



ABN 38 113 072 755

Discovery House, Phillip ACT 2806
PO Box 200, Woden ACT 2806
Australia

P 1300 651 010
Int +61 2 6283 2999
www.ipaustralia.gov.au

World Intellectual Property Organisation (WIPO)
International Bureau
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Email: intreg.mail@wipo.int

No. of pages: 15

Dear Sir/Madam

**NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION BASED ON AN
OPPOSITION**

**THIS REFUSAL IS ISSUED PURSUANT TO RULE 17(1) TO 17(3) OF THE
COMMON REGULATIONS UNDER THE MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS AND THE PROTOCOL
RELATING TO THAT AGREEMENT**

International Registration number:	1261461
For the mark:	ONE MORE THING
In the name of:	SWATCH AG (SWATCH SA) (SWATCH LTD)
Opposition by:	APPLE INC.
Our ref:	1715689

We advise that following receipt of a Notice of Opposition to the above Trade Mark on 2 November 2015, it is necessary to issue this formal refusal letter. This refusal covers all of the goods of the International Registration (**Rule 17(2)(vi)**).

Please find attached a copy of the Notice of Intention to Oppose and the Statement of Grounds and Particulars (**Rule 17(2)(iv)**).

We also attach:

- Copies of the trade mark(s) upon which the opposition is based, (*if* conflicting trade mark numbers have been provided in the notice of opposition) showing all relevant details (**Rule 17(2)(v)**, **Rule 17(3)**).
- A copy of subdivision C of Division 3 of Part 17A of the *Trade Marks Regulations 1995* (**Rule 17(2)(iv)**).

Subdivision C points to other relevant sections of the *Trade Marks Act 1995* (the Act) and the *Trade Marks Regulations 1995* (the Regulations). Both the Act and the Regulations may be accessed at the following website address:

<http://www.ipaustralia.gov.au/about-us/publications-listing/ip-legislation/>

The following information can also be accessed at
http://www.ipaustralia.gov.au/pdfs/trademarkmanual/trade_marks_examiners_manual.htm

- The Trade Marks Office Manual of Practice and Procedure.

IMPORTANT INFORMATION NOTICE OF INTENTION TO DEFEND

You have ONE MONTH from the date of this notification to file a notice of intention to defend with IP Australia. You must provide an address for service in Australia. IP Australia will give a copy of the notice of intention to defend to the opponent.

If you do not file a notice of intention to defend, the opposition will be taken to be successful and the IRDA may not be protected in Australia.

The trade marks opposition process can be lengthy. 3 months is nominally allowed for evidence in support of the opposition and 3 months for evidence in answer. 2 months is nominally allowed for evidence in reply. These periods may be extended. The due date for filing evidence in answer to the opposition (unless an extension of time is requested) will be **3 months** from the date on which the opponent files its evidence in support.

ADDRESS FOR SERVICE IN AUSTRALIA: *important information for the holder of an opposed international registration designating Australia*

If the holder wishes to make written representations or to be heard in relation to the opposition, then the holder **must** notify the Registrar, in writing, of the holder's address for service in Australia.

Please also note that the Registrar is not required to take any action in response to a notice of intention to defend unless the holder has notified the Registrar, in writing, of the holder's address for service in Australia.

Yours faithfully



Scott Norman
Trade Marks and Designs Hearings
IP Australia
Direct dial: +61 2 6225 6196
Date: 26 November 2015

Trade Marks Act 1995

IN THE MATTER of Trade Mark
Application Trade Mark Application
1715689 (International Registration
1261461) **ONE MORE THING** in the
name of Swatch AG

– and –

IN THE MATTER of an Opposition
to Registration by Apple Inc.

Notice of Intention to Oppose

Apple Inc., of 1 Infinite Loop, Cupertino, CA, 95014, United States of America, gives notice that it intends to oppose registration of IRDA 1715689, **ONE MORE THING**, pursuant to Regulations 17A.33 & 17A.34 of the *Trade Marks Regulations*, 1995.

