

Back in June of this year, we circulated [an update](#) commenting on sweeping reforms to the trade mark framework across the EU. At that time, the reforms were just proposals, awaiting approval from EU legislative bodies, specifically the Council of the European Union and the European Parliament.

We can now report that the European Parliament has [approved the reforms on 15 December](#); this follows the earlier approval by the EU Council. This is a little earlier than expected. This means that implementation of the reforms will go ahead, in the form of new legislation revising the existing Trade Marks Directive (2008/95/EC) and the Community Trade Marks Regulation (207/2009/EC). Brand owners will benefit from these reforms in a number of ways. In particular, as official fees will be reduced, brand owners look set to make significant cost savings.

Nature of the Reforms and Timeline

The overriding objective of the reforms is the modernisation of trade mark systems across Europe. The aim is to foster innovation and growth by making these systems more accessible, efficient and effective for businesses in terms of lower costs and complexity, increased speed, greater legal certainty and better protection against counterfeiting. The new legislation contains a raft of reform provisions which should, when implemented, achieve that aim. For example, some basic trade mark terminology will be clarified. Community Trade Marks (CTMs) will be renamed European Union Trade Marks and the administrative office responsible for these marks (currently known as the Office for Harmonization in the Internal Market or OHIM for short) will be given a more meaningful name as the European Union Intellectual Property Office. The more detailed aspects of the reforms will simplify the trade mark application process and clarify the scope of protection provided by a trade mark registration.

The reforms impact on both the national trade mark system of each EU member state and on the Europe-wide CTM system. Changes at national registry level will come into force in three years' time. This is to give member states sufficient time to enact the relevant implementing legislation. However, reforms at CTM level will be felt much sooner – most likely during the first half of 2016.

Impact on Fees

Overall, the reforms are good news for brand owners. Of particular interest to many will be the significant reduction in official fees around the European Union Trade Mark registration and renewals process. Currently, a CTM application costs €900 covering three

classes of goods or services. The EU Commission raised concerns about this automatic three class coverage of CTM applications. It recognised that many businesses wanted a CTM registration in just one class and that the current system resulted in unnecessarily inflated fees and a trade mark system cluttered with unused and unwanted registrations. From next year, it will be possible to register a European Union Trade Mark in just one class and the application fee will be reduced by €50 to €850. Renewal fees will be reduced to match, down from the current €1,350 to €850 for renewal in one class. In its latest communication, the EU Commission calculates that, in real terms, this represents savings of up to 37%, especially for those businesses that renew their trade mark registration beyond the initial 10-year term.

Next Steps

Businesses should review and update their trade mark portfolios. The consumer marketplace is now global and it is more important than ever for businesses to stand out from the crowd. Having registered trade mark protection is the best way to grow and maintain a strong brand and protect it from competitor abuse. Trade marks have often been viewed as an unaffordable luxury by small- and medium-sized businesses. These fee reforms should make the European trade mark system genuinely accessible for smaller businesses and they should take this opportunity to gain registered trade mark protection. Larger businesses that already have registered trade marks should review their portfolios to assess whether Europe-wide trade mark protection may be more cost-effective than maintenance of their existing national registrations.

We have extensive experience partnering with businesses of all sizes across the globe to advise on the best trade mark protection for them. If you would like to discuss the opportunities for your business, please contact one of the lawyers listed in this publication.

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