

Webinar: ONLINE SUBSTANTIATION

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ONLINE SUBSTANTIATION

- General rule on substantiation
- Time limit for substantiation
- Language of the proceedings and translation
- Online substantiation and how to claim it
- Information online not complete
- Checklist for online substantiation
- What happens after the time limit for substantiation

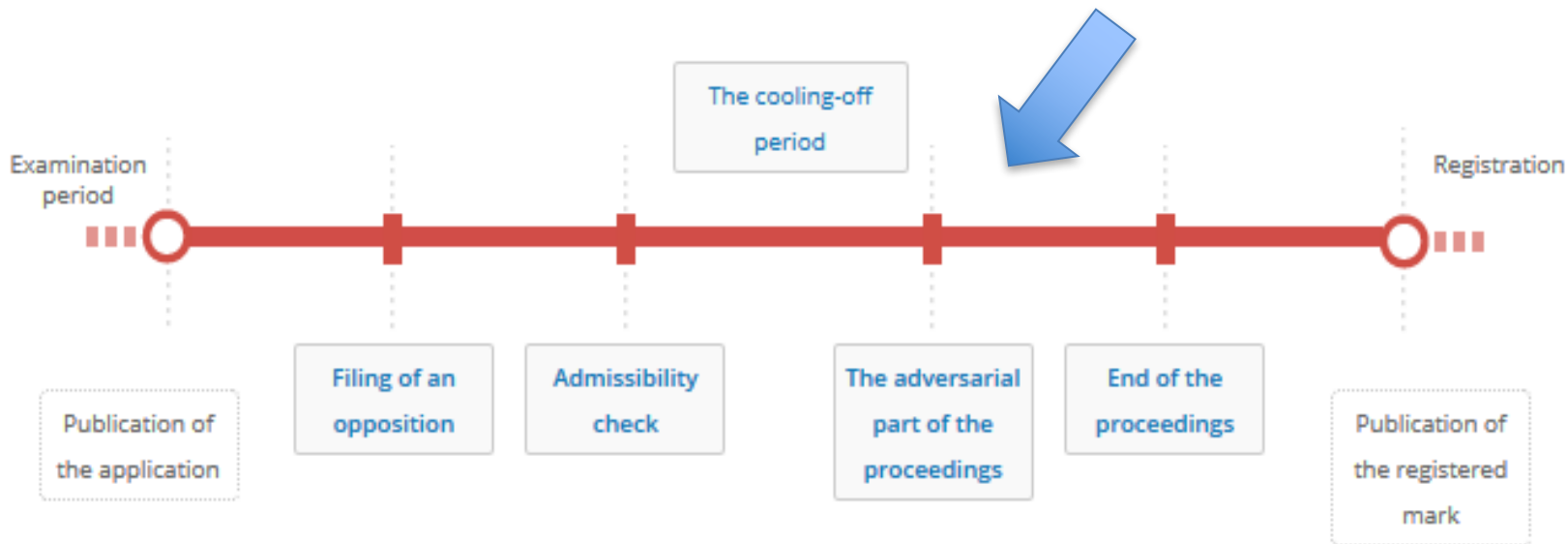
GENERAL RULE ON SUBSTANTIATION

Defined by Article 7(2) EUTMDR:

- Proof of existence, validity and scope of protection of the earlier right
- Proof of entitlement to file the opposition
- Other evidence
- Language of the proceedings

TIME LIMIT FOR SUBSTANTIATION

SUBSTANTIATION



LANGUAGE OF THE PROCEEDINGS AND TRANSLATION

Defined by Article 7(4) EUTMDR:

- Within the substantiation time limit:
 - evidence of filing/registration/renewal
 - provisions of the applicable national law
 - facts, evidence and arguments in support of the opposition

- Only on request (as with evidence of POU):
 - any other evidence to substantiate the opposition (including evidence the mark is well known, evidence of use (Article 8(4) EUTMR), evidence of reputation (Article 8(5) EUTMR), etc.)

ONLINE SUBSTANTIATION AND HOW TO CLAIM IT

Explicit and unconditional declaration from the opponent that it relies on online evidence, accessible from a source recognised by the Office (Article 7(3) EUTMDR)

- in the notice of opposition or
- before the expiry of the time limit of substantiation

The opponent has to identify the source by means of a clear identification of the database it relies on

ONLINE SUBSTANTIATION AND HOW TO CLAIM IT

- The opposing party accepts that the necessary information for this trade mark is imported from the relevant online official database, accessible through TMVIEW, and that this source is used for substantiation purposes without prejudice to its right or obligation to provide any additional information that may be necessary to comply with the substantiation requirements of Article 7(2) and (4) EUTMDR. ***

- The opposing party wishes to rely on online substantiation (pursuant to Article 7(3) EUTMDR) for the identification of the contents of the relevant national law.**

- The opposing party wishes to rely on online substantiation (pursuant to Article 7(3) EUTMDR) for the identification of the particulars concerning the filing or registration of the earlier right.**

INFORMATION ONLINE NOT COMPLETE

If the database accessed online does not supply all the required proof for substantiation, the opponent must **supplement** it with official documents showing the missing information

Examples:

- Goods and services
- Indication of colours

CHECKLIST OF REQUIRED PROOF

- Earlier rights are in force
- Opponent is entitled to file the opposition
- Scope of protection/territory
- List of goods and services
- For marks in colour, an official colour representation
- If relevant, evidence of reputation and/or enhanced distinctiveness
- If relevant, reference to national law

Important: The necessary data is accessible online in the language of the proceedings or a translation has been submitted

WHAT HAPPENS AFTER THE SUBSTANTIATION TIME LIMIT

Before a decision is taken on the substance of an opposition, the online evidence is checked again as the particulars of the earlier rights may have changed in the meantime

- Renewal
- Limitations of the list of goods and services
- Transfer of ownership

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TIME FOR QUESTIONS





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Thank you

Presentation		
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