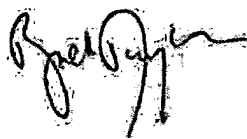
A Statement of Grounds and Particulars will be filed within one month.

The Opponent's address for service is:

CLAYTON UTZ
G.P.O. Box 9806
SYDNEY NSW 2001

Attention Brett Doyle
brettdoyle@claytonutz.com
(02) 9353 4202

DATED this 2nd day of November, 2015.



Brett Doyle
Solicitor & Attorney for the Opponent

Responsible Partner - Mary Still
Our Ref: 80169918-B

Trade Marks Act 1995

IN THE MATTER of Trade Mark
Application 1715689, **ONE MORE
THING** (International Registration
1261461) in classes 9 and 14 in the
name of Swatch AG;

– and –

IN THE MATTER of an Opposition
to Registration by Apple Inc.

Statement of Grounds and Particulars**Definitions**

Trade Mark

ONE MORE THING

Application

Trade Mark Application 1715689
(International Registration 1261461)

Applicant

Swatch AG

Opponent

Apple Inc.

Designated
Goods

Class 9: Apparatus for recording, transmission and reproduction of sound or images; electronic payment processing apparatus, apparatus for processing cashless payment transactions; magnetic recording media; sound recording disks; compact disks, DVDs and other digital recording media; apparatus enabling the playing of compressed sound files (MP3); calculating machines and data processing equipment, software; game software for mobile telephones, for computers and for digital personal stereos; electronic game software for mobile telephones, for computers and for digital personal stereos; computers, portable computers, handheld computers, mobile computers, personal computers, wrist computers, electronic tablets and computerized and mobile devices, digital personal stereos, mobile telephones and new-generation mobile telephones featuring greater functionality (smartphones); telecommunication apparatus and instruments; apparatus for recording, transmission, reproduction of sound or images, particularly mobile telephones and new-generation mobile telephones incorporating greater functionality (smartphones); handheld electronic apparatus for accessing the Internet and sending, receiving, recording and storing short messages, electronic messages, telephone calls, faxes, video conferences, images, sound, music, text and other digital data; handheld electronic apparatus for wireless receiving, storing and transmitting of data or messages; handheld electronic apparatus for monitoring and organizing personal information; handheld electronic apparatus for global positioning [GPS] and displaying maps and transport information; handheld electronic devices for detecting, monitoring, storing, surveillance and transmitting data relating to the user activity, namely position, itinerary, distance traveled, heart rate; covers for computers, portable and mobile telephones; optical

apparatus and instruments, particularly spectacles, sunglasses, magnifying glasses; cases for spectacles, magnifying glasses and sunglasses; batteries and cells for computers and electronic and chronometric apparatus

Class 14: Precious metals and their alloys and goods made of these materials or coated therewith included in this class, namely figurines, trophies; jewelry, namely rings, earrings, cufflinks, bracelets, charms, brooches, chains, necklaces, tie pins, tie clips, jewelry caskets, jewelry cases; precious stones, semi-precious stones; timepieces and chronometric instruments, namely chronometers, chronographs, clocks, watches, wristwatches, wall clocks, alarm clocks as well as parts and accessories for the aforesaid goods, namely hands, anchors, pendulums, barrels, watch cases, watch straps, watch dials, clockworks, watch chains, movements for timepieces, watch springs, watch glasses, presentation cases for timepieces, cases for timepieces

Act *Trade Marks Act 1995*

1 The Opponent relies upon the following grounds and gives the following particulars:

a) Section 42(b)

Use of the Trade Mark would be contrary to law.

Having regard to the reputation that Apple Inc. enjoys in the trade mark **ONE MORE THING**, a distinctive and distinguishing phrase used by the Opponent's former CEO, Steve Jobs, in relation to the Opponent's goods and services, use of the Trade Mark on the Designated Goods would be misleading or deceptive or likely to mislead or deceive in contravention of section 18 of the *Australian Consumer Law* or would pass off the Applicant's Designated Goods as and for those of the Opponent or as associated with the Opponent in breach of the common law.

b) Section 58

The Applicant is not the owner of the Trade Marks for the Designated Goods.

