

EXAMINATION FOR REGISTRATION AS TRADE MARK AGENTS
(Rule 152(1) of Trade & Merchandise Marks Rules, 1959)
TRADE MARKS LAW AND PRACTICE
Monday the 16th December, 2002.

Time 11 a.m. to 2 P.M.

100 Marks.

Answer question No.4 and 8 compulsory and any four of the following questions:

Q.1. What are the requisitions for registration in Part A of the Register? In what respects registration in Part A differs from registration in Part B of the Register? (15 marks)

Q.2. Write short notes on any five of the following? (15 marks)

- a) Appropriate office of the Trade Marks Registry.
- b) Common to the trade
- c) Property mark
- d) Well-known mark
- e) Service mark
- f) Withdrawal of acceptance
- g) Disclaimer.

Q.3. State briefly the procedure for registering a trade mark in part A of the Register including the steps to be taken by the Applicant in case the application is opposed under Section 21 of the Trade & Merchandise Marks Act, 1958. (15 marks)

Q.4. State with reasons whether the following words are registrable as trade marks in respect of goods shown against them. (20 marks)

- i) FRUMATO - Soft drinks made from a mixture of fruit Juice and tomato juice.
- ii) SRI SAI BABA - Incense sticks.
- iii) PARLOGRAPH - Sound recording and reproducing machine.
- iv) UNEEDA - Articles of food.

v) TRAKGRIP - Rubber tyres for vehicles wheels.

Q.5 Who can file an opposition to the registration of a trade mark and what grounds can an opposition be filed/ Can the time for filing counter statement be extended? (15 marks)

Q.6. Who can apply for rectification of the Register of trade marks? State briefly the procedure to apply for rectification on the ground of measure. Can the registered trade mark be removed from the Register merely because the registered proprietor has not filed counter statement? (15 marks)

Q.7. Describe briefly the provisions relating to assignment and transmission of trade marks under the Act. (15 marks)

Q.8. Answer any four of the following questions:

- i) What is your opinion of similarity on PEPSI COLA and COCA Cola used on soft drinks?
- ii) The trade mark is registered for photographic goods in classes 1,9 and 16. The makers of a series of television films featuring a detective named JOKAK sell them as KOJAK films. Does the owner of KODAK have legitimate complaint? If so, would he have any remedy? The detective in the above named film has a habit of sucking Loli pops. The makers of films granted a license to manufacture of sweets (in class 30) to use the name KOJAK on lollipops made and sold by them. What, if anything, can the owners of KODAK do about it?
- iii) The trade mark TARZAN is registered in class 34 for cigars and cigarettes. Its proprietor proposes to assign the said trade mark for cigars only, what is your advice to your clients?
- iv) A trade mark is registered in class 1 for industrial adhesives; it has been, however, used only on house hold adhesives which are in class 16. Six years after registration an application is made to the Court to remove the trade mark for non-use. What is the likely result?
- v) The word MEGSAN is registered trade mark for disinfectants in class 5. The owners discover that toilet paper is on sale which is already and truthfully described as medicated with MAAGGAN. What can the owners do?