



Trade Mark Attorneys

Wildbore House  
361 Liverpool Road  
London N1 1NL

T +44 (0)20 7607 7312  
F +44 (0)20 7609 9062  
E [info@wildbore.eu](mailto:info@wildbore.eu)  
W [www.wildbore.eu](http://www.wildbore.eu)

## ABOUT EUROPEAN COMMUNITY TRADE MARKS

### WHAT CAN BE FILED AS A TRADE MARK?

Any person or company intending to use a trade mark in one of the existing countries of the European Union, or already using such a trade mark, is entitled to seek registration of that trade mark on the unitary Community Trade Marks Register. This is maintained by the Office for Harmonization in the International Market (OHIM) based in Alicante, Spain.

The application must identify the applicant and its address and must contain a clear representation of the mark and an indication of the goods and/or services to be covered. OHIM uses the International Classification System and it is possible to file multi-class applications. Indeed, the basic filing fee allows for coverage of up to three classes. We will gladly give guidance on the classification of your specific goods or services. For a small additional fee, the applicant can opt to have searches undertaken for earlier conflicting marks in the majority of national offices of the European Union.

In order to be registrable on the Community Trade Marks Register, a trade mark must have distinctive character. Words having an ordinary descriptive meaning in one of the languages of the European Community will not be acceptable. Virtually any mark is registrable, including distinctive shapes, slogans and even tunes.

### WHAT HAPPENS ONCE THE APPLICATION IS FILED?

The mark is examined by OHIM in terms of inherent registrability. In addition, a search is undertaken against earlier Community trade mark registrations and applications. If the optional search fee has been paid, details are also sent to the national trade mark offices of the majority of the countries for searches to be undertaken for earlier conflicting marks.

The results of these searches are notified to the applicant, but marks disclosed by this will not stand as an obstacle to the application. However, the owners of any similar earlier Community trade mark registrations or applications will be notified of the existence of your application.

The application will then be published in the OHIM Bulletin, and remains open to third party opposition for a three month period from that publication. If no opposition is encountered, the Certificate then issues. Assuming no substantial objections or oppositions are encountered, the entire process will take approximately twelve months.

Once registered, the mark remains in force for ten years counting from the date of application and can be renewed thereafter for further ten year periods.

Such a registration will give protection for the mark in all 27 countries of the European Union, namely Austria, Belgium,

Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

## **SEARCHES**

The optional searches mentioned above are cursory in nature, and do not cover all European Union countries. Although they may identify major obstacles, it is still normally advisable to make individual searches of the databases in specific countries before adopting a particular trade mark.

A check on the Internet can provide plenty of information about whether a particular trade mark may already be in use. It is even possible to check the databases of the Trade Marks Office in many territories. However, the searching facilities available over the Internet are limited in nature. We can undertake more sophisticated searches which reduce the risk of missing an earlier right that may prevent use.

- 1) **Identical Only Searches.** We can undertake an identical search to check whether there are any prior

registrations for the same mark that could obstruct the application or make the mark unavailable for use.

- 2) **Screening Searches.** These can be undertaken in a number of countries, but again will only identify identical marks and give an indication of the feasibility of proceeding further.
- 3) **Full Availability Searches.** These will make a check against not only the identical mark, but also phonetic renderings and visually similar words. In addition, the scope of the goods and services will be expanded to cover related areas and not just the specific goods or services of interest. Such a search will give a realistic indication of the availability of the mark for registration.

Searches in a particular country will cost approximately £200-£500, depending on the volume of marks disclosed by the search.

## **COSTS**

Please ask for our current schedule of fees.

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*WHY USE US:*

*We are a long established firm comprising trade mark professionals, i.e. all exam qualified members of the UK Institute of Trade Mark Attorneys. We would be pleased to hear further from you if we can undertake any work on your behalf*