The Opponent used the trade mark **ONE MORE THING** alone or with additions and alterations not substantially affecting its identity on the same kinds of goods as the Designated Goods since at least as early as 1998 and prior to the priority date of the Application or prior to the first use of the Trade Mark by the Applicant on the Designated Goods, whichever is the earlier.

c) Section 59

The Applicant did not at the date of application use, intend to use or intend to authorise the use of the Trade Mark in Australia on all of the Designated Goods. Neither did the Applicant intend to assign the Application to a body corporate about to be constituted for use by that body corporate in Australia in respect of the Designated Goods.

The Designated Goods are very broad. An intention to use the Trade Mark on such a range of goods and services is not supported by the Applicant's website or enquiries made in relation to the Applicant's business.

d) Section 60

Before the priority date of the Application, another trade mark had acquired a reputation in Australia and because of that reputation, the use of the Applicant's Trade Mark on the Designated Goods would be likely to deceive or cause confusion.

The Opponent relies on use of the sign **ONE MORE THING** by its former CEO, Steve Jobs, in relation to the Opponent's goods and services from at least as early as 1998.

e) Section 62A

The Application was made in bad faith.

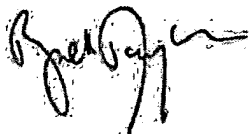
Before the adoption of the Trade Mark and before the priority date of the Application, the Applicant knew or ought to have known that the sign ONE MORE THING was associated with the Opponent; and the Applicant also knew or ought to have known that Opponent was intending to launch the Apple watch since there had been speculation on that subject since as early as 2011. The adoption of the Trade Mark by the Applicant and the filing of the International Registration and its Australian Designation were therefore attempts to pre-empt the Opponent and misappropriate the Opponent's valuable goodwill and trade mark. This conduct falls short of acceptable commercial behaviour to be expected of reasonable and experienced business people.

The Opponent's address for service is:

CLAYTON UTZ
GPO Box 9806
SYDNEY NSW 2001

Email: brettdoyle@claytonutz.com

DATED this 23rd day of November, 2015.



Brett Doyle
Solicitor for the Opponent

Our Ref: 80169918-B

Subdivision C—Opposition to IRDA

17A.29 Definitions

In this Subdivision:

extension of protection means the extension of protection in Australia to the trade mark that is the subject of the IRDA.

notice of intention to defend means a notice filed under regulation 17A.34H.

notice of intention to oppose means a notice filed under regulation 17A.33.

notice of opposition means:

- (a) a notice of intention to oppose; and
- (b) a statement of grounds and particulars.

opponent means a person who files:

- (a) a notice of intention to oppose; and
- (b) a statement of grounds and particulars.

party means an IRDA holder or opponent.

statement of grounds and particulars means a statement by an opponent that sets out:

- (a) the grounds on which the opponent intends to rely; and
- (b) the facts and circumstances forming the basis for the grounds.

Note: The following terms are defined in section 6 of the Act:

- (a) applicant;
- (b) approved form;
- (c) employee;
- (d) file;
- (e) month;
- (f) person.

17A.30 Registrar may give direction about filing document or evidence

- (1) If a document or evidence may or must be filed under this Subdivision, the Registrar may give a direction specifying:
 - (a) how many copies of the document or evidence must be filed; and
 - (b) the form in which the document or evidence is to be filed; and
 - (c) the means by which the document or evidence is to be filed.
- (2) If a party does not comply with the direction, the Registrar may:
 - (a) treat the document or evidence as not having been filed; or
 - (b) tell the party to comply with the direction.
- (3) The Registrar may make or revoke the direction as the Registrar sees fit.
- (4) Regulation 17A.31 does not apply to this regulation.

