Notes on the Application Form for a Community Trade Mark

General remarks

Use of the form

The form may be obtained (by post, by fax or by e-mail) free of charge from the OHIM and may be downloaded from the OHIM’s website (http://www.oami.europa.eu) for printing. It may also be obtained from the central industrial property offices of the Member States, including the Benelux Trade Marks Office.

Applicants or their representatives are free to make copies of this form, or they may use forms of a similar structure or format, such as computer-generated forms incorporating the information contained in the application form. Where such electronically generated forms are used, the use of attachments may be avoided by simply extending the electronic version where further space is required.

Where certain information may be supplied later, it is nevertheless recommended that the application form be completed as far as possible and that the necessary information be supplied at the time of filing the application. This will facilitate and expedite the processing of the application. The fields containing an asterisk (*) are mandatory fields.

For any information, the OHIM may be contacted on the following telephone number: (+34) 965 139 100

Submitting forms

Completed forms should, at the applicant’s choice,

- be sent directly to the OHIM in Alicante at the following address:

  Office for Harmonization in the Internal Market
  Receiving Unit
  Avenida de Europa, 4
  E-03008 Alicante, Spain

- be handed in personally at the reception of the Office, during opening hours;

- be transmitted by fax to the following OHIM fax number only:

  (+34) 965 131 344

- be filed with one of the central industrial property offices of the Member States or to the Benelux Trade Marks Office.

The OHIM will issue receipts for the applications received.
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1.1. Number of pages (including this one)

Applicants should indicate the total number of pages which are being sent to the OHIM.

1.2. Languages

1.2.1. Language of the application

Applicants must indicate the language in which they are applying, which may be any of the official languages of the European Union.

The two-letter ISO codes (codes set up for identifying languages by the International Organization for Standardization) may be used in the box provided.

1.2.2. Second language

The applicant must also select a second language, which must be one of the five languages of the OHIM (Spanish-ES, German-DE, English-EN, French-FR or Italian-IT) and which must be different from the first language.

The second language is the language, or one of the languages, available for opposition and cancellation proceedings. Any language version of the application form may be used, as long as the textual elements, in particular the list of goods and services, are completed in the language of the application proceedings.

Where the first language is not one of the five languages of the OHIM (see above), the applicant may authorize the Office to use the second language for all correspondence related to the application.

1.3. Applicant/representative reference

Applicants or representatives may indicate their own reference of no more than 20 characters in the space provided.

   e.g.: initials, string of letters, etc.

The OHIM will use this reference to verify fee payment (i.e. to check that a payment corresponds to a given application).

1.4. Applicant

1.4.1. ID number

If the applicant has been allocated an identification number by the OHIM, it is sufficient to indicate that ID number and the name. Otherwise, the applicant has to be identified by indicating its name together with its address and nationality.

1.4.2. Name (natural persons and legal entity), legal form and address

When there is more than one applicant, they shall be specified on a continuation sheet, under the heading "name of the applicant".

As regards natural persons, the first name(s) and surname(s) must be given in that order. The complete address and nationality of the applicant shall also be indicated.
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Where the applicant is a legal entity, the official name of that entity must be indicated, including its legal form ("Incorporated", "Sociedad Anónima", "Aktiengesellschaft", etc.). The indication of the legal form may be abbreviated in a customary manner ("Inc.", "S.A.", "AG", etc.). The complete address and the country where the legal entity has its seat must be indicated and use of the standard two-letter ISO code is recommended.

The legal form field is mandatory for legal entities. However, if you wish the legal form to appear in official publications, you must also include it as part of the name in the field above. If it is not included, it will not appear in publications or certificates.

Where the delivery address (street, house number, etc.) is different from the postal address (such as a P.O. Box), both addresses should be given. The OHIM will use them as appropriate. The delivery address will be the one published.

Telephone numbers, fax numbers and other contact information, such as electronic mail, should be provided in order to facilitate communication. The indication of a telephone number, fax number, e-mail address or other technical means of communication constitutes agreement that they can be used by the Office to communicate with the applicant.

Only one address should be indicated for each applicant. However, where several addresses are indicated, only the address mentioned first will be taken into account, except where the applicant designates another address as an address for service.

In the event of a change of address, a request for recording the change for the existing ID number(s) must be addressed to the OHIM separately. An applicant with more than one address will be allocated a separate ID number for each address.

1.5. Mark

The application may relate to any of the following types of marks: word mark, figurative mark, three-dimensional mark, colour per se, sound mark, or “other”. Only one of these categories may be chosen.

A word mark is a typewritten mark (regular font), without special graphic elements. The mark must be typed or printed in the appropriate space. The OHIM will enter a word mark in its database and publish it as it appears in the application, that is with the use of capital and small letters and other signs as they appear in the form, using the OHIM’s standard font. In all other cases, the mark will be entered in the database and published as represented in the attachment.

