

SCHEDULES

[^{F1}SCHEDULE 2B

INTERNATIONAL TRADE MARKS PROTECTED IN THE EUROPEAN UNION

Textual Amendments

- F1** Sch. 2B inserted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, [Sch. 4 para. 3](#) (with Sch. 5 Pt. 2) (as amended by [S.I. 2020/1050](#), regs. 1(2), [22\(b\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

PART 1

EXISTING INTERNATIONAL TRADE MARKS PROTECTED IN THE EUROPEAN UNION

Determination of invalidity and liability to revocation in relation to claims of seniority

- 15 (1) Where pursuant to paragraph 14 a comparable trade mark (IR) is treated as if it had a valid claim to seniority of a registered trade mark which has been—
- (a) removed from the register under section 43; or
 - (b) surrendered under section 45,
- any person may apply to the registrar or to the court for the declaration set out in sub-paragraph (2).
- (2) The declaration is that if the trade mark had not been so removed or surrendered, the registration of the trade mark would have been liable to be revoked under section 46 with effect from a date specified in the declaration or declared invalid under section 47.
- (3) Where the declaration is that had the trade mark not been so removed or surrendered the registration of it would have been liable to be—
- (a) revoked under section 46 with effect from a date prior to—
 - (i) where there has been no claim of priority pursuant to Article 35 of the European Union Trade Mark Regulation (as it applies to international registrations under Article 182 of that Regulation) in respect of the existing IR(EU) from which the comparable trade mark (IR) derives, the deemed date of registration of the comparable trade mark (IR); or
 - (ii) where there has been a claim of priority, the priority date accorded pursuant to a right of priority claimed pursuant to Article 35 of the European Union Trade Mark Regulation in respect of the existing IR(EU) from which the comparable trade mark (IR) derives; or
 - (b) declared invalid under section 47,

Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Paragraph 15. (See end of Document for details)

the seniority claimed for the comparable trade mark (IR) is to be treated as if it never had effect.

- (4) Where pursuant to paragraph 14 a comparable trade mark (IR) is treated as if it had a valid claim to seniority of a protected international trade mark (UK) which has been—
- (a) removed from the International Register; or
 - (b) surrendered under the Madrid Protocol,
- any person may apply to the registrar or to the court for the declaration set out in sub-paragraph (5).
- (5) The declaration is that, if the trade mark had not been so removed or surrendered, the protection of the mark in the United Kingdom would have been liable to be revoked under section 46 with effect from a date specified in the declaration or declared invalid under section 47.
- (6) Where the declaration is that had the trade mark not been so removed or surrendered the protection of the mark in the United Kingdom would have been liable to be—
- (a) revoked under section 46 with effect from a date prior to—
 - (i) where there has been no claim of priority pursuant to Article 35 of the European Union Trade Mark Regulation (as it applies to international registrations under Article 182 of that Regulation) in respect of the existing IR(EU) from which the comparable trade mark (IR) derives, the deemed date of registration of the comparable trade mark (IR); or
 - (ii) where there has been a claim of priority, the priority date accorded pursuant to a right of priority claimed pursuant to Article 35 of the European Union Trade Mark Regulation in respect of the existing IR(EU) from which the comparable trade mark (IR) derives; or
 - (b) declared invalid under section 47,
- the seniority claimed for the comparable trade mark (IR) is to be treated as if it never had effect.
- (7) Where the protection in the European Union of an existing IR(EU) resulted from a request for territorial extension under Article 3ter(2), a right of priority claimed pursuant to Article 35 of the European Union Trade Mark Regulation in respect of the existing IR(EU) is to be disregarded for the purposes of sub-paragraphs (3)(a)(ii) and (6)(a)(ii) unless the request for territorial extension was recorded in the International Register within a period of six months beginning with the day after the priority date recorded in the International Register in respect of the international application for protection of the trade mark which is the same as the one in respect of which the request for territorial extension was filed.
- (8) References in sub-paragraphs (5) and (6) to sections 46 and 47 are to those sections as they apply to a protected international trade mark (UK) under an order made pursuant to section 54.
- (9) Where a trade mark has been surrendered or allowed to lapse in respect of some only of the goods or services for which it is registered, the declaration in sub-paragraphs (2) and (5) is that if the goods or services had not been removed from the registration, the registration of the trade mark would have been liable to be revoked under section 46 with effect from a date specified in the declaration or

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declared invalid under section 47 and sub-paragraphs (3) and (6) shall be construed accordingly.]

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There are currently no known outstanding effects for the Trade Marks Act 1994, Paragraph 15.