17A.31 Notification and opportunity to make representations

- (1) This regulation applies if:

- (a) a party makes a request to the Registrar under this Subdivision; or
 - (b) the Registrar proposes to make a decision on the Registrar's own initiative under this Subdivision.
- (2) The Registrar must:
- (a) for paragraph (1)(a)—notify the other party of the request, including by giving the other party a copy of the request; or
 - (b) for paragraph (1)(b)—notify the parties of the proposed decision.
- (3) If the Registrar proposes to grant the request, the Registrar must give the parties an opportunity to make representations:
- (a) in writing; or
 - (b) at a hearing; or
 - (c) by other means that the Registrar states in the notification.
- (4) The Registrar must notify the parties of the Registrar's decision.

17A.32 Filing of notice of opposition

- (1) A notice of opposition is taken to be filed when the notice of intention to oppose and the statement of grounds and particulars have been filed under regulations 17A.33 and 17A.34A.
- (2) The Registrar must notify the International Bureau of the filing of the notice of opposition in accordance with rule 17, as applicable, of the Common Regulations.

17A.33 Filing of notice of intention to oppose

- (1) If the Registrar advertises the acceptance of an IRDA in the *Official Journal*, a person may oppose the extension of protection by filing a notice of intention to oppose within 2 months from the advertisement of the acceptance.
- (2) The notice must be in an approved form.
- (3) The Registrar must give a copy of the notice to the applicant.

17A.34 Grounds for opposing IRDA

- (1) The extension of protection may be opposed on any of the grounds on which an IRDA may be rejected under Subdivision 2, except the ground that the trade mark cannot be represented graphically.
- (2) The extension of protection may also be opposed on any of the grounds set out in sections 58 to 61 and 62A of the Act, as affected by subregulation (3).
- (3) Sections 58 to 61 and 62A of the Act apply in relation to an IRDA as if:
 - (a) a reference in those sections:
 - (i) to an application for the registration of a trade mark were a reference to the IRDA; and
 - (ii) to an applicant were a reference to the holder of the IRDA; and
 - (iii) to the registration of a trade mark were a reference to the extension of protection in Australia to the trade mark that is the subject of the IRDA; and

- (b) the reference in paragraph 60(a) of the Act to the priority date for the registration of the trade mark were a reference to the priority date for the trade mark that is the subject of the IRDA.

- (4) The extension of protection may also be opposed on the grounds that:
 - (a) a document filed in support of the IRDA was amended contrary to the Act; or
 - (b) the Registrar accepted the IRDA on the basis of evidence provided, or a representation made, by the holder that was false in a material particular.

Note: Section 66 of the Act provides for the amendment of documents filed with the Registrar.

17A.34A Filing of statement of grounds and particulars

- (1) A statement of grounds and particulars must be filed within one month from the day the notice of intention to oppose is filed.
- (2) The statement must be in an approved form.

17A.34B Statement of grounds and particulars must be adequate

- (1) The Registrar must assess the adequacy of a statement of grounds and particulars.
- (2) If the Registrar decides that the statement is adequate, the Registrar must give a copy of the statement to the applicant.
- (3) If the Registrar decides that the statement is inadequate:
 - (a) the Registrar may direct the opponent to rectify the inadequacy by filing more information on the basis for one or more of the grounds; or
 - (b) if all the grounds are inadequately particularised, the Registrar may dismiss the opposition; or
 - (c) if only some of the grounds are inadequately particularised, the Registrar may:
 - (i) delete from the statement some or all of the material that is inadequate; and
 - (ii) treat the result as the statement for the purposes of these Regulations; and
 - (iii) give a copy of the amended statement to the opponent.
- (4) If the Registrar decides that the statement is still inadequate after the information is filed under paragraph (3)(a):
 - (a) the Registrar may dismiss the opposition; or
 - (b) the Registrar may:
 - (i) delete from the statement some or all of the material that is inadequate; and
 - (ii) treat the result as the statement for the purposes of these Regulations; and
 - (iii) give a copy of the amended statement to the opponent.
- (5) If the Registrar decides that the information filed under paragraph (3)(a) rectifies the inadequacy of the statement, the Registrar must give a copy of the statement and the information filed in relation to paragraph (3)(a) to the applicant.