A figurative mark is a mark consisting of exclusively figurative elements, combinations of verbal and figurative or other graphical elements, verbal elements in stylized fonts, or verbal elements on more than one line (for all of which, the elements may be in colour or otherwise) or consisting of exclusively verbal elements in colour.

A three-dimensional mark is a mark consisting of a three-dimensional shape (including containers, packaging and the product itself). The representation supplied in the attachment may consist of up to six representations of the shape.

Colour per se means that trade mark protection is sought for one colour or several colours, regardless of any specific shape or configuration. The colours must be indicated in words in the appropriate space. A representation of the colour(s) must be filed. A written description alone is not sufficient.
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A sound mark must be represented by means of an attachment using the standard methods for reproducing sound graphically, in particular a standard notation. A description is not sufficient. Attachments of electronic sound files may only be made in e-filings.

“Other” marks include all other types of marks not falling within the categories explicitly mentioned, such as holograms, position marks, movements marks, etc.

An attachment must be used for the representation of any mark which is not a word mark.

1.5.1. Marks in colour

If the mark is in colour, indicate the colour(s) in words. The additional reference to standard international colour codes is recommended.

1.5.2. Description/disclaimer (optional)

The application may contain a description of the mark and a disclaimer of one or several elements of the mark for which exclusive rights are not claimed.

1.6. Collective mark

Tick the box if the mark applied for is a collective mark. Only associations of manufacturers, producers, suppliers of services, or traders, as well as legal persons governed by public law, may apply for Community collective marks.

The application must indicate whether the regulations governing use of the collective mark are submitted together with the application, or whether they will be sent subsequently.

1.7. National search reports (optional)

Due to the revision of the CTMA search system, issuance of Member States’ central industrial property offices’ (‘national’) search reports has become optional for the applicant (in contrast, the Community search report continues to be produced by the OHIM in all cases).

If the applicant ticks the ‘National searches requested’ box, the OHIM will require the national offices participating in the system (http://oami.europa.eu/ows/rw/resource/documents/CTM(optionalSearches_en.pdf) to prepare and return, within a period of two months, a standard search report against their own registers of trade marks in respect of the CTMA.

The OHIM will transmit any requested national search reports received within this period, together with the Community search report, to the applicant without delay.

If the applicant does not tick the ‘National searches requested’ box, only the Community search report will be drawn up and transmitted to the applicant by the Office.

Publication of an application (after examination) cannot take place before the search process has been completed and the search report(s) communicated to the applicant.
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1.8. List of goods and services

The OHIM recommends that the terminology of the Nice Classification, including that of the Alphabetical List established under that Classification, be used; this will facilitate and expedite the processing of the application. Additionally, there are terms already approved by the OHIM, which may be copied from Euroace database (available online at http://www.oami.europa.eu/en/database/euroace.htm).

A reference to the list of goods and services of a previous CTM application may replace the indication of a list of goods and services.

1.9. Signature

The name and corresponding signature of the applicant/representative must be provided at the bottom of page 1.

2. The form, second page

2.1. Representative

Representation is optional for the filing of the application but for all further steps of the procedure it is mandatory for all applicants, either natural or legal persons, that have neither their domicile or principal place of business nor a real and effective industrial or commercial establishment in the Community. All other applicants may represent themselves or choose to appoint a representative.

Where the application is filed directly by an applicant who needs to be represented for further steps, all post-filing communication by the OHIM or with the OHIM will have to be through a duly-appointed representative.

Representation before the OHIM may be exercised by professional representatives falling into one of the two following categories:

- legal practitioners qualified in a Member State who are entitled to act in that Member State as representatives in trade mark or design matters and who have their place of business in the European Community; or
- professional representatives entered on the list maintained by the OHIM.

The applicant may also act through an employee. Where an employee is appointed, the name of the employee must be indicated in the “representative” box. Employees of legal entities with their domicile or principal place of business or a real and effective industrial or commercial establishment within the European Community may represent other legal entities if (and only if) economic connections exist between the two legal persons, such as common ownership or control. This also applies when the applicant is a legal entity from outside the European Community. In these cases, information relating to the legal entity whose employee acts on behalf of the applicant, and the basis of economic connections (parent company, subsidiary, branch etc.) must be provided in an attachment.

The OHIM will thus communicate with the representative if appointed.

Filing an authorisation for the representative is not required, except where an employee of the applicant has been appointed as representative.
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2.1.1. ID number

If the representative has been allocated an identification number by the OHIM, it is sufficient to indicate only that ID number and the name. Otherwise, the representative must be identified by indicating its full name and address, as set out below.

2.1.2. Name and address of the representative

The complete address must be indicated. The use of the standard two-letter ISO code for the country is recommended.

Where the delivery address (street, house number, etc.) is different from the postal address (such as a P.O. Box), both addresses should be given. The OHIM will use them as appropriate. The delivery address will be the one published.

