

Trade Marks Update October 2010

BECK
GREENER

PATENT & TRADE MARK ATTORNEYS

UK Trade Marks Periods reduced with immediate effect

Deadlines in UK trade mark matters have been changed without warning. Opposition deadlines for UK national trade mark applications, and for UK designations of trade mark applications under the Madrid Protocol, and deadlines to extend the opposition period have been reduced by one day.

On 30th September, without prior warning, a new practice notice was issued by the UK Intellectual Property Office. This has effectively shortened by one day the period during which UK national trade mark applications or UK designations of trade mark applications under the Madrid Protocol, may be opposed, or extensions of time to oppose trade mark applications may be obtained.

The notice can be found via the following link: <http://www.ipo.gov.uk/pro-types/pro-tm/t-law/t-tpn/t-tpn-2010/t-tpn-42010.htm>. This change has an immediate and urgent effect. If a UK trade mark application or designation is published for opposition, for instance on 11th October 2010, the deadline

to oppose the application or to obtain a one month extension of the opposition period, will now be 10th December 2010. Previously the deadline would have been 11th December 2010. Further, if an extension of time is obtained on that case the final opposition deadline to oppose the application will be 10th January 2011 (and not 11th January 2011).

This new practice will apply to any relevant deadline occurring on or after 30th September 2010. Accordingly, if you have been advised prior to 30th September 2010 of a UK opposition deadline, whether or not it has been extended, the change means that the deadline you have is now likely to be inaccurate, and that the actual deadline expires one day earlier. You should therefore review any cases you are monitoring.

The UK Intellectual Property Office, in an attempt to avoid prejudicing future opponents, has stated as follows:

"If, within 14 days of the publication of this notice, any party wishes to argue that they have been prevented from filing a new TM7 [opposition] or TM7a [an application to extend the opposition period] on time because of earlier inaccurate guidance from the Office, they should write to the

Registry accordingly and ask for the matter to be corrected as an irregularity in procedure. The Registrar will only consider such cases where the date for filing a new TM7 [opposition] or TM7a [extension of time to file an opposition] has passed."

It is not entirely clear who would be able to take advantage of this provision and what they would have to show. It also unclear when the 14 day period expires. For safety, we suggest that the expiry date be assumed to be 13th

October 2010 rather than 14th October 2010.

The opposition deadline, whether extended or not, is the only deadline in the life of an opposition which is subject to this revision. Thus, deadlines for filing a defence to an opposition or for entering or seeking extensions to a cooling off period, are not affected.

© Beck Greener 2010