



### **On what grounds can a registered trademark be removed in Bangladesh?**

Anyone may approach the registrar or the High Court Division seeking cancellation, Revocation, or Rectification of a registered trademark in Bangladesh.

**Procedure for Removal of a Registered Trademark in Bangladesh on the Grounds of Non-use:** Section 42 of the Bangladesh Trademarks Act provides for the removal of the trademark from the register of trademarks on the ground of continuous non-use of the mark for five years from the date of registration, i.e., application.

### **On what grounds can an application to rectify a trademark be filed in Bangladesh?**

**Procedure for applying for Rectification of a Trademark In Bangladesh:** Section 51 of the Bangladesh Trademarks Act provides for the rectification of a trademark in Bangladesh in case of infringement or failure to observe a condition entered in the registry in relation thereto to an application made by an aggrieved person.

### **What is the procedure for trademark rectification in Bangladesh?**

A trademark in Bangladesh can be removed or canceled from the Register of Trademarks on various grounds, such as non-use, invalidity, or cancellation. The procedure for removing a trademark in Bangladesh depends on the grounds on which the trademark is sought to be removed.

#### **Stage-1: Filing of Notice of rectification:**

The first step in removing a trademark is to determine the grounds on which the trademark is sought to be removed. The grounds can be non-use, invalidity, or cancellation. Once the grounds for removal have been determined, the person seeking the removal of the trademark must file a petition with the Registrar of Trademarks in the prescribed form.

Cost: Official fee: \$75

#### **Stage-2: Counterstatement:**

Once the petition has been filed, the Registrar of Trademarks will notify the trademark owner and allow them to file a counter-statement and provide evidence supporting their trademark.

Cost: Official fee: \$60

### **Stage-3: Evidence**

After the response is filed, both parties may have the opportunity to provide further evidence and arguments to support their positions. This evidence exchange period is an integral part of the rectification process and can determine the outcome of the rectification. The petitioner must provide evidence to support their claim to remove the trademark. For example, in the case of non-use, the petitioner must provide evidence that the trademark has not been used in Bangladesh for five years.

Cost: Official fee: \$50

#### **Stage-3(a) Evidence in support of rectification :**

Within two months from the receipt by the opponent of the duplicate counter-statement, the opponent shall either leave with the Registrar such evidence by way of affidavit as he may desire to adduce in support of his rectification or shall intimate to the Registrar in writing that he does not desire to adduce any evidence in support of his rectification. He shall deliver copies of any evidence he leaves with the Registrar under this sub-rule to the applicant. If an opponent takes no action under sub-rule within the prescribed time, he shall be deemed to have abandoned his rectification unless the Registrar otherwise directs.

#### **Stage-3 (b) Evidence in support of the application:**

Within two months of receiving copies of affidavits in support of the rectification, the applicant shall leave with the Registrar such evidence by way of affidavit as he desires to adduce in support of his application and shall deliver to the opponent copies thereof.

#### **Stage-3 (c) Evidence in reply by opponent:**

Within one month from the receipt by the opponent of the copies of the applicant's affidavits, the opponent may leave with the Registrar evidence by affidavit in reply and shall deliver copies to the applicant. This evidence shall be confined to matters strictly in reply.

#### **Stage-3 (d) Further evidence:**

No further evidence shall be left on either side. Still, in any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to leave any evidence upon such term as to costs or otherwise as he may think fit.

#### **Stage-3 (e) Exhibits:**

Where there are exhibits to affidavits filed in a rectification, copies or impressions of such exhibits shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the original shall be left with the Registrar so that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs

### **Stage-4: Hearing**

After the counter-statement has been filed, a hearing will be held to consider the evidence and arguments presented by both parties.

Cost: Official fee: \$45

#### **Stage-5: Decision**

The Registrar of Trademarks will decide whether to remove or cancel the trademark based on the evidence presented at the hearing.

If the Registrar of Trademarks decides to remove or cancel the trademark, the decision can be appealed to the Intellectual Property Tribunal. The decision of the Tribunal can be further appealed to the High Court.

### **Relevant laws and acts for removing or rectifying a trademark in Bangladesh**

#### **Section 42. Removal from Register and imposition of limitations on grounds of non-use.**

(1) A registered trademark may be removed from the Register for any of the goods or services for which it is registered on an application made in the prescribed manner by any person aggrieved to the High Court Division or the Registrar on the ground.

(a) that the trademark was registered without any bona fide intention on the part of the applicant for registration that it should be used concerning those goods or services, as the case may be, by him or, in a case to which the provisions of section 41 apply, by the company concerned, and that there has in fact, been no bonafide use of the trademark, concerning those goods or services by any proprietor thereof for the time being up to a date one month before the date of the application; or

(b) that up to a date one month before the date of the application, a continuous period of 5 (five) years or longer elapsed during which the trademark was registered and during which there was no bona fide use thereof concerning those goods or services by any proprietor thereof for the time being

(2) The Tribunal shall not refuse an application submitted under sub-section (1) except where?

(a) the applicant has been permitted under section 10 to register an identical or nearly resembling trademark in respect of the goods or services or

(b) the Tribunal believes that there has been bonafide use of the trademark by any proprietor thereof for the time being concerning goods or services before the relevant date or during the relevant period.

(3) On an application by an aggrieved person in the prescribed manner to the High Court Division or the Registrar, the Tribunal may impose on the registration such limitations as it thinks proper for securing that registration shall cease to extend to such use in cases where?

(a) circumstances exist concerning goods or services, as the case may be, to be sold, or otherwise traded in, in a particular place in Bangladesh, or concerning goods or services, as the case may be, to be exported at a specific market outside Bangladesh, that there has been no bona fide use of the trademark for 5 (five) years or more after registration by any proprietor thereof; or

(b) more than one person has been permitted under section 10 to register an identical or nearly resembling trademark  
in respect of identical goods or services, as the case may be, to be sold, traded in, or exported.

- (4) For clause (b) of sub-section (1) or sub-section(2), an applicant shall not be entitled to rely on any non-use of a trademark, which?
- (a) is shown to have been due to particular circumstances; and
- (b) is not to any intention to abandon the business or not to use the trademarks.

**Section 51. Power to cancel or vary registration or to rectify the Register.**

- (1) On application made in the prescribed manner by any person aggrieved to the High Court Division or to the Registrar, the Tribunal may make such order as it may think fit for canceling or varying the registration of a trademark on the ground of any infringement of, or failure to observe a condition entered on the Register in relation thereto.
- (2) Any person aggrieved by the absence or commission from the Register of any entry, or by any entry made in the Register without sufficient cause, or by any entry wrongly remaining on the Register, or by any error or defect in any entry in the Register, may apply in the prescribed manner to the High Court Division or the Registrar. The Tribunal may make such order to make, erase, or vary the entry as it may fit.
- (3) The Tribunal may decide any question that may be necessary or expedient in connection with the rectification of the Register in any proceeding under this section.
- (4) The High Court Division or the Registrar of its or his motion may, after giving notice in the prescribed manner to the parties concerned and after allowing them to be heard, make any order referred to in subsection (1) or sub-section (2) of this section.
- (5) Any order of the High Court Division rectifying the Register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner, who shall, upon receipt of such notice, rectify the Register accordingly