

Defences |
in actions
in which
registration
certificates
relied upon.

19. Notwithstanding the production as aforesaid of a certified copy of the record of the registration of a trade mark, the person appearing from such record to be the owner of the mark shall not be entitled, without other evidence of his rights than is afforded by the contents of the record, to any remedy or relief by reason of any alleged infringement of such trade mark if it is established to the satisfaction of the court either

- (a) that the mark was not registrable by the party who appears from the record of the registration to be the owner thereof or by his predecessor in title, or
- (b) that at any time after the registration was made, the owner of the mark failed to make such a continuous use thereof in the ordinary course of his business as to indicate a constant intention to maintain his rights thereto, or
- (c) that, at any time after the registration was made, the owner of the mark has used it as the name of an article or as a grade or style mark rather than as a trade mark, or
- (d) that for any other reason the mark has ceased substantially to serve the purposes defined in the application for its registration.

Jurisdiction of
Exchequer
Court.

20. The Exchequer Court of Canada shall have concurrent jurisdiction to entertain any action or proceeding for the enforcement of any of the rights conferred or defined by this Act.

Powers
of Court
in case of
conflicting
claims
to use a
trade mark.

21. If in any action or proceeding in the Exchequer Court of Canada it appears that two or more persons have adopted the same or a similar trade name, or have adopted the same or a similar trade mark or distinguishing guise for use in connection with similar wares and that neither would be entitled to a judgment forbidding the other from continuing to use his trade name, trade mark or distinguishing guise in one or more provinces, the Court shall, so far as, having regard to the evidence adduced, it is possible to do so, specify the provinces within which each of the persons concerned may so continue and shall give judgment between the parties accordingly, or may, if the parties agree or the circumstances permit, specify the conditions, by way of difference or otherwise, under which each of the parties may continue to use his trade name, trade mark or distinguishing guise throughout Canada.

REGISTER OF TRADE MARKS

Register of
Trade Marks.

22. (1) There shall be kept under the supervision of the Registrar a register of trade marks in which, subject as hereinafter provided, any person may cause to be recorded any trade mark he has adopted, and notifications of any