



Notes on the Notice of Opposition Form

1. General remarks

1.1 Use of the form

The form may be obtained free of charge from the OHIM and may be downloaded from the OHIM's website (<http://www.oami.europa.eu>). The form may also be freely copied.

Opponents or their representatives may use forms of a similar structure or format, such as forms generated by computers on the basis of the information contained in the form.

Where such electronically generated forms are used, the use of attachments may be avoided by simply extending the electronic version where further space is required.

The Notice of Opposition Form comprises five pages. The first page (the front page) basically identifies the parties and the contested application. The remaining pages are to be used for providing data regarding the basis on which the opposition is entered. There are different types of earlier rights that may serve as basis for an opposition. Each of the remaining pages of the form relates to one of those types. Opponents should only use the pages that are applicable to the circumstances of each case. On the other hand an opposition can be based on more than one earlier right. In that case, a separate page for each earlier right claimed should be completed.

It is recommended that the form be submitted as complete as possible. This will facilitate and expedite the handling of the opposition.

For any information, the OHIM may be contacted on the following telephone number: (34) 965 139 100.

1.2 Sending forms

Completed forms should be sent directly to the OHIM in Alicante. Forms (as well as any other communication related to the proceedings) should be addressed as follows:

Office for Harmonization in the Internal Market
Receiving Unit
Avenida de Europa, 4
E-03008 Alicante, Spain

Communications by fax should be sent to the following OHIM fax number:

+34 965 131 344

2. The Form, first page

The first page identifies the parties and the challenged application. It also includes the language chosen by the opponent for the proceedings as well as details on the payment of the opposition fee. Finally, this is the page of the notice of opposition form that must be signed by the person submitting the notice of opposition.

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The opponent or its representative may indicate its own reference number in the space provided for this purpose at the top of page 1. The OHIM will use this reference number in all communications sent by the OHIM.

The opponent may indicate whether the opposition is directed against a Community trade mark application ('CTMA') or against an international registration ('IR') by checking the appropriate box.

The front page also includes a space (at the top left) to indicate the total number of pages of the notice of opposition including any continuation sheets and attachments (explanation of the grounds, evidence, authorisation, etc).

2.1 Opponent

If the opponent has previously been allocated an ID number by the OHIM, it is sufficient to indicate that ID number and the name. Otherwise, the opponent has to be identified by indicating its name together with its address and nationality and/or state of incorporation. Where the opponent is not a natural person it must also indicate its legal status.

The legal form field is mandatory for legal entities. However, if you wish the legal form to appear in official publications, you must also include it as part of the name in the field above. If it is not included, it will not appear in publications or certificates.

Where there are multiple opponents the necessary information relating to each opponent must be provided. To this purpose an annex can be used consisting of copies of the front page containing only the data relating to the opponents.

2.2 Representative

Representation is mandatory for all opponents, either natural or legal persons that have neither their domicile or principal place of business nor a real and effective industrial or commercial establishment in the Community. All other persons may represent themselves or choose to appoint a representative.

The representative must indicate its name together with its ID number attributed by the OHIM. Where such an ID number is not available, the appropriate information relating to the existing/newly appointed representative must also be given in the notice of opposition form.

Representation before the OHIM may be exercised by professional representatives falling into one of the two following categories:

- legal practitioners qualified in a Member State who are entitled to act in that Member State as representative in trade mark matters and who have their place of business in the European Community, or
- professional representatives entered on the list maintained by the OHIM. Professional representatives entered on the list for Community trade mark matters may act for design matters. On the other hand a professional representative entered on the list for Community design matters may not act for trade mark matters.

The opponent may also act through an employee. Where such an employee is appointed, the name of the employee must be indicated in the box "representative". Employees of legal entities with their domicile or principal place of business or a real and effective industrial or

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commercial establishment within the European Community may represent other legal entities if (and only if) economic connections exist between the two legal persons, such as common ownership or control. This also applies when the opponent is a legal entity from outside the European Community. In these cases, information relating to the legal entity whose employee acts on behalf of the opponent, and the basis of economic connections (parent company, subsidiary, branch etc.) must be provided in an attachment.

The OHIM will communicate with the professional representative if appointed.

