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THE COMMUNITY TRADEMARK

The Community Trademark is the first centralized protection system covering a defined area

composed of different countries united by a community.

Its initial success was overwhelming and above expectations. New emerging common markets in other parts of the world, like the Mercosul, are watching closely how it will further develop. Final success will attract followers and sooner or later we shall have a Community Trademark also in the Mercosul in South America.

The AIPPI through its international bodies and through its national groups has been part to this developments, is proud to hold the n° 1 Community Trademark registration and is sure that the Community Trademark will continue on its path to success.

FOLLOW-UP ON THE REORGANIZATION OF THE EXAMINATION DIVISION

In the last issue we reported on the recent audit on the functioning of the examination procedure and the measures taken in order to improve productivity. In the present article we shall present the important achievements made thanks to the hard work invested by the staff of the Office in all divisions and specially in the examination division. We shall also look at some of the remaining problems and notably the need to coordinate the various elements of the complex procedure created by Regulation 40/94 on the Community Trade Mark.

It must also be taken into account that in June our computer system suffered a major break down which completely paralyzed examination for three full days and caused important disruptions, some of which took weeks to be cured. It is estimated that the examination division alone lost over 500 man/days of work.

The achievements

At the moment of going to print, the examination division had examined in excess of 45.000 files on classification of which about 13% are filed for

more than three classes of products and services. More than 40.000 of these files were cleared on classification grounds and are ready or were sent for national searches and translation.

The quantity of work involved in classification is very important, especially since a significant number of applications are filed without any kind of order. Some 25 to 30% require revision by the examiners. Furthermore, some 10% of the dossiers cause real problems and require a written communication with the applicant or his agent. Such files are therefore delayed for a period of time which can go from a few days to several months when a negative decision has to be taken.

The next steps of the examination process include formalities checks and absolute grounds. On formalities, apart from the habitual problems of missing documents or mistakes in the handling by the applicant one must underline the important work that is generated by applications containing seniority claims. About 20% of dossiers contain seniority claims. Some of these are very complex, the record being held with more than 200 seniority claims in one application. The examiners must

check the presence of the relevant documents which can be in eleven languages and whether their content corresponds to the claims of the applicant. Applications including seniority claims can require up to fifteen times as much work as others. This latter figure is valid when the file is complete and non controversial, but if such dossiers contain any type of flaw, as for example a certificate or document missing or not corresponding to the claim, they are delayed.

More than 13.000 applications have already been checked on absolute grounds. The difficulty of such a check in a new system covering eleven languages and fifteen cultures is evident. Most cases, however, do not pose important problems and can be cleared reasonably rapidly. This is the case for about 12.000 applications which have been published or are now ready for publication. However, a significant number of files require a closer look which means that several examiners of different nationalities and background need to discuss them. On the basis of our present experience, 10% of cases have a problem on absolute grounds. Problem cases often require communication with the applicants or the representatives. No doubt also that some of these will be taken all the way to the Boards of Appeal and the Court of Justice and would therefore need a long time to be settled.

Global context

If we add up the different percentages of problematic applications, we find out that around 35% require at the very least additional work or are upheld for a period which can be as long as several months. At this moment the Office has received more than 63.000 applications. This translates into a huge volume of documents and mail to be treated. Therefore each time a letter has to be generated and each time a dossier causes a problem the global difficulty increases. One can actually estimate that these 35% of files create around 90% of the work of the examination division. Indeed, whereas easy applications can be treated rapidly and in a massive way by a well organized team, difficult dossiers generating mail always cause a disruption on the work flow and

contribute to the increment of bottlenecks.

National searches and translations

Once the applications are classified they can be sent for national searches and for translation. The Office has negotiated the volumes and rhythm of transmission of applications both with the offices for search and the Luxembourg Center for translation. At this stage more than 35.000 dossiers were sent to the national and Benelux offices for searches. From around 1.000 a week at the end of May we have reached figures of 1.700 sent a week during July and onwards. Given that the procedure of the Community Trade Mark Regulation gives the Member States' offices three months to complete the national searches, we are now receiving back massive volumes of national searches which we have to re-dispatch to the applicants.

