

OHIM'S NEW GUIDELINES FOR EXAMINATION ON BOTH COMMUNITY TRADEMARKS AND REGISTERED COMMUNITY DESIGNS

The Office for Harmonization in the Internal Market (Trade Marks and Designs) ("OHIM") revised and updated its Guidelines for Examination on both Community Trade Marks and Registered Community Designs.

OHIM's Guidelines

OHIM is the European Union Agency administrating and managing the registration and maintenance of Community Trade Marks ("CTMs") and Registered Community Designs ("RCDs"). OHIM celebrated its 20th anniversary in 2014.

In order to facilitate the registration of CTMs and RCDs, to smoothen the examination process and to unify its practice in this regard, OHIM developed and adopted Guidelines reflecting its examination practice. The Guidelines contain also general instructions on the registration procedure, including time limits, classification, grounds for refusal, etc. By virtue of those Guidelines, OHIM aims to help both its users (such as right-holders, applicants, official representatives, legal counsels) and officers in their day-to-day work.

Because of the constantly growing number of registration filings (for instance, there were more than 117 000 CTMs and approximately 98 000 RCDs applications recorded in 2014¹) and, therefore, constantly evolving examination practice, OHIM revises its Guidelines on an annual basis.

It should be noted that, although the Guidelines can be of great help and represent a really in-depth study of OHIM's practice and the applicable EU legislation, those Guidelines are not legally binding.

Impact on the Trademarks & Designs Practice

OHIM has revised almost all parts and respective sections of the Guidelines on both CTMs (including, but not limited to, General Rules, Examination and Opposition) and RCDs (Examination of Applications for RCDs and Renewal of RCDs). The revised Guidelines reflect the latest case law of the Court of Justice of the European Union, as well as the case law of the OHIM's Boards of Appeal.

The updated Guidelines are expected to enter into force on August 1, 2015. However, the Guidelines should already be published on OHIM's official website www.oami.europa.eu several days in advance.

¹ Pursuant to the Office for Harmonization in the Internal Market Annual Report for 2014 available on OHIM's official website: www.oami.europa.eu;

It is expected that the Bulgarian Patent Office and the local Intellectual Property Offices of all other Member States will make an effort to comply with the new OHIM's Guidelines. Thus, the Member States may soon update and supplement, if necessary, their examination practice on national Trade Marks and Industrial Designs.

Keeping this in mind, the updated and revised OHIM's Guidelines can affect not only the CTMs and the RCDs registration applications in the future, but also the national registration applications for Trade Marks and Industrial Designs throughout the entire European Union.

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