Filing an authorisation of the representative is not required, except where an employee of the opponent has been appointed as representative.

2.3 Challenged Community trade mark application/international registration and extent of the opposition

The opponent must indicate the number of the challenged Community trade mark application ('CTMA') or international registration ('IR') together with the name of the CTM applicant or international registration holder. The information provided by the opponent must unambiguously identify the challenged Community trade mark application or international registration.

If total rejection is claimed an indication to this effect must be made. If rejection is *not* sought for all goods and services covered by the challenged Community trade mark application or international registration, there must be an express indication of the goods or services against which the opposition is directed.

2.4 Language

The notice of opposition should preferably be filed in either the first language of the challenged CTMA provided that this is one of the five languages of the OHIM (Spanish - ES; German - DE, English - EN; French - FR;; Italian - IT), or in the second language of the challenged CTMA, which is necessarily a language of the OHIM. The notice of opposition may also be filed in any other of the five languages of the OHIM, provided that a translation of the notice of opposition into the first language (if a language of the OHIM) or the second language of the challenged CTMA is filed within one month. Any language version of the form may be used, provided the information required is given in the appropriate language.

Country codes correspond to those published in the International Organization for Standardization code lists 3166, <http://www.iso.org/iso/en/prods-services/iso3166ma/02iso-3166-code-lists/index.html>.

2.5 Payment of fee

The fee for the opposition is 350 euro, regardless of the number of grounds invoked. Payment of fees must be made in euro.

Payment (all bank charges to be met by the payer who should instruct the bank accordingly) can be effected by:

- Debiting a current account held with the OHIM, indicating the number of that account;
- Making a transfer, in euro, to a bank account of the OHIM, indicating the name, address and reference number of the opponent or representative, and the date on which the transfer was made;

Current accounts may be opened by applying in writing to the OHIM at the following address:

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Office for Harmonization in the Internal Market
Finance Department
Avenida de Europa, 4
E-03008 Alicante, Spain
Telephone: (34) 965 139 340
Fax: (34) 965 139 113

Transfers should be made to one of the following OHIM bank accounts:

Banco Bilbao Vizcaya Argentaria
0182-5596-90-0092222222 Swift code (BIC): BBVAESMM XXX
IBAN ES88 0182 5596 9000 9222 2222

La Caixa
2100-2353-01-0700000888 Swift code (BIC): CAIXESBB XXX
IBAN ES03 2100 2353 0107 0000 0888

2.6 Signature

The notice of opposition must be signed by the opponent or its representative. The name of the signatory must be indicated.

3. The Form, remaining pages: the basis and grounds of the opposition

The opponent must indicate the grounds on which the opposition is being entered and identify the earlier trade marks or signs on which the opposition is based. For this purpose the opponent should use the pages of the form that correspond to the basis upon which the opposition is being entered. If more than one earlier right is invoked, the opponent should use a separate page for each earlier right claimed. To this end, copies of the relevant pages may be used.

Example 1

The opposition is based on one earlier trade mark registration or application:

The opponent should complete and send the front page and the page entitled "basis of opposition: trade mark registration /application". The remaining pages of the form do not need to be completed or sent.

Example 2

The opposition is based on two or more earlier trade mark registrations or applications:

The opponent should complete and send the front page and as many copies of the page entitled "basis of opposition: trade mark registration /application" as the number of trade mark registrations or applications it wishes to invoke as basis for the opposition. The remaining pages of the form do not need to be completed or sent.

Example 3

The opposition is based on a trade mark which is well known in a Member State, in the sense in which the words "well known" are used in Article 6 bis of the Paris Convention:

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The opponent should complete and send the front page and the page entitled "basis of opposition: well-known trade mark (Article 6 bis of the Paris Convention)". The remaining pages of the form do not need to be completed or sent.

Example 4

The opposition is based on three trade mark registrations or applications and a sign used in the course of trade:

The opponent should complete and send the front page, plus three copies of the page entitled "basis of opposition: trade mark registration /application" as well as one copy of the page entitled "non-registered mark or sign used in the course of trade". The remaining pages of the form do not need to be completed or sent.

