



Form TM26(I)
Application to declare invalid a registration
or a protected international trade mark (UK)

Fee £200

Do not use this form:

- To apply to revoke a trade mark on grounds of non-use. Use Form **TM26(N)**.
- To apply to revoke a trade mark on grounds other than non-use. Use Form **TM26(O)**.

1 Trade mark number	
Number of the trade mark you are applying to cancel. If the application concerns an International Registration, help us identify the correct trade mark by adding "IR"	
2 Full name of the registered owner or holder	
Whose trade mark you are applying to invalidate	
3 Full name of applicant for cancellation	
Person applying to declare the trade mark invalid	
Address	
If the address is not within the United Kingdom, European Economic Area (EEA) or the Channel Islands you must also complete section 4 below	
NOTE: <i>It will no longer be possible for two (or more) parties to jointly invalidate a trade mark based on earlier marks/ rights that they each own, unless the parties jointly own the relevant earlier marks/rights. Separate invalidations will now be required. See section 47(5)(a) of the Act.</i>	
	Postcode
Email address	
Complete if you have no representative and would like us to correspond with you by email	
4 Representative name	
If you have no representative, go to section 5	
Address	
The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.	
NOTE: <i>We will communicate with the representative if this section has been completed.</i>	
	Postcode
Email address	
Complete if you would like us to correspond with you by email	

5 Related proceedings If applicable, tell us the opposition or cancellation number	IPO Registry	UK Courts	EUIPO
	Number		

6 **Invalidation notification date**
If you have informed the registered owner /holder of your intention to seek invalidation of the registration of their trade mark – enter the date you notified them.
[**See Note]

****Note:** Starting invalidation proceedings without giving the registered holder or the registered owner a reasonable opportunity to surrender the registration may result, (if the application for invalidation is undefended), in a successful applicant not being awarded costs.

7 **Declaration**

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

Name
(BLOCK CAPITALS)

Date

Number of sheets attached to this form

8 **Your reference**
Complete if you would like us to quote this in communications with you, otherwise leave blank.

Contact details
Name, daytime telephone number of the person to contact in case of query.

<p>Checklist</p> <p>Please make sure you have remembered to:</p> <p><input type="checkbox"/> Sign the form</p> <p><input type="checkbox"/> Complete <u>fee sheet</u> (form FS2)</p> <p><input type="checkbox"/> Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office</p>	<p>Where to send</p> <p>Intellectual Property Office Trade Marks Registry Concept House Cardiff Road Newport South Wales NP10 8QQ</p>
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Please tick on what grounds you are basing your application for invalidation of the trade mark and continue to the relevant section(s)

Invalidation is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

> COMPLETE SECTION A

Invalidation is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

> COMPLETE SECTION B

Invalidation is based on Section 5(4)(a): Where the use of the registered owner's trade mark would be contrary to law, in particular, the law of passing off.

> COMPLETE SECTION C

Invalidation is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade or the application has been made in bad faith.

> COMPLETE SECTION D

Invalidation is based on other grounds.

> COMPLETE SECTION E

SECTION A: The application for invalidation is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Note: 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 registered owner or licensee of that earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark was published prior to **1 October 2007**, then anyone can rely on these grounds to support the application for invalidation.

Please tick the relevant section(s) that apply.

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

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

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	
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Type of mark Please tick	<input type="checkbox"/>	UK	<input type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

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Q1. Which goods or services covered by the earlier trade mark, are relied upon for the invalidation grounds for the sections indicated?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - 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 > **GO TO Q4**

Q2a. Has the trade mark been used within the 5 years prior to the date of the application for invalidity?

Yes

No > **GO TO Q2c**

Q2b. For which of the goods and services listed at Q1 is trade mark use being claimed in the relevant period?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2c. Please state any proper reasons for non-use.

Q3. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the trade mark or international registration you wish to cancel?

Yes

No > GO TO Q4

Q3a. Has the trade mark been used within the 5 years prior to the application date (or priority date, if applicable) of the trade mark or international registration you wish to cancel?

Yes

No > GO TO Q3c

Q3b. For which of the goods and services listed at Q1 is trade mark use being claimed in the relevant period?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3c. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE SEEKING TO HAVE DECLARED INVALID

Q4 Which goods or services in the registration that you are seeking to be declared invalid do you claim are identical or similar to those covered by the earlier mark and listed at Q1?
Please use a continuation sheet if necessary

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5 Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar?
Please use a continuation sheet if necessary

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SECTION B: The application for Invalidation is based on Section 5(3) of the Trade Marks Act: The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: 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 was **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

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	
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Type of mark Please tick	<input type="checkbox"/> UK	<input type="checkbox"/> EUTM	<input type="checkbox"/> International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Q1 For which goods or services covered by your earlier trade mark did it have a reputation when the later trade mark was applied for?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2 For which goods or services of the later mark would use of that mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q3 Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

Yes

No

Use this space to supply any further information

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QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

Q4. 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.

Q5. 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.

Q6. 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.

Q7. STATEMENT OF USE - 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 > GO TO Q9

Q7a. Has the trade mark been used within the 5 years prior to the date of the application for invalidity?

Yes

No > GO TO Q7c

Q7b. For which of the goods and services listed at Q1 is trade mark use being claimed in the relevant period?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q7c. Please state any proper reasons for non-use.

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Q8. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the trade mark or international registration you wish to cancel?

Yes

No > GO TO Q9

Q8a. Has the trade mark been used within the 5 years prior to the application date (or priority date, if applicable) of the trade mark or international registration you wish to cancel?

Yes

No > GO TO Q8c

Q8b. For which of the goods and services listed at Q1 is trade mark use being claimed in the relevant period?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q8c. Please state any proper reasons for non-use.

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Q9. Use this space to supply any further information to explain why you are seeking to have the registered trade mark declared invalid on this ground.

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SECTION C: The application for invalidation is based on Section 5(4)(a) of the Trade Marks Act, where the use of the registered owner or holder's trade mark would be contrary to law, in particular, the law of passing off.

Note: 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 of the earlier trade mark can rely on these grounds to support the application for invalidation.

If the trade mark was published before **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.

ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

Where used:

Enter name of city/region or specify 'throughout UK' if used nationally

Q2. Which goods or services has the earlier right been used for?

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DETAILS OF THE TRADE MARK YOU ARE SEEKING TO HAVE DECLARED INVALID

Q3. For which goods or services, of the trade mark that you are applying to be declared invalid, do you consider that use of the registered owner's mark would amount to passing off?

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q4. Why would use of the registered owner's trade mark be contrary to law, particularly the law of passing off?

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SECTION D: An application for invalidation is based on section 3 of the Trade Marks Act on the basis that the trade mark fails to satisfy certain requirements of a trade mark.

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

Please tick and complete the relevant section(s) that apply. *(Use a continuation sheet if necessary)*

3(1)(a) It is a sign that does not does not satisfy the requirements of section1(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:

Other State any other part of section 3 you rely on and give your grounds:

State which of the registered owner's goods or services you want the registration to be invalidated under Section 3 grounds

	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

SECTION E: The application for invalidation is based on any other grounds

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

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

	Section 5(1),(2),(3)	If the applicant for invalidation is claiming protection for an earlier trade mark under Section 6(1)(c) which is a well known trade mark as defined in Section 56(1)
	Section 5(4)(b)	An earlier right by virtue of the law of copyright, or the law relating to industrial property rights.
	Section 5(6)	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 the application under these grounds *(Use a continuation sheet if necessary)*