

These explanatory notes are numbered in the same way as the items on the form itself.

1 Your references

State your own reference or own file number here. BOIP will use this reference in all correspondence.

The contact is the person within your organisation filing the opposition and providing additional information if necessary.

2 Bank details

Please state your bank account number in case we need to refund.

3 Opponent details

An opponent may be an individual or a corporate body. The opponent's details must correspond to the details of the owner of the rights invoked under item 6 on the form. If the opponent is an individual, make sure to provide his/her surname and first name in full. Include the opponent's street address in the address. Correspondence from the BOIP may be sent to a post office box if desired.

Important: If you do not supply a street address in the EU or EEA, you must provide either a correspondence address in the EU or EEA or a representative whose business or residential address is in the EU or EEA!

4 Representative

This item is reserved for use by a representative. A representative is an external bureau or an independent expert. They can provide advice on trademark protection, and handle all formalities on behalf of the opponent. For more information on the services of representatives and a list of addresses, please consult the website of the professional association for trademark representatives and lawyers specialised in intellectual property in the Benelux, the 'BMM' (www.bmm.eu). If you use the services of a representative, he/she must have a residential or business address in the EU or EEA.

If you do not plan to enlist the services of a representative, you may skip this item.

5 Trademark application/registration being opposed

Enter here the application or registration number of the younger conflicting trademark to which you wish to lodge an opposition. Also include the details of the applicant and the relevant trademark, in order to facilitate identification of the opposed trademark. Also state whether the trademark is a Benelux trademark, or an international trademark with protection in the Benelux territory.

Goods and/or services

On the form, you may state that you are lodging opposition against all goods and/or services.

It is also possible to lodge opposition against only some of the goods and services. Use Appendix A to indicate that you only wish to oppose a limited number of class numbers, or to limit your opposition to specific products and/or services within these classes. If you wish to do so when submitting the opposition document, you may use only the terms from the goods and services listed in the trademark application. If the language in which the limitation was indicated is not designated as the language of the proceedings at a later stage, the BOIP will request a translation into this language in the notification of the commencement of the proceedings.

It is possible to submit a limitation request at a later stage, i.e. when submitting your arguments in support of the opposition. In this case, you must do so in the language of the proceedings.

We recommend being selective in your choice of goods and services, as the other party will only be ordered to pay the costs if the opposition is deemed well-founded for all the goods and services against which an opposition has been lodged.

6 Invoked rights

An opposition may be filed on the basis of an earlier trademark granting a right in the Benelux territory. In other words: an application for or a registration of a Benelux, Community or International trademark and/or a well known trademark. The opponent may take action in the capacity of a holder, or in the capacity of a licensee. It is possible to act in both capacities, if multiple rights are invoked.

An opposition may also be based on a protected designation of origin or geographical indication, to the extent that the opponent is entitled to exercise the rights arising therefrom. Finally, it is also possible for the holder of a prior trademark right that is not protected in the Benelux to file an opposition against a trademark application filed by his representative or agent without his consent. In that case, please choose the option "unauthorised filing by agent". These grounds must be stated under 7 Other grounds for opposition.

The opposition may be based on multiple rights. An additional fee will be charged for each additional right invoked beyond the third.

The grounds for opposition can be found in Article 2.2ter BCIP.

A. Earlier registered trademark

If the opposition is based on an earlier trademark with validity in the Benelux, you must state the details thereof here. The opposition can be based on several earlier trademarks. If more than three trademarks are invoked, you can use Appendix B.

Capacity of the opponent

The opponent may take action in the capacity of applicant or proprietor of the trademark, or in the capacity of a licensee. It is possible to act in both capacities, if multiple rights are invoked. The licence must be demonstrated by means of a written agreement. The trademark proprietor must also have granted permission for the opposition to be submitted.

Goods and/or services

On the form, you may state that your opposition is based on all goods and/or services covered by the invoked trademark. It is also possible to base your opposition on only some of the goods and services. Use Appendix C to indicate that you only wish to invoke a limited number of class numbers, or to limit the invoked rights to specific products and/or services within these classes. If you wish to do so, you may only use the terms of the goods and services listed in the trademark application or registration. It is possible to submit a (further) limitation request at a later stage, i.e. when submitting your arguments in support of the opposition. In this case, you must do so in the language of the proceedings.

B. Well-known trademark

If you invoke a well-known trademark as defined in Article 6bis of the Paris Convention, in principle this means that you do not possess a valid registration or application in the Benelux. You may list the trademark in the box. In any event, you must prove that the trademark is well-known by submitting appropriate evidence. This evidence should be submitted at a later stage in the proceedings, i.e. when submitting your arguments in support of the opposition.

Note: Well-known trademarks as defined in the Paris Convention are extremely rare in the Benelux territory. The Paris Convention allocates trademark rights to the owners of very well-known rights that may be interpreted as trademarks. The box 'well-known trademark' as defined in the Paris Convention is expressly not intended to indicate whether the trademark applied for or the registered trademark has acquired a reputation.

7 Other grounds for opposition

If the opposition is based on a protected designation of origin or geographical indication, it must be indicated on the form. The instrument (Union legislation or the internal law of one of the Benelux countries) from which the protection results must be indicated, a copy of which must be attached.

In case of opposition by the holder of a prior trademark that is not protected in the Benelux against a trademark application filed by his agent or representative without his consent (unauthorized filing by agent), the details of the trademark right concerned must be stated.