- (6) The opponent may apply to the Administrative Appeals Tribunal for review of a decision under this regulation to dismiss the opposition or delete material from the statement of grounds and particulars.
- (7) Regulation 17A.31 does not apply to this regulation.

17A.34C Extension of time for filing—application

- (1) A person who intends to oppose the extension of protection may request the Registrar to extend:
 - (a) the period for filing a notice of intention to oppose under subregulation 17A.33(1); or
 - (b) the period for filing a statement of grounds and particulars under subregulation 17A.34A(1).
- (2) A request under paragraph (1)(a) or (b) may be made:
 - (a) within the period for filing the document in question; or
 - (b) before the extension of protection of the IRDA is entered on the Record of International Registrations under paragraph 17A.37(1)(b).

Note: See subparagraph (3)(b)(ii) and subregulation 17A.34D(2) in relation to the consequences of making the request after the filing period has ended.

- (3) The request must:
 - (a) be in an approved form; and
 - (b) be accompanied by a declaration stating:
 - (i) the facts and circumstances forming the basis for the grounds; and
 - (ii) if the period for filing the notice or the statement of grounds and particulars has ended—the reason why the request was not made within the period.

Note: Regulations 21.6 and 21.7 deal with making and filing declarations.

- (4) The request must be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person's agent, the Registrar or an employee;
 - (b) circumstances beyond the control of the person, other than an error or omission by the person, the person's agent, the Registrar or an employee.
- (5) Subsection 52(5) of the Act applies to the request.
- (6) Regulation 17A.31 does not apply to this regulation.

17A.34D Extension of time for filing—grant

- (1) The Registrar may grant a request under subregulation 17A.34C(1) for an extension of time if the Registrar is satisfied that the grounds set out in the request justify the extension.
- (2) However, if the request is made after the period for filing the notice or statement of grounds and particulars has ended, the Registrar must not grant the extension unless the Registrar is satisfied that there is sufficient reason for the delay in making the request.
- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

17A.34E Opposition may proceed in name of other person

Section 53 of the Act applies to a notice of intention to oppose filed under this Subdivision.

17A.34F Amendment of notice of intention to oppose

- (1) An opponent may request the Registrar to amend a notice of intention to oppose to correct a clerical error or obvious mistake.
- (2) If an opposition proceeds in the name of another person under section 53 of the Act, the person may request the Registrar to amend the notice of intention to oppose to record the person's name.
- (3) The Registrar may grant a request under subregulation (1) or (2) on terms that the Registrar considers appropriate.
- (4) If the Registrar grants the request, the Registrar must give a copy of the notice of the amended intention to oppose to the IRDA holder.
- (5) Regulation 17A.31 does not apply to this regulation.

17A.34G Amendment of statement of grounds and particulars

- (1) An opponent may request the Registrar to amend the statement of grounds and particulars to:
 - (a) correct an error or omission in the grounds of opposition or the facts and circumstances forming the basis for the grounds; or
 - (b) amend a ground of opposition; or
 - (c) add a new ground of opposition; or
 - (d) to amend the facts and circumstances forming the basis for the grounds.
- (2) The Registrar may grant the request on terms that the Registrar considers appropriate.
- (3) However, the Registrar may grant a request to:
 - (a) amend a ground of opposition; or
 - (b) add a new ground of opposition;only if the Registrar is satisfied that the amendment or addition relates to information of which the opponent could not reasonably have been aware at the time of filing the statement.
- (4) If the Registrar grants the request, the Registrar must give a copy of the amended statement to the IRDA holder.

