

Opposition procedure at the European Union Intellectual Property Office (EUIPO)

What is an opposition?

When a trade mark application has successfully completed the examination process it is accepted and published. When the mark has been published, a third party can oppose the acceptance of the mark for registration on the basis there is an earlier conflicting trade mark, whether registered or unregistered.

Who can oppose a trade mark application?

Only the proprietor of an earlier trade mark or earlier right may oppose on relative grounds.

When should an opposition be filed?

Within three months after the application in question is published

Can the opposition period be extended?

Unfortunately, it is not possible to extend the opposition period.

What happens next?

The notice of opposition and any supporting evidence will be forwarded to the applicant.

The EUIPO will set an initial two month period known as the "cooling off" period to try and negotiate settlement to resolve their dispute. This period of time can be extended by a further 22 months if both parties agree.

If the parties do not want to negotiate settlement of the opposition, then once the initial two month cooling off period has expired, the opponent will have two months to file any legal arguments and evidence they have in support of their opposition, for example, to substantiate a claim of unregistered rights, evidence of confusion, evidence of their reputation in a mark etc.

What happens next?

The applicant will have two months to comment on any arguments and evidence filed in support of the opposition.

The opponent will then be able to file comments in reply to any submissions filed by the applicant within two months of being notified of the same. No new evidence can be submitted.

Are the deadlines to file arguments/submissions extendible?

It is possible to obtain a 2 month extension of time for each deadline but further extensions are only granted in very exceptional circumstances.

Decision time

A decision will be issued by the EUIPO within six to nine months depending on the complexity of the matter.

When the decision is made, a copy will be sent to both parties to the dispute and will also include details of the award of costs.

What if I do not like the decision?

An appeal can be filed within two months from the issue of the decision to the Board of Appeal at the EUIPO.