

Effect of nullity of registration on licence contract.

131. Where, before the expiration of the licence contract, the registration is declared null and void, the licensee shall no longer be required to make any payment to the licensor under the licence contract, and shall be entitled to repayment of the payments already made :

Provided that the licensor shall not be required to make any repayment, or shall be required to make repayment only in part, to the extent that he can prove that any such repayment would be inequitable under all the circumstances, in particular if the licensee has effectively profited from the licence.

Expiry, termination or invalidation of licence contract.

132. The Director-General shall –

- (a) if he is satisfied that a licence contract recorded under subsection (2) of section 125 has expired or been terminated, record that fact in the register upon a request made in writing to that effect signed by or on behalf of the parties thereto ;
- (b) record in the register the expiry, termination, annulment or invalidation of a licence contract under any provision of this Part.

CHAPTER XXVI

RENUNCIATION AND NULLITY OF REGISTRATION OF A MARK

Renunciation of registration.

133. (1) The registered owner of a mark may renounce the registration, either wholly or in respect of part of the goods or services for which the mark is registered, by a declaration in writing signed by him or on his behalf and forwarded to the Director-General.

(2) The Director-General shall, on receipt of the said declaration, record it in the register and cause such record to be published in the Gazette.

(3) The renunciation shall take effect from the date that the Director-General receives the said declaration.

(4) Where a licence contract in respect of a mark is recorded in the register the Director-General shall not, in the absence of provision to the contrary in such licence contract, accept or record the said renunciation except upon receipt of a signed declaration by which any assignee, licensee or sub-licensee on record consents to the renunciation, unless his consent is expressly waived in the licence contract.

134. (1) The Court may on the application of any person showing a legitimate interest, or of any competent Authority including the Director-General, to which the registered owner of the mark and every assignee, licensee or sub-licensee on record shall be made party, declare the registration of the mark null and void if its registration is precluded under the provisions of sections 103 and 104 :

Nullity of registration.

Provided, however, that grounds of nullity which do not exist on the date of the application to Court, shall not be taken into account.

(2) Where the grounds for nullity of registration of the mark exist in respect of only part of the goods or services for which the mark is registered, nullity of the registration shall be declared for that part only for such goods or services.

(3) An application for a declaration of nullity based on any of the grounds specified in subsection (1) of section 104 shall be made within five years from the date of issue of the certificate of registration under subsection (3) of section 113.

135. (1) Upon a final decision of the Court declaring total or partial nullity of registration of a mark, the registration shall be deemed to have been null and void totally or partially, as the case may be, from the date of such registration.

Date and effect of nullity.

(2) When a declaration of nullity becomes final the Registrar of the Court shall notify the Director-General of such fact and he shall record the said declaration in the register and cause it to be published in the Gazette.