



Trade Marks Act 1994

1994 CHAPTER 26

PART I

REGISTERED TRADE MARKS

Grounds for refusal of registration

6 Meaning of “earlier trade mark”.

(1) In this Act an “earlier trade mark” means—

- (a) a registered trade mark ^{F1}... [^{F2}or] international trade mark (UK) ^{F3}... which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,
- ^{F4}(aa) a comparable trade mark (EU) or a trade mark registered pursuant to an application made under paragraph 25 of Schedule 2A which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;]
- ^{F5}(ab) a comparable trade mark (IR) or a trade mark registered pursuant to an application made under paragraph 28, 29 or 33 of Schedule 2B which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;]
- ^{F6}^{F7}(b)
- (ba) a registered trade mark or international trade mark (UK) which—
 - (i) [^{F8}prior to IP completion day] has been converted from a [^{F9}European Union] trade mark or international trade mark (EC) which itself had a valid claim to seniority [^{F10}of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired], and
 - (ii) accordingly has the same claim to seniority, or]

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- (c) a trade mark which, at the date of application for registration of the trade mark in question or (where appropriate) of the priority claimed in respect of the application, was entitled to protection under the Paris Convention [^{F11}or the WTO agreement] as a well known trade mark.

[^{F12}(1A) In subsection (1), “protected international trade mark (UK)” has the same meaning as in the Trade Marks (International Registration) Order 2008.]

- (2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) ^{F13}..., subject to its being so registered [^{F14}(taking account of subsection (2C))].

[^{F15}(2A) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made pursuant to paragraph 25 of Schedule 2A and which if registered would be an earlier trade mark by virtue of subsection (1)(aa), subject to its being so registered.]

[^{F16}(2B) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made pursuant to paragraph 28, 29 or 33 of Schedule 2B and which if registered would be an earlier trade mark by virtue of subsection (1)(ab), subject to its being so registered.

- (2C) Where an application for registration of a trade mark has been made pursuant to paragraph 25 of Schedule 2A or paragraph 28, 29 or 33 of Schedule 2B, subsection (1) (a) is to apply as if the date of application for registration of the trade mark were—
- (a) in the case of an application made pursuant to paragraph 25 of Schedule 2A, the relevant date referred to in paragraph 25(2) in respect of that application;
 - (b) in the case of an application made pursuant to paragraph 28 of Schedule 2B, the relevant date referred to in paragraph 28(2) in respect of that application (taking account of paragraph 28(5));
 - (c) in the case of an application made pursuant to paragraph 29 of Schedule 2B, the relevant date referred to in paragraph 29(2) in respect of that application (taking account of paragraph 29(4));
 - (d) in the case of an application made pursuant to paragraph 33 of Schedule 2B, the relevant date referred to in paragraph 33(2) or (3) (as the case may be) in respect of that application (taking account of paragraph 33(4)).]

^{F17}(3)

Textual Amendments

- F1** Comma in s. 6(1)(a) omitted (31.12.2020) by virtue of [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), **Sch. 3 para. 4(2)(a)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2), and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Word in s. 6(1)(a) inserted (31.12.2020) by [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), **Sch. 3 para. 4(2)(a)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F3** Words in s. 6(1)(a) omitted (31.12.2020) by virtue of [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), **Sch. 3 para. 4(2)(b)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**

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- F4** S. 6(1)(aa) inserted (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(3)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** S. 6(1)(ab) inserted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 8 para. 17(2)** (with reg. 10(2), 10A) (as amended (26.11.2021) by S.I. 2021/1235, regs. 6, 7); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** S. 6(1)(b) omitted (31.12.2020) by virtue of The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(4)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** S. 6(1)(b)(ba) substituted for s. 6(1)(b) (1.10.2004) by Trade Marks (International Registrations Designating the European Community, etc.) Regulations 2004 (S.I. 2004/2332), regs. 1(2), **4(b)**
- F8** Words in s. 6(1)(ba)(i) inserted (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(5)(a)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), 12, 16(2), S.I. 2020/1050, regs. 1(2), **10(b)** and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in s. 6(1) substituted (6.4.2016) by The European Union Trade Mark Regulations 2016 (S.I. 2016/299), reg. 1(1), **Sch. para. 1** (with reg. 13)
- F10** Words in s. 6(1)(ba)(i) substituted (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(5)(b)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F11** Words in s. 6(1)(c) inserted (29.7.1999) by S.I. 1999/1899, **reg. 13(1)**
- F12** S. 6(1A) inserted (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(6)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F13** Words in s. 6(2) omitted (31.12.2020) by virtue of The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(7)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F14** Words in s. 6(2) inserted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 8 para. 17(3)** (with reg. 10(2), 10A) (as amended (26.11.2021) by S.I. 2021/1235, regs. 6, 7); 2020 c. 1, **Sch. 5 para. 1(1)**
- F15** S. 6(2A) inserted (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 3 para. 4(8)** (with Sch. 5 para. 7(1)(1A), 8) (as amended by S.I. 2020/1637, regs. 1(6), **3**, S.I. 2020/1661, regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by S.I. 2021/1235, regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F16** S. 6(2B)(2C) inserted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 8 para. 17(4)** (with reg. 10(2), 10A) (as amended (26.11.2021) by S.I. 2021/1235, regs. 6, 7); 2020 c. 1, **Sch. 5 para. 1(1)**
- F17** S. 6(3) omitted (14.1.2019) by virtue of The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **7(3)** (with Pt. 5)

Modifications etc. (not altering text)

- C1** S. 6(3) modified (20.5.2016) by The Standardised Packaging of Tobacco Products Regulations 2015 (S.I. 2015/829), regs. 1(2), **13(3)(4)** (with regs. 13(9), 14(5), 20)

Changes to legislation:

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 6.