The Translation Center, however, cannot receive such massive volumes of trade marks. At this stage over 15.000 Trade Marks have been sent to Luxembourg and over 12.000 were returned. The Translation Center is still late by more than a thousand applications. Furthermore, it does not necessarily send us back the translations in the chronological order in which they were requested. This has adverse effects on our capacity for publishing.

At present we have some 6.000 applications for which we do have the translations but for which we could not clear the way yet for publication (either because the search report is missing or because examination is not yet completed). We have another 6.000 that were examined and are acceptable on absolute grounds but have not yet received the translation and national report.

Coordinating three sources of work

This problem of non congruence of translated, searched and examined applications was noticeable towards the end of July and the following measures were taken:

- the examiners were instructed to work with priority on the applications for which we have already received translations whether they are easy

files or not. However, some of these files require a lot of work notably on seniority;

- priority was also given to the applications which are not yet translated and which can be considered to be easy files on the examination side;
- the lists of translations we need with priority because the applications have been cleared on absolute grounds are sent to the Translation Center which is instructed to return them with priority;
- applications for which the national search reports should be back within one month are worked on with priority and sent to the Center.

In taking these measures we paid attention not to introduce a de facto discrimination against difficult applications. As can be noticed, we regularly publish trade mark applications with sometimes an important number of seniorities. The examination of seniorities is from now on being deferred.

VISITS OF DELEGATIONS TO THE OHIM

Since the OHIM was installed in Alicante in September 1994, there have been many visitors through its doors, from different backgrounds in intellectual property and a variety of countries. In the past two years, approximately 300 people have visited the OHIM, individually or in groups.

As the OHIM and more particularly the Community trade mark becomes well-known throughout Europe and the world, more and more delegations wish to carry out visits here and in so doing, view the Community trade mark procedure for themselves. In 1995, there were around 30 visitors, in 1996 - 80 and in 1997, by September, that figure had tripled to 240 - obviously showing an ever-increasing interest in the Community trade mark.

As time has gone by, the procedure for coordinating these visits has simplified somewhat. The growth in staff numbers within the OHIM has meant that visitors can now meet a member of staff who actually deals with the topic at hand on a daily basis.

The Technical Cooperation Division, in charge of coordinating the organisation of visits and meetings, has prepared a programme for visits including a wide variety of visual aids on the Community trade mark and the OHIM.

Over the past three years, the OHIM has received visits from:

National Offices of Member States i.e. Benelux, France, Spain and Sweden;

National Offices of third countries i.e. Andorra, China, Czech Republic, Hungary, Japan, Lithuania, and Vietnam;

industrial property associations i.e. Institute of Intellectual Property of Japan and the Japan Patent Attorneys Associations, ECTA, AIPI and FICPI;

delegations from worldwide business enterprises, i.e. Fédération des entreprises Belges, Asociación Española de Fabricantes de Juguetes, Grupo Grancaribe (Cuba), Toyota Motor Corporation (Japan), Yokohama Rubber Co. (Japan), Sanko Patent Research Inc. (Japan) and Lilly Laboratories (Spain/USA);

trade mark attorneys from Brazil, China, Czech Republic, Denmark, Finland, France, Germany, Greece, Japan, Korea and Spain;

