

## SCHEDULE 2

### Order 100

#### *The Trade Marks Act 1938 as Amended by The Trade Marks (Amendment) Act 1984; The Trade Marks Act 1994 and the Olympic Symbol Etc (Protection) Act 1995*

#### **Appeals and applications under the 1938 Act, the 1994 Act and the Olympic Symbol Act**

3.—(1) Subject to rule 4 and paragraph (6) below every application to the High Court under the 1938 Act, the 1994 Act, the Olympic Symbol Act and the Olympic Symbol Regulations must be begun by originating motion.

(2) Notice of the motion by which any application is made under the 1938 Act or the 1994 Act must be served on the Registrar.

(3) Where—

- (a) the Registrar refers to the High Court an application made to him under the 1938 Act or the 1994 Act;
- (b) the Board of Trade under the 1938 Act or an appointed person under section 76 of the 1994 Act refers to that Court an appeal,

then unless within one month after receiving notification of the decision to refer, the applicant or the appellant, as the case may be, makes to that court the application or appeal referred, he shall be deemed to have abandoned it;

(4) The period prescribed by Order 55, rule 14(2), or by paragraph (3) in relation to an application or appeal to which that paragraph applies may be extended by the Registrar on the application of any party interested and may be so extended although the application is not made until after the expiration of that period, but the foregoing provision shall not be taken to affect the power of the Court under Order 3, rule 5, to extend that period.

(5) Where under subsection (6) of section 17, or subsection (9) of section 18, of the said Act of 1938 an appellant becomes entitled to withdraw his application which is the subject matter of the appeal, he must give notice of his intention to the Registrar and to any other party to the appeal within one month after the Court has given leave under the said subsection (6) or the said subsection (9), as the case may be, for further grounds of objection to be taken.

(6) An application under section 16 or section 19 of the 1994 Act or regulation 3 or regulation 5 of the Olympic Symbol Regulations shall be made by originating summons or, if it is made in a pending action by summons or motion in that action.

(7) Where an application is made under section 19 of the 1994 Act or regulation 5 of the Olympic Symbol Regulations the applicant shall serve notice of the application on all persons so far as reasonably ascertainable having an interest in the goods, material or articles which are the subject of the application including any person in whose favour an order could be made in respect of the goods, material or articles under the said section of the 1994 Act or the said regulation of the Olympic Symbol Regulations or under section 114, 204 or 231 of the Copyright, Designs and Patents Act 1988.