8 Preferred opposition language

Indicate your preference here for the language in which the proceedings should be carried out. In principle, the language of the proceedings will be the language in which the defendant's trademark application was filed, which is in turn determined by the language in which the classification was submitted with the trademark application. However, the defendant may be in agreement with your preferred language, in which case this will be the language used for the proceedings.

One exception to the proceedings being carried out in the language of the trademark application submitted by the defendant is if this language is English. In this case, the language of the proceedings shall be the preferred language entered by you on the forms.

If the trademark application is an international trademark application, the defendant may choose the language for procedural purposes (Dutch, French or English) within one month of the date of the notification of admissibility. If no choice is made, the procedure will be conducted in your preferred language.

It is not impossible to change the language of the proceedings once it has been set; it may be changed at the parties' joint request until such time as the proceedings commence.

9 Would you like the other party's arguments to be translated into your preferred language (as indicated in item 8), if they are submitted in another language of the BOIP?

Here you may request the other party's arguments to be translated into your preferred language, should it not be the same as the language of the proceedings. The costs of the translations will be for your account (see the list of fees).

Example: the language of the proceedings is Dutch, but you would like a translation of the arguments into English if the defendant does not agree with you choosing English as the language of the proceedings. In such a case, the BOIP will have the defendant's arguments translated for you (the costs will be for your account).

If the language of the proceedings has been set and one of the parties decides to use the other language, the translation costs will be charged to the party that decided to use the other language.

Example: the language of the proceedings is French, but you wish to submit the arguments in Dutch. In such a case, the BOIP will have your arguments translated, and the costs will be for your account.

During the opposition procedure, you may give notice in writing that you no longer require the translations.

Please note that the documents submitted shall be considered authentic. If there are discrepancies between the submitted documents and the translations, the authentic document shall prevail over the translation.

10 Would you like the decision to be translated into your preferred language (as indicated in item 8) if it is issued in another language of the BOIP?

Here you may request the final decision to be translated into your preferred language. The costs of the translation will be for your account.

During the opposition procedure, you may give notice in writing that you no longer wish to have this translation.

Please note that the decision issued by the BOIP in the language of the proceedings shall be deemed authentic. If there are discrepancies between the decision and the translation thereof, the authentic document shall prevail.

11 Fees

The fees for opposition are as follows. The specified amounts are not subject to VAT.

Opposition	Digital Euro	Paper Euro
Opposition, fees per opposition lodged	1.045	1.200
• Supplementary fee per invoked right above the third	105	120
• Suspension upon joint request and its extension before the procedure commences (1st year)		free of charge
• Suspension upon joint request and its extension after the 1st year, every 4 months		152
Translation of arguments		free of charge
• first four pages*		58
• for each page* or a part of it after the fourth		47
• Translation of the decision, for each page* or a part of it		

Opposition fees have been divided into two instalments: 40% of the fees due must be paid by the end of the opposition period, and the remaining 60% of the amount must be paid prior to the commencement of the proceedings. Your payment of the total amount should be received by BOIP prior to the commencement of the proceedings. If the total payment has not been received, further examination of the opposition will be abandoned.

If you are invoking more than three rights, you must pay an additional fee for each right invoked beyond the third. If you pay less than the required amount, the opposition will be admitted, however only the first three invoked rights will be considered.

12 Payment

You can pay by transferring the required amount to one of the following bank accounts:

in the Netherlands

- bank account IBAN: NL68 ABNA 0240 0367 00 BIC: ABNA NL2A (ABN AMRO)

in Belgium

- bank account IBAN: BE24 0014 3183 0538 BIC: GEBA BEBB (BNP Paribas Fortis)

in Luxembourg

- bank account IBAN: LU50 0030 0556 7430 0000 BIC: BGLL LULL (BGL BNP Paribas)

Direct debit from a bank account is not possible. You cannot pay by cheque.

If you have a current account at BOIP, you may request to debit your current account. In that case, check the box and fill in the (four-digit) number of your current account. If you do not have a current account but would like to apply for one, please contact us via our website www.boip.int.

13 Do you agree to any submitted documents being sent to you exclusively by email?

Enter your e-mail address here. We are currently working on allowing all documents to be exchanged electronically in future. E-mail currently does not have the same status as written correspondence.

14 Appendices

State here the nature of any attachment you wish to include with the opposition form.

All documents must contain the trademark, full name and reference entered at question 1. If the form does not provide sufficient space to include the required information, you may include it in the form of an appendix.

15 Signature

Specify the name of the person responsible for signing the opposition form. If the opponent is an organisation, also state the position (capacity) of the signatory. The form must be signed and dated.

Submitting the form

You can submit the opposition form to the address listed below or electronically via our website. Within 10 working days, the Benelux Office for Intellectual Property will send you a notification of (in)admissibility. This notification will also outline the remainder of the procedure.

Benelux Office for Intellectual Property

P.O. Box 90404

NL-2509 LK The Hague, the Netherlands

Tel.: +31-70- 349 11 11

www.boip.int

Visiting address: Bordewijklaan 15, 2591 XR The Hague

Open Monday to Friday, 10 a.m. to 12 noon and 2 p.m. to 4 p.m.

For more information on the procedure following the submission of the opposition, please read the information on our website (www.boip.int) or contact our Information Center (info@boip.int / + 31 70 349 12 42).