

# **A & S LAW WEEKLY**

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*WEEKLY LEARNING  
SERIES*



**A & S** LAW WEEKLY  
Week - 29

## Removal and restoration trademarks



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## DURATION, RENEWAL, REMOVAL AND RESTORATION OF TRADEMARK

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Duration- The registration of a trademark is valid for 10 years and can be renewed

Renewal- Upon Application in prescribed manner with Prescribed fee the registrar may renew the Trademark for another 10 years from the date of original expiration

Removal – Before Expiration, the registrar shall send notice to the registered proprietor of the mark and if the conditions for compliance are not followed the registrar may remove the Trademark

Restoration- When a trademark has been removed for non payment of prescribed fee, the registrar shall after 6 months and within one year, on application in prescribed form and upon payment of prescribed fee, restore the trademark from the date of last expiration

## S. 26 - EFFECT OF REMOVAL FROM REGISTER FOR FAILURE TO PAY FEE FOR RENEWAL



➤ A Trademark could be removed from the register for the purpose of Non-payment of the fee for renewal.

Renewal of Trademark



➤ After the removal of a Trademark, the said mark shall be in the register deemed as a Trademark already in use for a period of **one year from the date of Removal.**

## S. 26 - EFFECT OF REMOVAL FROM REGISTER FOR FAILURE TO PAY FEE FOR RENEWAL (CONTD.)



### EXCEPTION

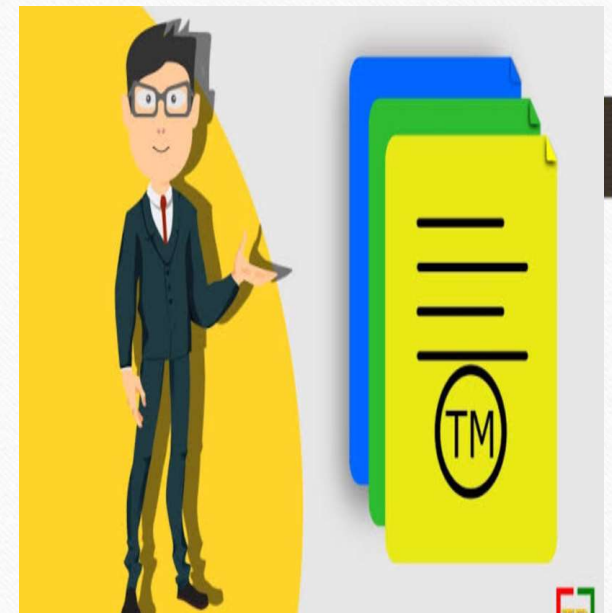
❖ The Trademark shall be removed with effect immediately when the said mark has not been meeting out the purpose of 'Trade Use' for the previous two years from the date of removal.

❖ There would not be any kind of confusion in the minds of customers / consumers with regard to newly applied mark because of its similarities with any of the previously used Trademark which has currently been removed from the register.

## ***RULE 57***

# ***RENEWAL OF REGISTRATION***

- Application for renewal of trademark shall be done in ***FORM TM-R*** along with a fee, within a period of 1 year before the expiration of the last Registration of trademark.
- Request for renewal of trademark shall be made within 1 year .
- Unless it is removed or cancelled or is not renewable under provisions of an act or by the order of any competent court or registry.





## ***RULE 58***

# ***NOTICE BEFORE REMOVAL OF TRADEMARK FROM REGISTER***

- If an application through Form TM-R is not made along with the fee, within 6 months before the expiration of registered trademark an notice shall be issued by the Registrar.
- Notice in Form RG-3 shall be made to the registered proprietor which explains on the conditions, date of expiration, or if any with regard to registration.
- If the registration of a trademark becomes due of renewal , it is registered at any time within 6 months before the renewal due date.
- The registration can be renewed along with the renewal fee within 6 months failing the registrar shall remove the trademark (***Rule 60***).

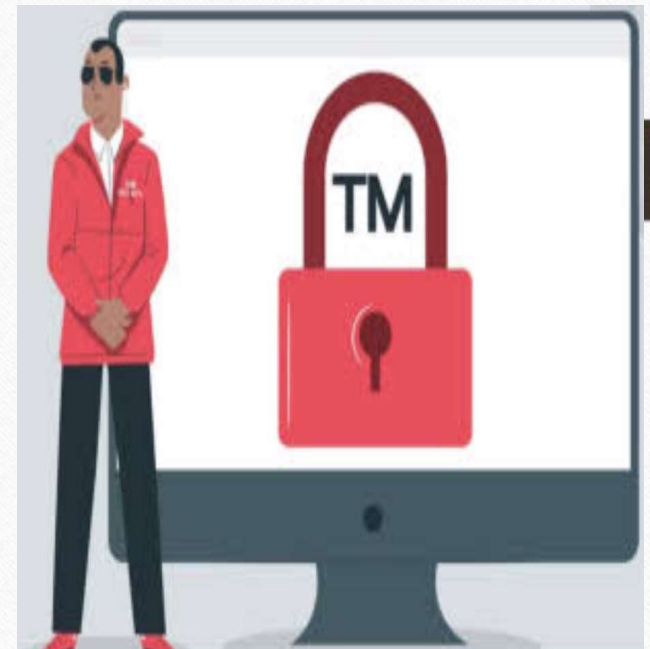
***As per Schedule 1 , Registration of collective trademark or certification trademark shall be in Form TM-R along with a fee .***



## ***RULE 59***

# ***ADVERTISEMENT OF REMOVAL OF TRADEMARK FROM THE REGISTER***

- If at the expiration of registration of trademark, the renewal fee has not been paid, the registrar may remove the trademark from the register and advertise the fact.
- If an application of payment of surcharge is made under Section 25(3) in ***FORM TM -R*** within 6 months from expiration then Registrar shall not remove the trademark



# *RULE 60*

## *RESTORATION AND RENEWAL OF REGISTRATION*



- ❑ An application For Restoration of a trademark to the register and renewal under section 25(4) should be made in **FORM TM – R** within a year from expiration along with a fee.
- ❑ For the restoration and renewal , the Registrar shall consider the Interest of other affected Persons.



# *RULE 61*

## *NOTICE AND ADVERTISEMENT OF RENEWAL AND RESTORATION*



○ For Renewal/ Restoration/ and Renewal of Registration, a Notice shall be issued to

- Registered Proprietor**
- Registered User**

○ The Renewal or Restoration is also advertised in the Journal .



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