to the High Court under Section 72 (b) of the Act, he shall give notice of that fact to the party concerned. On receipt of such a reference the Registrar of the High Court shall fix a date and post the case to that date for hearing and disposal before a Bench consisting of not less than two Judges. The parties concerned shall be given atleast seven days' clear notice of the date fixed for hearing.

9. Where under Section 76(2) of the Act, an applicant becomes entitled and intends to withdraw his application or appeal he shall give notice thereof in writing to the Registrar and to the other party, if any, to the appeal or application within one month after the leave referred to in that section has been obtained. He shall also give notice to the Registrar of the High Court who shall thereupon place the appeal before a Bench consisting of not less than two Judges for disposal.

10. Where in a proceeding under the Act, involving the question of validity of registration of Trade Mark, the High Court decides in favour of the proprietor of the Trade Mark it may direct the Registrar to issue a certificate to that effect.

11. Where the High Court in a proceeding under the Act orders the rectification of register, a certified copy of every such order which shall be furnished by the party in whose favour the order is made at his own costs, within fourteen days from the date of such order, shall be sent by the Registrar of the High Court to the Registrar who shall rectify the register accordingly.

12. In all proceedings under the Act the costs thereof and incidental to such proceedings and also costs of hearing before the Registrar shall, save otherwise provided in the Act, be in the discretion of the Court.

13. In cases not provided for in the forgoing rules, the provisions of the Civil Procedure Code and the Rules and Forms of this Court shall apply with necessary changes in points of detail to all proceedings under the Act.

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