Telephone numbers, fax numbers and other contact information, such as electronic mail, should be provided in order to facilitate communication. The indication of a telephone number, fax number, e-mail address or other technical means of communication constitutes agreement that they can be used by the Office to communicate with the applicant.

2.2 Priority claimed

If the applicant wishes to claim the priority of one or more previous applications, the application number (if available), the date on which and the country in which the previous application was made shall be indicated. A priority claim may also be made within a period of two months from the filing date.

The application form must indicate whether the documentation on priority is submitted together with the application, or whether it will be sent subsequently.

2.3. Seniority claimed

If seniority is claimed, the nature of the registration (national or international mark), the registration number, the filing date and the Member State in which it has its effects shall be indicated. A seniority claim may also be made within a period of two months from the filing date or at any time after the registration of the Community trade mark.

The application form must indicate whether the documentation on seniority is submitted together with the application, or whether it will be sent subsequently.

2.4. Transformation under the Madrid Protocol

In order to be considered a transformation of an international registration which has been cancelled at the request of the office of origin by the International Bureau pursuant to Article 9quinquies of the Madrid Protocol and in accordance with Article 156 CTMR, the Community trade mark application must contain an indication to that effect.

This indication must be made on filing of the application by indicating the following elements under the specific paragraph of the application form entitled: “Transformation under the Madrid Protocol”:

Elements under (1), (2) and (3) are mandatory in order for the Office to consider that the transformation is requested:
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(1) The number of the international registration which has been cancelled. The OHIM will then be able to retrieve details of the international registration in order to check that the list of goods and services of the CTM is covered by the international registration in respect of the European Community.

(2) The date on which the international registration was cancelled by the International Bureau. This date will be used to check that the CTM application is filed within a period of three months from the date on which the international registration was cancelled.

(3) The date of the international registration pursuant to Article 3 (4) of the Madrid Protocol or the date of recordal of the territorial extension to the European Community made subsequently to the international registration pursuant to Article 3ter (2) of the Madrid Protocol.

(4) Where applicable, the date of priority claimed in the international application as entered in the International Register kept by the International Bureau.

2.5. Translations

An optional translation into the second language of the list of goods and services, the indication of colours (if any), the description of the mark (if any) and the disclaimer (if any) may be submitted. Any translation provided must be for all four items.

2.6. Payment of fees

The basic fee for a Community trade mark is €1050 which covers up to three classes of goods and services; the fee for each additional class is €150. The basic fee for a Community collective trade mark is €1800; the fee for each class exceeding three is €300. The additional fee for the preparation of national search reports (which became optional on 10 March 2008, see section 1.7) is calculated by multiplying the EUR 12 fee for each national search report by the number of participating Member States’ central industrial property offices (see list http://oami.europa.eu/ows/rw/resource/documents/CTM/optionalSearches_en.pdf). This should be paid together with the basic CTM fee (Article 38 (2) CTMR). Applicants with an OHIM current account may choose to pay these fees either immediately upon filing the application or one month after the filing date. This payment may also be combined with the fee due for any additional classes.

The basic CTM fee must be paid within one month of the date of submitting the application in order to obtain the receipt date as filing date. The OHIM will not issue a request for payment. There is no longer a separate registration fee for either Community trade marks or Community collective trade marks.

Payment of fees must be made in euro. Payment (all bank charges to be met by the payer who should instruct the bank accordingly) can be effected by:

- debiting a current account held with the OHIM, indicating the number of that account. The applicant/representative may choose immediate debiting of the basic CTM fee or debiting at the end of a period of one month from receipt of the application; immediate debiting will accelerate the processing of the application. The applicant may choose whether the fees for the classes exceeding three are to be withdrawn together with the basic CTM fee or when the classification has been accepted. The holder of a current account may state that the current account shall not be used for the payment;
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- making a transfer, in euro, to a bank account of the OHIM, indicating the name, address and reference number of the applicant or representative, and the application(s) to which the payment refers;

The application should indicate the date of the transfer only if this has already been made.

Applicants should note that the Office does not issue any invoices for the filing fees.

Current accounts may be opened by applying in writing to the OHIM at the following address:

Office for Harmonization in the Internal Market
Finance Department
Avenida de Europa, 4
E-03008 Alicante, Spain
Telephone: (34) 965 139 340
Fax: (34) 965 139 113

Transfers should be made to one of the following OHIM bank accounts:

BANCO BILBAO VIZCAYA ARGENTARIA
Account number: 0182-5596-90-0092222222 Swift code (BIC): BBVAESMMXXX
IBAN ES88 0182 5596 9000 9222 2222

LA CAIXA
Account number: 2100-2353-01-0700000888 Swift code (BIC): CAIXESBBXXX
IBAN ES03 2100 2353 0107 0000 0888