

Merger of applications and registrations

Applicants who have filed separate applications for the registration of a trade mark in different classes can apply to merge them into a single application, just as the owner of 2 or more registrations of a trade mark in different classes can merge them into a single registration, as long as they meet the necessary requirements under section 51 and rules 28 and 53.

Checking a request to merge applications for registration

- Is the request made on Form T4 (rule 28(1))?
- Is the request made before any of the applications have been published (rule 28(1))?
- Are the applications for the same trade mark (rule 28(2)(a))?
 - are there the same number of marks in the series?
 - are the marks presented in the same way and are the mark types the same?
- Do the applications claim the same protection (rule 28(2)(b))? For example, are they subject to the same disclaimers and conditions?
- Do the applications have the same filing date (rule 28(2)(c))?

- At the time of the request, are the applications in the name of the same person (rule 28(2)(d))? If not, has notice of an assignment (Form T10) been filed prior to the request, so that the applications are effectively in the name of the same person?
- If the separate applications claim different priority dates, the different priority claim details should be entered in the merged application.
- Have details of a grant of licence or security interest been filed?
- Merged applications become a single application for registration (rule 28(1)) and it should be assigned the smallest of the application numbers of the original applications. Appropriate entries showing the merger should be made in the historical details section of the original separate applications and the resulting merged application.

Checking a request to merge registrations

- Is the request made on Form T4 (rule 53(1))?
- Are the registrations in respect of the same trade mark (rule 53(2)(a))?
 - are there the same number of marks in the series?
 - are the marks presented in the same way and are the mark types the same?
- Do the registrations provide the same protection (section 51(1)(b))? For example, are they subject to the same disclaimers and conditions?

- Are the registrations, at the time of the request, owned by the same person (rule 53(1))? If not, has an application to register an assignment (Form T10) been filed prior to the request, so that the registrations are effectively owned by the same person?

- Do the separate registrations have different registration dates? If they do then enter the latest of these dates as the date of registration of the merged registration (rule 53(5)). The next renewal date shall be calculated by reference to this date of registration.

- The number of the merged registration will be the number of that original separate registration with the latest filing date. Appropriate entries showing the merger should be made in the historical details of the register entries of the original separate registrations and the resulting merged registration.

- If the separate registrations claim different priority dates, the different priority claim details should be entered in the merged registration.

- Are there any disclaimers, limitations or conditions relating to the registrations? If there are, the merged registration will be subject to the same disclaimers, limitations or conditions (rule 53(3)).

- Have the details of a grant of licence or security interest or any other particulars been registered in relation to any of the separate registrations? When 2 or more registrations are merged, the merged registration will bear the same particulars as were registered in relation to each of the original registrations (rule 53(4)).

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