17A.34H Filing of notice of intention to defend

- (1) The IRDA holder must file a notice of intention to defend within one month from the day the Registrar notifies the International Bureau under subregulation 17A.32(2).
- (2) The holder must file an Australian address for service with the notice.
- (3) The Registrar must give a copy of the notice to the opponent.
- (4) If the holder does not file the notice within the period mentioned in subregulation (1), the Registrar may decide to:

- (a) take the opposition to have succeeded; and
 - (b) refuse protection to the holder.
- (5) The Registrar is not required to take any action in response to a notice of intention to defend filed under subregulation(1) unless the opponent has notified the Registrar, in writing, of the opponent's address for service in Australia.
- (6) A requirement to:
- (a) give a document to a person; or
 - (b) give a person an opportunity to make written representations or to be heard;
- does not apply if no address for service of the person is recorded in the Record of International Registrations.
- (7) The Registrar must notify the parties of the Registrar's decision.

17A.34J Filing of evidence

- (1) The Registrar must notify the parties that:
- (a) all the evidence for an evidentiary period mentioned in this regulation has been filed; or
 - (b) no evidence was filed for the period.
- (2) The Registrar must give a copy of any evidence filed by a party under this regulation to the other party:
- (a) before the end of the relevant evidentiary period, if the Registrar considers it appropriate to do so; or
 - (b) after the evidentiary period ends.

Evidence in support

- (3) An opponent must file any evidence in support of the opposition within 3 months from the day the opponent is given a copy of the notice of intention to defend.

Evidence in answer

- (4) If the opponent files evidence in support of the opposition, the IRDA holder must file any evidence in answer to the evidence in support within 3 months from the day the Registrar:
- (a) gives the IRDA holder:
 - (i) all the evidence in support; or
 - (ii) if the opponent files the evidence in support in instalments—the final instalment of the evidence in support; and
 - (b) notifies the IRDA holder that all the evidence in support has been filed.
- (5) If the opponent does not file any evidence in support of the opposition, the IRDA holder must file any evidence in answer to the statement of grounds and particulars within 3 months from the day the Registrar notifies the IRDA holder that no evidence in support was filed.

Evidence in reply

- (6) If the IRDA holder files evidence in answer under subregulation(4) or (5), the opponent must file any evidence in reply to the evidence in answer within 2 months from the day the Registrar:

- (a) gives the opponent:
 - (i) all the evidence in answer; or
 - (ii) if the IRDA holder files the evidence in answer in instalments—the final instalment of the evidence in answer; and
- (b) notifies the opponent that all the evidence in answer has been filed.

17A.34KE Extension of time for filing

- (1) A party may request the Registrar to extend a period for filing evidence mentioned in regulation 17A.34J.
- (2) The Registrar may extend the period only if the Registrar is satisfied that:
 - (a) the party:
 - (i) has made all reasonable efforts to comply with all relevant filing requirements of this Subdivision; and
 - (ii) despite acting promptly and diligently at all times to ensure the filing of the evidence within the period, is unable to do so; or
 - (b) there are exceptional circumstances that justify the extension.
- (3) The Registrar:
 - (a) must decide the length of the extended period having regard to what is reasonable in the circumstances; and
 - (b) may do so on terms that the Registrar considers appropriate.
- (4) In this regulation:

exceptional circumstances includes the following:

 - (a) a circumstance beyond the control of a party that prevents the party from complying with a filing requirement under this Subdivision;
 - (b) an error or omission by the Registrar or an employee that prevents a party from complying with a filing requirement under this Subdivision;
 - (c) an order of a court or a direction by the Registrar that the opposition be stayed.

17A.34L Registrar may allow cooling-off period

- (1) This regulation applies to an opposition if:
 - (a) the notice of opposition has been filed; and
 - (b) the Registrar has not made a decision on the opposition under regulation 17A.34N; and
 - (c) the opposition has not been dismissed under regulation 17A.34B.
- (2) If the Registrar is satisfied that the parties agree to a cooling-off period, the Registrar must allow a cooling-off period of 6 months.
- (3) The Registrar must extend the cooling-off period for 6 months if, before the end of the period, the Registrar is satisfied that the parties agree to the extension.
- (4) The Registrar must not:
 - (a) further extend the cooling-off period; or
 - (b) allow more than one cooling-off period for an opposition.
- (5) If a party files a notice in an approved form requesting the Registrar to discontinue the cooling-off period, the Registrar must do so.

