

Changes in EU trademark law

On 23rd March 2016 the amending regulation (EU) 2015/2424 of the European Parliament and the Council of the European Union of 16th December 2015 comes into force. Below we have briefly summarised for you what we consider to be the most important changes that will result from the regulation:

- **Change of name**

The “Office for Harmonisation in the Internal Market” (OHIM) will change its name to the “European Union Intellectual Property Office” (EUIPO)

- **Change of term**

The term “Community mark” is being replaced by “Union mark”. All existing community marks or applications will automatically become union marks or applications on 23rd March 2016.

- **Designation and classification**

Goods and services must be unambiguously and clearly indicated, i.e. general terms including the umbrella terms of the class headings of the Nice classification will be interpreted according to their literal meaning.

Proprietors of community marks registered before 22nd June 2012 which are registered in reference to an overall heading of a Nice class, can by 24th September 2016 submit a declaration that on the date of registration it was their intention to claim protection of goods or services beyond those covered by the literal meaning of the heading of the class in question. In addition, in the declaration the goods or services not clearly covered by the literal meaning of the class heading terms and for which trademark protection is to apply must be indicated, without expanding the protective scope of the original application. If such a declaration is not submitted as of 24th September

2016 the union marks will only apply for those goods or services which are clearly covered by the literal meaning of the terms in the heading of the class in question.

- **Means of representation**

Graphic representation as a registration criterion is being dropped, therefore, for example, alternative marks based on smells and sounds can be protected more easily.

- **New rights**

The transit through the European Union of goods that violate laws can be prevented even if these goods are not marketed within the European Union.

- **New deadlines**

Priority must be claimed directly with a union mark application and cannot, as before, still be claimed within two months of the date of application.

- **Proof of use**

In connection with an objection of non-use the proprietor of an older applied for or registered union mark must provide proof of serious use within the last five years before the date of application or priority date of the contested union mark application. Previously the period of five years before the publication of the contested union mark application was of relevance for proof of use.

- **Mediation centre**

For the purpose of amicable settlement the EUIPO can set up a mediation centre the services of which are available to the contesting parties on a voluntary basis.

- **New trademark form**

Union guarantee marks are to be introduced. These are intended to guarantee the quality, accuracy or other properties – with the exception of geographic origin. For this a by-law has to be deposited at the EUIPO which describes the usage conditions for guaranteeing the properties of the goods.

- **New fees system**

The new fees system of the EUIPO is characterised in particular by a “payment per class”. The following table compares extracts of the previous fees system of the OHIM and the fees system of the EUIPO:

Filing fees (E-filing)			
OHIM	Fee in EUR	EUIPO	Fee in EUR
First class	900,00 for up to three classes	First class	850,00
Second class		Second class	50,00
Third class		Third class	150,00
From the fourth class, each class	150,00	From the fourth class, each class	150,00

Renewal fees (E-filing)			
OHIM	Fee in EUR	EUIPO	Fee in EUR
First class	1.350,00 for up to three classes	First class	850,00
Second class		Second class	50,00
Third class		Third class	150,00
From the fourth class, each class	400,00	From the fourth class, each class	150,00

Other Fees			
OHIM	Fee in EUR	EUIPO	Fee in EUR
Opposition	350,00	Opposition	320,00
Cancellation	700,00	Cancellation	630,00
Appeal	800,00	Appeal	720,00

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