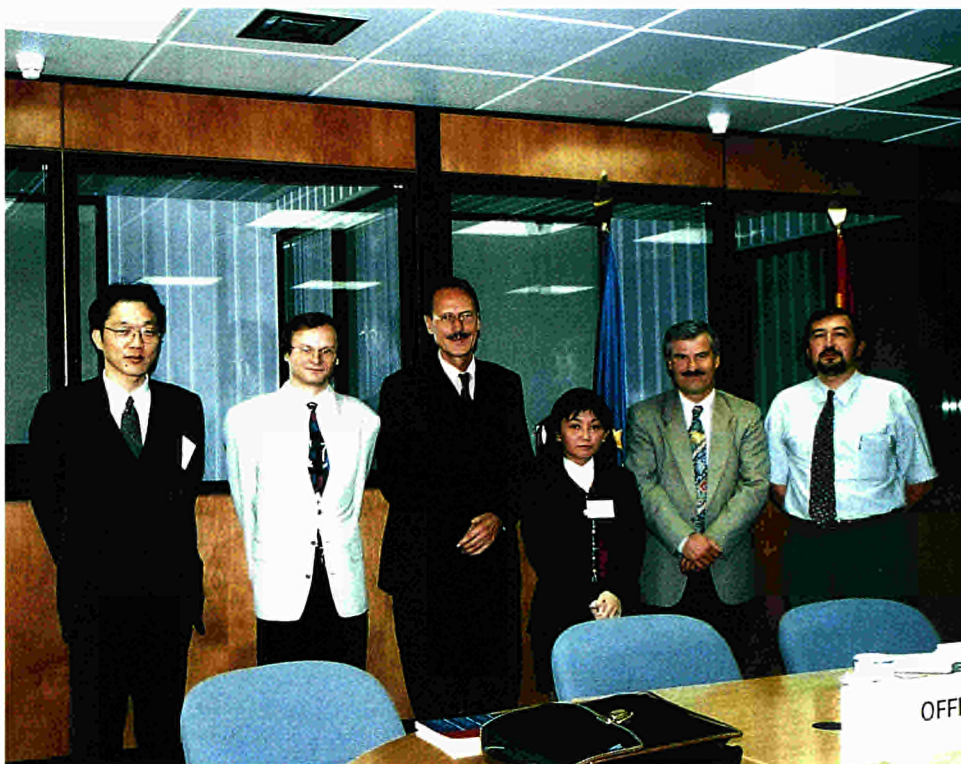
educational establishments, such as the CEIPI, the University of Taiwan, the University of Alicante and the University of Valencia;

European Institutions, i.e. the Commission, the Community Plant Variety Office, the European Agency for Health and Security in the Workplace and the European Patent Office;

and in conjunction with Member States such as the Franco-Chinese Commission on Trade Marks.

Apart from placing its meeting room facilities at the disposal of the MUSYC Group, the OHIM has also taken part in and organised bilateral meetings, in Alicante, with industrial property associations, for example:

the Community Secretariat of FICPI (Fédération Internationale des Conseils en Propriété Industrielle) and the Committee of National Institutes of Patent Agents.



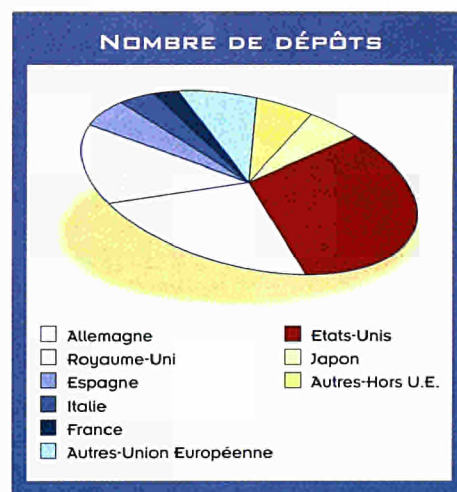
Visit to the OHIM by the delegation of the Institute of Intellectual Property and JETRO (Japan), November 1996.

QUELQUES CHIFFRES sur l'OHMI au 15 octobre 1997:

1) dépôts de marques communautaires
 Nombre de dépôts encodés dans EUROMARC 63.108
 - répartition géographique des déposants (sur base des dépôts encodés dans EUROMARC):

Union européenne:	37.249	59,03 %
Allemagne	10.628	16,84 %
Royaume-Uni	8.336	13,21 %
Espagne	3.777	5,99 %
Italie	3.701	5,87 %
France	3.109	4,93 %
Pays Bas	1.750	2,77 %
Suède	1.377	2,18 %
Danemark	1.044	1,65 %
Autriche	952	1,51 %
Belgique	932	1,48 %
Finlande	564	0,89 %
Irlande	437	0,69 %
Portugal	303	0,48 %
Luxembourg	212	0,34 %
Grèce	127	0,20 %
Hors Union européenne	25.859	40,97 %
dont :		
E.U.A	18.669	29,59 %
Japon	1.976	3,13 %
Suisse	1.283	2,03 %
Canada	751	1,19 %
Australie	491	0,78 %

