

S.I. No. 9 of 2001

Trade Marks Act, 1996 (Section 66) Regulations, 2001.

I, Tom Kitt, Minister of State at the Department of Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 66 of the Trade Marks Act, 1996 (No. 6 of 1996) (as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 305 of 1997), and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 330 of 1997)), hereby make the following regulations:

1. (1) These Regulations may be cited as the Trade Marks Act, 1996 (Section 66) Regulations, 2001.

(2) These Regulations shall come into operation on 29 January, 2001.

2. In these Regulations -

“Community Trade Mark Regulation” means Council Regulation (EC) No. 40/94 of 20 December 1993 on the Community trade mark¹ ;

“Community Trade Mark Rules” means Commission Regulation (EC) No. 2868/95 of 13 December 1995 implementing Council Regulation (EC) No. 40/94 on the Community trade mark² .

3. Where the Controller receives a notification under Rule 8(3) of the Community Trade Mark Rules pursuant to Article 34 of the Community Trade Mark Regulation of a seniority claim based on an earlier registered trade mark, the Controller shall note the said seniority claim and such claim is hereby prescribed as a matter to be entered in the register.

GIVEN under my hand,

25 January, 2001

TOM KITT

Minister of State at the Department

of Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This note is not part of these Regulations and does not purport to be a legal interpretation)

The purpose of these Regulations is to enable certain details regarding the seniority of Community trade marks to be recorded in the Register of Trade Marks.

Community trade marks are valid in all EU Member States. They are registered by the Office of Harmonisation in the Internal Market (OHIM) based in Alicante, Spain. In some cases, a trade mark has already been registered in an EU member State when an application for a Community trade mark is filed. In such cases there is provision under the Community Trade Mark Regulation for a claim to be made for the Community trade mark to assume the rights of the earlier national trade mark with effect from the date of national registration. This is known as “seniority”.

Seniority may be claimed in connection with a Community trade mark application at the time of, or within two months of, the filing date of the application. OHIM notifies national Patents Offices of such seniority claims. These Regulations provide, in the case of seniority in respect of earlier Irish trade marks, for the Controller of Patents, Designs and Trade Marks to record such claims in the Register of Trade Marks. This provision will enable any person to know, by inspecting the Register of Trade Marks, whether the seniority of an earlier Irish trade mark has been claimed in a particular Community trade mark application.

If a trade mark holder fails to claim seniority within 2 months of submitting an application for a Community trade mark, there is a further opportunity to claim seniority but only after the mark has been registered. Provision to record seniority claims in these circumstances has already been made in a Regulation last year (Trade Marks Act, 1996 (Community Trade Mark) Regulations, 2000 (S.I. No. 229 of 2000)).

Published by the Stationery Office, Dublin, 2.

¹ OJ No. L11, 14.1.94, p.1.

² OJ No. L303, 15.12.95, p.1.
