
STATUTORY INSTRUMENTS

2008 No. 1797

The Trade Marks Rules 2008

Publication, observations, oppositions and registration

Opposition proceedings: preliminary indication (Form TM53)

19.—(1) This rule applies if—

- (a) the opposition or part of it is based on the relative grounds of refusal set out in section 5(1) or (2); and
- (b) the registrar has not indicated to the parties that the registrar thinks that it is inappropriate for this rule to apply.

(2) After considering the statement of the grounds of opposition and the counter-statement the registrar shall send notice to the parties (“the preliminary indication”) stating whether it appears to the registrar that—

- (a) registration of the mark should not be refused in respect of all or any of the goods and services listed in the application on the grounds set out in section 5(1) or (2); or
- (b) registration of the mark should be refused in respect of all or any of the goods and services listed in the application on the grounds set out in section 5(1) or (2).

(3) The date upon which the preliminary indication is sent shall be the “indication date”.

(4) Where it appeared to the registrar under paragraph (2) that registration of the mark should not be refused in respect of all or any of the goods or services listed in the application on the grounds set out in section 5(1) or (2), the person opposing the registration shall, within one month of the indication date, file a notice of intention to proceed with the opposition based on those grounds by filing a Form TM53, otherwise that person’s opposition to the registration of the mark in relation to those goods or services on the grounds set in section 5(1) or (2) shall be deemed to have been withdrawn

(5) Where it appeared to the registrar under paragraph (2) that registration of the mark should be refused in respect of all or any of the goods or services listed in the application on the grounds set out in section 5(1) or (2), the applicant shall, within one month of the indication date, file a notice of intention to proceed on Form TM53, otherwise the applicant shall be deemed to have withdrawn the request to register the mark in respect of the goods or services for which the registrar indicated registration should be refused.

(6) A person who files a Form TM53 shall, at the same time, send a copy to all other parties to the proceedings.

(7) The registrar need not give reasons for the preliminary indication nor shall the preliminary indication be subject to appeal.