Although it is not obligatory at this stage, we recommend that you provide evidence of the earlier rights or signs, or any further information concerning such earlier rights (evidence of the reputation of the mark, of the mark being well known, of the existence of the non-registered mark or sign etc.) together with the notice of opposition. This will facilitate and expedite the handling of the opposition by the OHIM.

On each page a space is provided for a brief explanation of the grounds of opposition.

3.1 Earlier trade mark registration / application

The opponent should first indicate whether the earlier right is a trade mark registration or a trade mark application. Secondly, the opponent should indicate to what type of trade mark the registration or application refers (national, international or Community) indicating the Member State or Member States where it has effect (see 3.5) as well as the data on the registration or application. A representation of the mark (see 3.6) and an indication of the entitlement are also required.

The opponent is furthermore required to indicate the legal grounds on the basis of which it deems the contested application should be refused.

If it is claimed that the mark has a reputation and the opponent seeks the refusal of the contested application on the grounds of Article 8(5) CTMR, in addition to the above requirements, the opponent must indicate the territory where the mark has a reputation (see 3.5) and the goods or services for which the earlier trade mark has a reputation.

The opponent may also attach evidence of the existence of the earlier mark, of the opponent's entitlement and, where appropriate, evidence of reputation.

3.2 Earlier well-known trade mark (Article 6 bis of the Paris Convention)

The opponent should indicate the Member State or Member States where the mark is well known (see 3.5), furnish a representation of the mark (see 3.6) and indicate the goods or services for which it is well known.

The opponent may also attach evidence of the existence of the earlier mark, of its entitlement and evidence of the trade mark being well known.

3.3 Contested application filed by an agent of the opponent (*agent trade marks*)

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The opponent should furnish all the relevant data relating to the trade mark, indicate the territory or territories where it is protected, provide a representation of it (see 3.6) and indicate the goods or services covered.

The opponent may also provide evidence of ownership of the trade mark and evidence of the agent/representative relationship.

3.4 Non-registered trade mark or sign used in the course of trade

The opponent must indicate the nature of the sign (such as trade mark, company name, trade name etc.), the territory or territories where it is protected (see 3.5) and furnish a representation of the sign (see 3.6).

Furthermore, the opponent is required to indicate the goods, services or activities for which the sign is used.

The opponent should also indicate its entitlement to the non-registered trade mark or sign.

The opponent may also provide evidence of entitlement, evidence of the time of acquisition of the right, evidence of use of the trade mark or sign and evidence of the applicable law.

3.5 Country codes

<input type="checkbox"/> AT Austria	<input type="checkbox"/> GR Greece	<input type="checkbox"/> MT Malta
<input type="checkbox"/> BE Belgium	<input type="checkbox"/> ES Spain	<input type="checkbox"/> NL Netherlands
<input type="checkbox"/> BG Bulgaria	<input type="checkbox"/> FI Finland	<input type="checkbox"/> PL Poland
<input type="checkbox"/> BX Benelux	<input type="checkbox"/> FR France	<input type="checkbox"/> PT Portugal
<input type="checkbox"/> CY Cyprus	<input type="checkbox"/> HU Hungary	<input type="checkbox"/> RO Romania
<input type="checkbox"/> CZ Czech Republic	<input type="checkbox"/> IE Ireland	<input type="checkbox"/> SE Sweden
<input type="checkbox"/> DE Germany	<input type="checkbox"/> IT Italy	<input type="checkbox"/> SI Slovenia
<input type="checkbox"/> DK Denmark	<input type="checkbox"/> LT Lithuania	<input type="checkbox"/> SK Slovakia
<input type="checkbox"/> EM European Community	<input type="checkbox"/> LU Luxembourg	<input type="checkbox"/> GB United Kingdom
<input type="checkbox"/> EE Estonia	<input type="checkbox"/> LV Latvia	

3.6 Representation of the mark/sign

For word marks, the sign can simply be typed in.

For any other marks, the sign can be imported into the notice of opposition in two ways. If you have Adobe Acrobat Writer, the representation of the mark can be imported in any format (e.g. .jpg, .gif, .tif, .bmp). If you have Adobe Acrobat Reader, the image can be imported in .pdf format only. Alternatively, you can attach a representation of the mark/sign on a separate sheet.