



Form TM26(I)
Official Fee £200 due with this form

**Application to declare invalid a registration
or a protected international trade mark (UK)**

Please read the notes below before filling in this form.

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| 1. Trade mark registration number. | |
| 2. Full name of the registered proprietor or international registration holder. | |
| 3. Full name and address (including postcode) of the person applying for a declaration of invalidity. | |
| 4. Full name and address (including postcode) of the applicant's representative (if any). | |
| 5. State the date, if any, that you notified the registered proprietor or the international registration holder that you intended to seek invalidation of its registration. (Please see note below). | |
| 6. Are there any related proceedings before the Registry? If so, give opposition, revocation or rectification number. | |
| 7. Declaration. Your signature | I declare that to the best of my knowledge there is no action concerning this registration pending in the courts. I believe that the facts stated in the attached statement of case are true |
| Your name in BLOCK CAPITALS. | |
| Date. | |
| 8. Name and daytime phone number of the person we should contact in case of query. | |
| 9. Your reference. | |
| 10. Number of sheets attached to this form. | This is sheet 1 of |

Notes Number every extra sheet and say in question 10 above how many you have used.

Starting invalidation proceedings without giving the international registration holder or the registered proprietor a reasonable opportunity to surrender the registration may result, if the application for invalidation is undefended, in a successful applicant not being awarded costs.

Use this sheet if you are basing your application on section 3 of the Trade Marks Act.

- 3(1)(a) It is a sign which does not satisfy the requirements of section 1(1) because:

- 3(1)(b) It is a trade mark which is devoid of any distinctive character because:

- 3(1)(c) It is a trade mark which consists exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or rendering of services, or other characteristics of goods or services because:

- 3(1)(d) It is a trade mark which consists exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade because:

- 3(6) It is a trade mark which should not have been registered (for some or all of the goods and services in the application as the application) was made in bad faith because:

- other State any other part of section 3 upon which you rely and give your grounds:

- State which of the registered proprietor's goods or services you want the registration invalidated for on Section 3 grounds:
 - All
 - Some (please specify)

Use this sheet if your application relies on sections 5(1) and/or 5(2) of the Trade Mark Act on the basis of an earlier registered or pending mark.

Please note that if the trade mark registration you seek to have declared invalid was published for opposition purposes in the Trade Marks Journal **on or after 1 October 2007**, then only the proprietor or licensee of that earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark registration was published for opposition purposes in the Trade Mark Journal **prior to 1 October 2007**, then anyone can rely on these grounds to support the application for invalidation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

- 5(1) It is identical with an earlier mark and is registered for identical goods or services as the earlier mark.
- 5(2)(a) It is identical with an earlier mark and is registered for similar goods or services as the earlier mark.
- 5(2)(b) It is similar to an earlier mark and is registered for identical or similar goods or services as the earlier mark.

Details of the earlier trade mark

Number:

Is it a UK, Community or International mark?

Representation of the mark:

1. What goods or services covered by the earlier trade mark are relied upon for the grounds stated above?
- All
- Some (please specify)

2. **Statement of use provision**– Was the registration or protection process for the earlier trade mark completed 5 years or more before the date of the application for invalidity?

Yes No

3(a). If yes, and the mark has been used within the 5 years prior to the date of application for invalidity, state for which of the goods and services listed at question 1 is use claimed?

All
 Some (please specify)

Or,

3(b). If yes and the mark has not been used, please state any proper reasons for non use.

Details of the mark you are seeking to have declared invalid

4. Which goods or services in the registration do you claim are identical or similar to those covered by the earlier mark as listed at question 3 (or at question 1 if the statement of use does not apply)?

All
 Some (please specify)

Use this space to give any further information to explain why you consider that there is a likelihood of confusion e.g, why you consider the respective marks or goods and/or services are similar.

Use this sheet if your application relies on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please note that if the trade mark registration you seek to have declared invalid was published for opposition purposes in the Trade Marks Journal **on or after 1 October 2007**, then only the proprietor or licensee of the earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark registration was published for opposition purposes in the Trade Mark Journal **prior to 1 October 2007**, then anyone can rely on these grounds to support the application for invalidation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

5(3) It is identical with or similar to an earlier mark which has a reputation.

Details of the earlier trade mark

Number:

Is it a UK, Community or International mark?

Representation of the mark:

1. For which goods or services covered by the earlier mark did it have a reputation when the later trade mark was applied for?

- All
- Some (please specify)

2. State the goods or services in the registration for which you say that use of the later mark would take unfair advantage of, or be detrimental to the distinctive character or reputation of the earlier mark.

- All
- Some (please specify)

3. Is it claimed that the similarity between the reputed mark and the later mark is such that the relevant public will believe that they are used by the same undertaking, or that there is an economic connection between the users of the marks?
4. Other than for your answer to 3 above, is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.
5. Other than for your answer to 3 above, is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.
6. Other than for your answer to 3 above, is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.
7. **Statement of use provision**– Was the registration or protection process for the earlier trade mark completed 5 years or more before the date of the application for invalidity?
- Yes No

8(a). If yes, and the mark has been used within the 5 years prior to the date of application for invalidity, state for which goods and services listed at question 1 is use claimed.

- All
- Some (please specify)

Or,

8(b). If yes and the mark has not been used, please state any proper reasons for non use.

Use this space to give any further information to explain why you are seeking to have the registered trade mark declared invalid on this ground.

Use this sheet if your application relies on section 5(4)(a) of the Trade Marks Act.

Please note that if the trade mark registration you wish to have declared invalid was published for opposition purposes in the Trade Marks Journal **on or after 1 October 2007**, then only the proprietor or licensee of the earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark registration was published for opposition purposes in the Trade Mark Journal **prior to 1 October 2007**, then anyone can use these grounds to support the application for invalidation

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

- 5(4)(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade.

Representation or details of the earlier mark, sign or right.

1. When and where was the earlier right first used in the UK?

2. State in relation to which goods and services the earlier right has been used.

3. State which goods or services of the trade mark registration you wish to have declared as invalid under Section 5(4)(a).
 All
 Some (please specify)

4. State why you consider use of the registered proprietor's mark would be contrary to law, particularly the law of passing off.

Use this sheet if you are basing your application for invalidation on any other grounds and tick the appropriate box.

Please note that if the trade mark registration you wish to have declared invalid was published for opposition purposes in the Trade Marks Journal **on or after 1 October 2007**, then only the proprietor or licensee of the earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark registration was published for opposition purposes in the Trade Mark Journal **prior to 1 October 2007**, then anyone can use these grounds to support the application for invalidation

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of other grounds of invalidation.

- Section 5(1),(2), (3) If the applicant for invalidation is claiming protection for an earlier trade mark under Section 6(1)(c) (a well known trade mark as defined in Section 55 and 56)
- Section 5(4)(b) An earlier right by virtue of the law of copyright, design right or registered designs
- Section 60(3)(a) If the applicant for invalidation is claiming that the registration of the trade mark is in the name of a person who is an agent or representative of a person who is the proprietor of the mark in a convention country

Give details to support your application under these grounds: