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STATUTORY INSTRUMENTS

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**2008 No. 1797**

**The Trade Marks Rules 2008**

*Revocation, invalidation and rectification*

**Setting aside cancellation of application or revocation or invalidation of registration; (Form TM29)**

43.—(1) This rule applies where—

- (a) an application for registration is treated as abandoned under rule 18(2);
- (b) the registration of a mark is revoked under rule 38(6) or rule 39(3); or
- (c) the registration of a mark is declared invalid under rule 41(6),

and the applicant or the proprietor (as the case may be) claims that the decision of the registrar to treat the application as abandoned or revoke the registration of the mark or declare the mark invalid (as the case may be) (“the original decision”) should be set aside on the grounds set out in paragraph (3).

(2) Where this rule applies, the applicant or the proprietor shall, within a period of six months beginning with the date that the application was refused or the register was amended to reflect the revocation or the declaration of invalidity (as the case may be), file an application on Form TM29 to set aside the decision of the registrar and shall include evidence in support of the application and shall copy the form and the evidence to the other party to the original proceedings under the rules referred to in paragraph (1).

(3) Where the applicant or the proprietor demonstrates to the reasonable satisfaction of the registrar that the failure to file Form TM8 within the period specified in the rules referred to in paragraph (1) was due to a failure to receive Form TM7, Form TM26(N), Form TM26(O) or Form TM26(I) (as the case may be), the original decision may be set aside on such terms and conditions as the registrar thinks fit.

(4) In considering whether to set aside the original decision the matters to which the registrar must have regard include whether the person seeking to set aside the decision made an application to do so promptly upon becoming aware of the original decision and any prejudice which may be caused to the other party to the original proceedings if the original decision were to be set aside.