



Trade Marks Act 1994

1994 CHAPTER 26

PART I

REGISTERED TRADE MARKS

Registration procedure

38 Publication, opposition proceedings and observations.

- (1) When an application for registration has been accepted, the registrar shall cause the application to be published in the prescribed manner.
- (2) Any person may, within the prescribed time from the date of the publication of the application, give notice to the registrar of opposition to the registration.

The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

[^{F1}(2A) Where a notice of opposition is filed on the basis of one or more earlier trade marks or other earlier rights—

- (a) the rights (if plural) must all belong to the same proprietor;
- (b) the notice may be filed on the basis of part, or the totality, of the goods or services in respect of which the earlier right is protected or applied for.

(2B) A notice of opposition may be directed against part or the totality of the goods or services in respect of which the contested mark is applied for.]

- (3) Where an application has been published, any person may, at any time before the registration of the trade mark, make observations in writing to the registrar as to whether the trade mark should be registered; and the registrar shall inform the applicant of any such observations.

A person who makes observations does not thereby become a party to the proceedings on the application.

*Changes to legislation: There are currently no known outstanding effects
for the Trade Marks Act 1994, Section 38. (See end of Document for details)*

Textual Amendments

- F1** S. 38(2A)(2B) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **19(2)** (with [Pt. 5](#))
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Commencement Information

- I1** S. 38 wholly in force at 31.10.1994; s. 38 not in force at Royal Assent see s. 109; s. 38(1)(2) in force for certain purposes at 29.9.1994 and at 31.10.1994 insofar as s. 38 not already in force by [S.I. 1994/2550](#), art. 2, 3(1), [Sch.](#)

Changes to legislation:

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 38.