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STATUTORY INSTRUMENTS

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**2008 No. 1797**

**The Trade Marks Rules 2008**

*Publication, observations, oppositions and registration*

**Opposition proceedings: filing of notice of opposition; section 38(2) (Form TM7)**

17.—(1) [<sup>F1</sup>Subject to Rule 17A, any] notice to the registrar of opposition to the registration, including the statement of the grounds of opposition, shall be filed on Form TM7.

(2) Unless paragraph (3) applies, the time prescribed for the purposes of section 38(2) shall be the period of two months [<sup>F2</sup>beginning immediately after] the date on which the application was published.

(3) This paragraph applies where a request for an extension of time for the filing of Form TM7 has been made on Form TM7A, before the expiry of the period referred to in paragraph (2) and where this paragraph applies, the time prescribed for the purposes of section 38(2) in relation to any person having filed a Form TM7A (or, in the case of a company, any subsidiary or holding company of that company or any other subsidiary of that holding company) shall be the period of three months [<sup>F3</sup>beginning immediately after] the date on which the application was published.

(4) Where a person makes a request for an extension of time under paragraph (3), Form TM7A shall be filed electronically using the filing system provided on the Office website or by such other means as the registrar may permit.

(5) Where the opposition is based on a trade mark which has been registered, there shall be included in the statement of the grounds of opposition a representation of that mark and—

- (a) the details of the authority with which the mark is registered;
- (b) the registration number of that mark;
- (c) the goods and services in respect of which—
  - (i) that mark is registered, and
  - (ii) the opposition is based; and

(d) where the registration procedure for the mark was completed before the start of the period of five years ending with the [<sup>F4</sup>date of application for registration or, if any, the date of priority], a statement detailing whether during the period referred to in section 6A(3)(a) the mark has been put to genuine use in relation to each of the goods and services in respect of which the opposition is based or whether there are proper reasons for non-use (for the purposes of rule 20 this is the “statement of use”).

(6) Where the opposition is based on a trade mark in respect of which an application for registration has been made, there shall be included in the statement of the grounds of opposition a representation of that mark and those matters set out in paragraph (5)(a) to (c), with references to registration being construed as references to the application for registration.

(7) Where the opposition is based on an unregistered trade mark or other sign which the person opposing the application claims to be protected by virtue of any rule of law (in particular, the law of passing off), there shall be included in the statement of the grounds of opposition a representation of that mark or sign and the goods and services in respect of which such protection is claimed.

(8) The registrar shall send a copy of Form TM7 to the applicant and the date upon which this is sent shall, for the purposes of rule 18, be the “notification date”.

(9) In this rule “subsidiary” and “holding company” have the same meaning as in the Companies Act 2006<sup>(1)</sup>.

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#### Textual Amendments

- F1** Words in rule 17(1) substituted (1.10.2013) by [The Trade Marks \(Fast Track Opposition\) \(Amendment\) Rules 2013 \(S.I. 2013/2235\)](#), rules 1, **2(3)**
- F2** Words in rule 17(2) substituted (31.3.2013) by [The Trade Marks and Registered Designs \(Amendment\) Rules 2013 \(S.I. 2013/444\)](#), rules 1, 4, **Sch. 1** (with rule 8)
- F3** Words in rule 17(3) substituted (31.3.2013) by [The Trade Marks and Registered Designs \(Amendment\) Rules 2013 \(S.I. 2013/444\)](#), rules 1, 4, **Sch. 1** (with rule 8)
- F4** Words in rule 17(5)(d) substituted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **38** (with Pt. 5)
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#### Commencement Information

- I1** [Rule 17](#) in force at 1.10.2008, see [rule 1](#)

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(1) 2006 c.46.

**Changes to legislation:**

There are currently no known outstanding effects for the The Trade Marks Rules 2008, Section 17.