- Nombre d'accusés de réception envoyés: 62.612
 - Nombre de dates de dépôts accordées: 58.191



2) Nombre de mandataires agréés auprès de l'OHMI: 4.968
 3) Nombre de comptes courants ouverts auprès de l'OHMI: 453
 4) Effectif de l'OHMI: 263

LA OAMI CELEBRA LA ELECCIÓN DE SU SEDE DEFINITIVA

La Oficina de Armonización del Mercado Interior celebra la decisión tomada el día 10 de septiembre 1997 sobre la construcción del edificio de la sede definitiva de la OAMI.

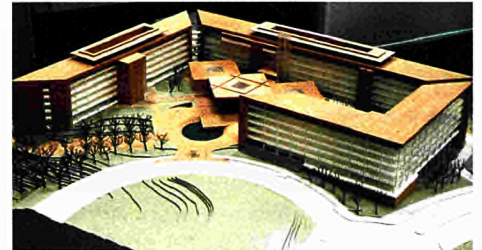
Los informes de los arquitectos independientes confirman que el proyecto de Dragados-Écisa es el que mejor responde a las necesidades de la Oficina y asegurará a sus empleados unas condiciones de trabajo óptimas. Desde un punto de vista funcional, este proyecto se ajusta perfectamente a las condiciones de las especificaciones técnicas. Asimismo, responde a los deseos manifestados por el comité presupuestario de la Oficina.

Esta importante decisión era muy esperada por la OAMI ya que el gran aumento de sus efectivos ha generado un problema de falta de espacio. La construcción de la sede definitiva está prevista en tres fases sucesivas de forma que se permita a la Oficina ir adaptando su capacidad de instalación siguiendo la evolución del aumento de su personal.

La primera fase prevé 400 puestos de trabajo así como una serie de servicios comunes (atención al público, salas de reuniones, archivos, etc...). Las otras dos fases restantes consisten principalmente en un conjunto suplementario de despachos con la misma capacidad.

La OAMI ha hecho hincapié en los aspectos ergonómicos del proyecto. Así, todos los despachos dispondrán de luz natural, de ventanas que permitirán una buena ventilación y que al abrirse, cortaran automáticamente la climatización. Las dimensiones de las ventanas se han estudiado para que se utilice un mínimo de luz artificial lo que conllevará un importante ahorro de energía. Por otra parte, la infraestructura del edificio permitirá la utilización de paneles móviles que aseguran la flexibilidad de los despachos y favorecerán la capacidad de alojamiento. Todos estos aspectos son fundamentales para alcanzar unas buenas condiciones de trabajo.

Las salas de reuniones y de conferencias permitirán la organización de actividades que darán la oportunidad de apreciar la riqueza de nuestras diferentes culturas, experiencias y costumbres.



USEFUL NUMBERS

- Standard telephone number:
+ 34-6-513 91 00
- General information telephone number:
+ 34-6-513 92 43; + 34-6-513 92 72
- General information fax number:
+ 34-6-513 91 73
Explanations concerning the application form, questions concerning the registration procedure (priority, seniority, fees, etc.), CD-ROM giving details of the CTM applications, request of documents/literature (leaflets, application forms including electronic filings, authorisations, opening of current accounts, reference guide to official texts, places where to buy the Official Journal of the Community, etc.).
- Fax for CTM applications and any correspondence relating to such applications, as well as for all other proceedings relating to CTMs (opposition, appeal, etc.):
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- Telephone information concerning means of payment
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Opening of current accounts, bank transfers, payments by cheques, etc.
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- Telephone information concerning publications:
+ 34-6- 513 91 02
Information on OHIM's Official Journal, the Bulletin of CTM, etc.
- Telephone number of the Registry of the Board of Appeal
+34.6.513 93 99
- Fax number of the Registry of the Board of Appeal
+34.6 513 91 72
- WEB Site : Europa Server
<http://europa.eu.int/agencies/ohim/ohim.htm>