

# **BRANDED!**

## **The Amended EU Trade Mark**

With effect from 23 March 2016, Regulation No. 2015/2454 is introducing changes concerning:

- The name of the Office and the CTM
- Fees
- Dates for payment
- Claims to Priority
- Representation of Trade Marks
- Proof of use periods in Oppositions
- Earlier Opposition periods for CTM designations of IRs
- Amendments to registrations for class headings
- Certification Trade Marks
- Oppositions based on PDOs and PGIs

### **Changes of name**

The Office for the Harmonisation of the Internal Market (“OHIM”) is changing its name to the European Union Intellectual Property Office (“EUIPO”) which will probably be more memorable for those who do not use it every day!

Community Trade Marks will now have the name European Trade Marks (“EUTM”)s) – again, probably more memorable.

### **Fees**

Each class of goods and services will carry a fee – and it will no longer be possible to include 3 classes in the initial filing for the price of 1. This should result in a less crowded register over time as applicants will be more likely to file in only 1 or 2 classes, rather than take advantage of including 3 classes for the price of only 1.

BRANDED! have kept their own 1 April 2012 Fixed Fee Filing/Registration Rates for the new EUTM.

The Official Renewal fees are similarly reduced for one class – but also for 2 or 3 classes.

Check out the new BRANDED! Fee Schedule attached.

### **Dates for payment of Renewal fees**

Under the new Regulation, these will have to be paid by the renewal date (they used to be able to be paid by the end of the month in which they fell due).

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#### **European Trade Mark Attorneys**

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### **Claims to Priority**

Priority must now be claimed upon filing (it used to be able to be claimed later).

### **Representation of Trade Marks**

From a later date – 24 September 2017, it will no longer be necessary to file a graphical representation of a trade mark. This will make it easier to file non-traditional trade marks (eg sound marks) but it will still be necessary to represent them properly.

### **Proof of use periods in Oppositions**

This is changing to 5 years before the date of filing or priority (whichever is earlier) of the trade mark being opposed (it used to be 5 years before the publication date of the opposed trade mark).

### **Earlier Opposition periods for EUTM designations of IRs**

The opposition period will begin only 1 month from the date of publication (instead of 6 months as it is now).

### **Amendments to registrations for class headings**

A registration for a class heading specification of goods was thought to cover all goods in the class until the IP TRANSLATOR case when it was made clear that the actual goods of interest should be listed in the class, as well as the class heading if desired.

Under Article 28(8) of Regulation No. 2015/2424, it is proposed that owners of EUTMs dated before 22 June 2012 (which are not designations under an IR) which cover entire class headings will have the opportunity to amend their goods and services to include those which they really intended to cover, in addition to the class heading. After that period, the specifications of goods and services of EUTMs will be interpreted as only the literal meaning of the terms listed.

It is possible to file Declarations until 23 September 2016.

If you feel this may affect your trade mark or would like further information please contact us.

### **Certification trade marks**

From a later date – 24 September 2017 – it will be possible to register Certification trade marks which certify characteristics of goods or services (similar to the UK).

## **PDOs and PGIs can be the basis for Oppositions**

It will be possible to base Oppositions (as well as Invalidity actions) on Protected Designations of Origin or Protected Geographical Indications.

For any questions about the above, please email [info@trade-mark.co.uk](mailto:info@trade-mark.co.uk) or phone + 44 1904 476388