

Where the application is to be made

Opposition to the registration of a trade mark can only be filed at the Registry (section 44(1) of the Trade Marks Ordinance).

Applications for revocation, invalidity, variation or rectification can be made to either the Registrar or to the Court of First Instance (section 52(1) (revocation), section 53(1) (invalidity), section 54 (variation), section 57(3) (rectification) and section 60(6) (defensive mark)). However, where any proceedings concerning the registered trade mark are pending before the court, the application must be made to the court (section 77(1)(a)).

Registrar may refer application to the court

Although an application to have a trade mark revoked or declared invalid may have been made to the Registrar, he may at any time refer it to the court (section 77(1)(b)).

If the application is made to the court, or is referred by the Registrar to the court, the Registrar is entitled to appear and be heard on the application. The court may direct the Registrar to appear (section 83(1)). Unless otherwise directed by the court, the Registrar may, instead of appearing, submit a written statement covering the matters referred to in section 83(2)(a) – (d).

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