- (6) The Registrar may direct the parties on steps they must take:
 - (a) if the cooling-off period is discontinued; or
 - (b) otherwise—when the cooling-off period ends.
- (7) The opposition resumes:
 - (a) if the cooling-off period is discontinued; or
 - (b) otherwise—when the cooling-off period ends.
- (8) If:
 - (a) the cooling-off period begins during the period mentioned in regulation 17A.34H or an evidentiary period mentioned in regulation 17A.34J; and
 - (b) the opposition resumes;the period mentioned in regulation 17A.34H or 17A.34J restarts when the opposition resumes.

17A.34MHearing

- (1) This regulation applies to an opposition if:
 - (a) the opposition has not been dismissed under regulation 17A.34B; or
 - (b) the opposition has not been decided under regulation 17A.34N; or
 - (c) the opposition is not taken to have succeeded under regulation 17A.34H.
- (2) An applicant may request the Registrar to hold a hearing if:
 - (a) the evidentiary period mentioned in subregulation 17A.34J(3) has ended; and
 - (b) either:
 - (i) all evidence for the opposition proceeding has been filed; or
 - (ii) no evidence has been filed in that period.
- (3) A party may request the Registrar to hold a hearing if:
 - (a) an evidentiary period mentioned in any of subregulations 17A.34J(4) to (6) has ended; and
 - (b) either:
 - (i) all evidence for the opposition proceeding has been filed; or
 - (ii) no evidence has been filed in that period.
- (4) The Registrar:
 - (a) must hold a hearing of the opposition if requested by a party in writing; or
 - (b) may decide, on the Registrar's own initiative, to hold a hearing of the opposition.
- (5) The hearing may, at the Registrar's discretion, be:
 - (a) an oral hearing; or
 - (b) by written submissions.
- (6) If the Registrar decides on an oral hearing:
 - (a) the Registrar must notify the parties of the date, time and place of the hearing; and
 - (b) the opponent must file a summary of submissions at least 10 business days before the hearing; and
 - (c) the applicant must file a summary of submissions at least 5 business days before the hearing.

- (7) The Registrar may take into account a party's failure to file a summary of submissions under subregulation(6) in making an award of costs.

Note: Regulations 21.15 and 21.16 deal with hearings.

17A.34N Decision on opposition

- (1) Unless the opposition proceedings are discontinued or dismissed, the Registrar must decide:
- (a) to refuse protection in respect of all of the goods or services listed in the IRDA; or
 - (b) to extend protection in respect of some or all of the goods or services listed in the IRDA (with or without conditions or limitations);
- having regard to the extent(if any) to which the grounds on which the IRDA was opposed have been established.
- (2) The Registrar must notify the International Bureau of the Registrar's decision.

17A.34P Appeal

- (1) Section 56 of the Act applies in relation to the Registrar's decision on the opposition as if a reference in that section:
- (a) to an applicant were a reference to the holder of an IRDA; and
 - (b) to a decision under section 55 of the Act were a reference to a decision under regulation 17A.34N.
- (2) If an appeal is made, the Registrar must tell the International Bureau of the decision on the appeal.

17A.34Q Registrar may give direction

- (1) The Registrar may give a direction in relation to an opposition to which this Division applies:
- (a) if requested by a party in writing; or
 - (b) on the Registrar's own initiative.
- (2) If the Registrar proposes to give a direction, the Registrar must give the parties an opportunity to make representations about the direction.
- (3) A direction must not be inconsistent with the Act or these Regulations.
- (4) The Registrar must notify the parties of the direction as soon as practicable.

17A.35 Registrar must notify parties of dismissal or discontinuance of opposition

If an opposition is dismissed under regulation 17A.34B or discontinued, the Registrar must notify the parties of the dismissal or discontinuance.