



**OFFICE FOR HARMONIZATION
IN THE INTERNAL MARKET
TRADE MARKS AND DESIGNS**

COMMUNITY TRADE MARKS

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WWW.OAMI.EUROPA.EU



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TRADE MARKS AND DESIGNS**

Definition of a trade mark:

*A sign used to distinguish the goods/services of one company
from those of another company*



- The Internal Market:
 - 27 Member States
 - Approx. 500 million citizens
 - EU as a single territory
 - Unitary character:
‘All or nothing’ principle
- Enlargement
 - Automatic extension





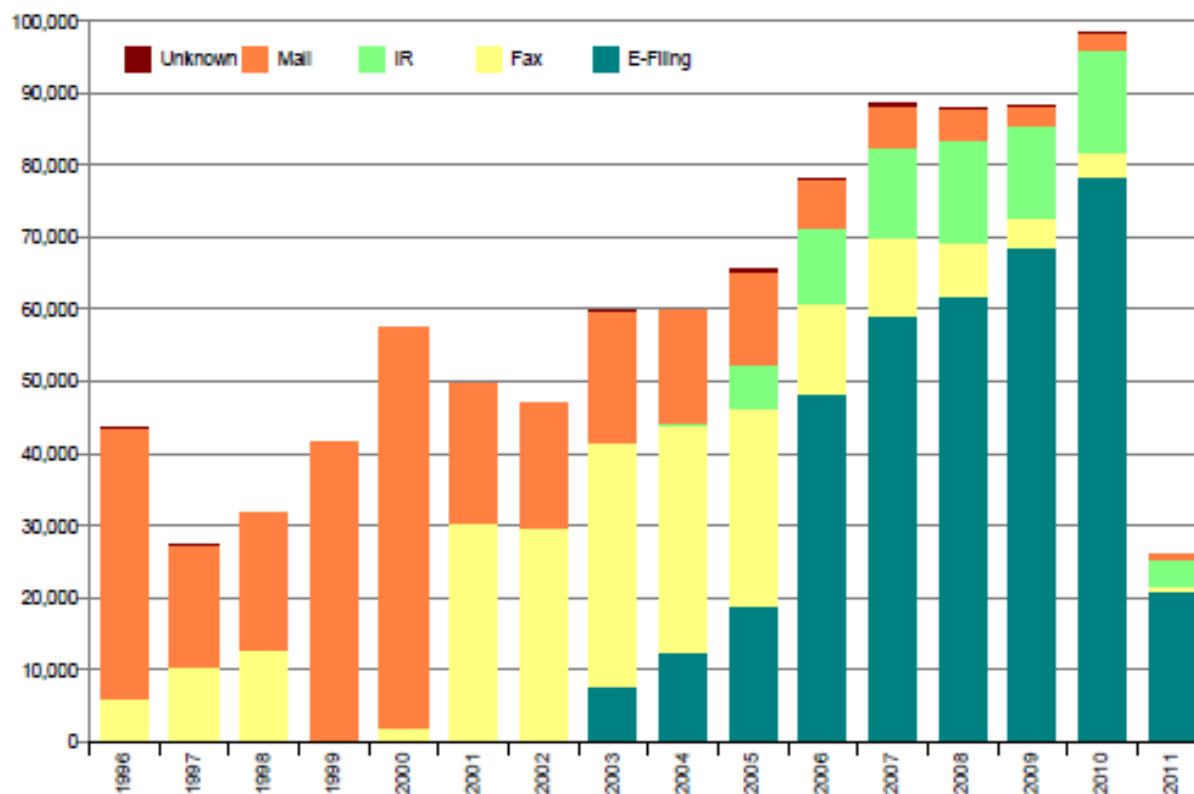
SSC009 - Statistics of Community Trade Marks 2011

Hasta / Bis / Until / Jusqu'à / Fino : 31/03/2011

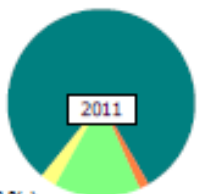
RESUMEN - ÜBERSICHT - OVERVIEW - RESUMÉ - RIASSUNTO
Solicitudes - Anmeldungen - Applications - Demandes - Domande

Executed at
04/04/2011 by
ent_RICHTMA

	CTMAs	+
1996	43,676	43,676
1997	27,403	71,079
1998	31,704	102,783
1999	41,406	144,189
2000	57,608	201,797
2001	49,506	251,303
2002	46,935	298,238
2003	59,702	357,940
2004	59,822	417,762
2005	65,407	483,169
2006	78,029	561,198
2007	88,479	649,677
2008	88,045	737,722
2009	88,226	825,948
2010	98,279	924,227
2011	25,864	950,091



E-Filing (80.6 %)



Fax (3.0 %)

IR (14.7 %) Mail (1.7 %)



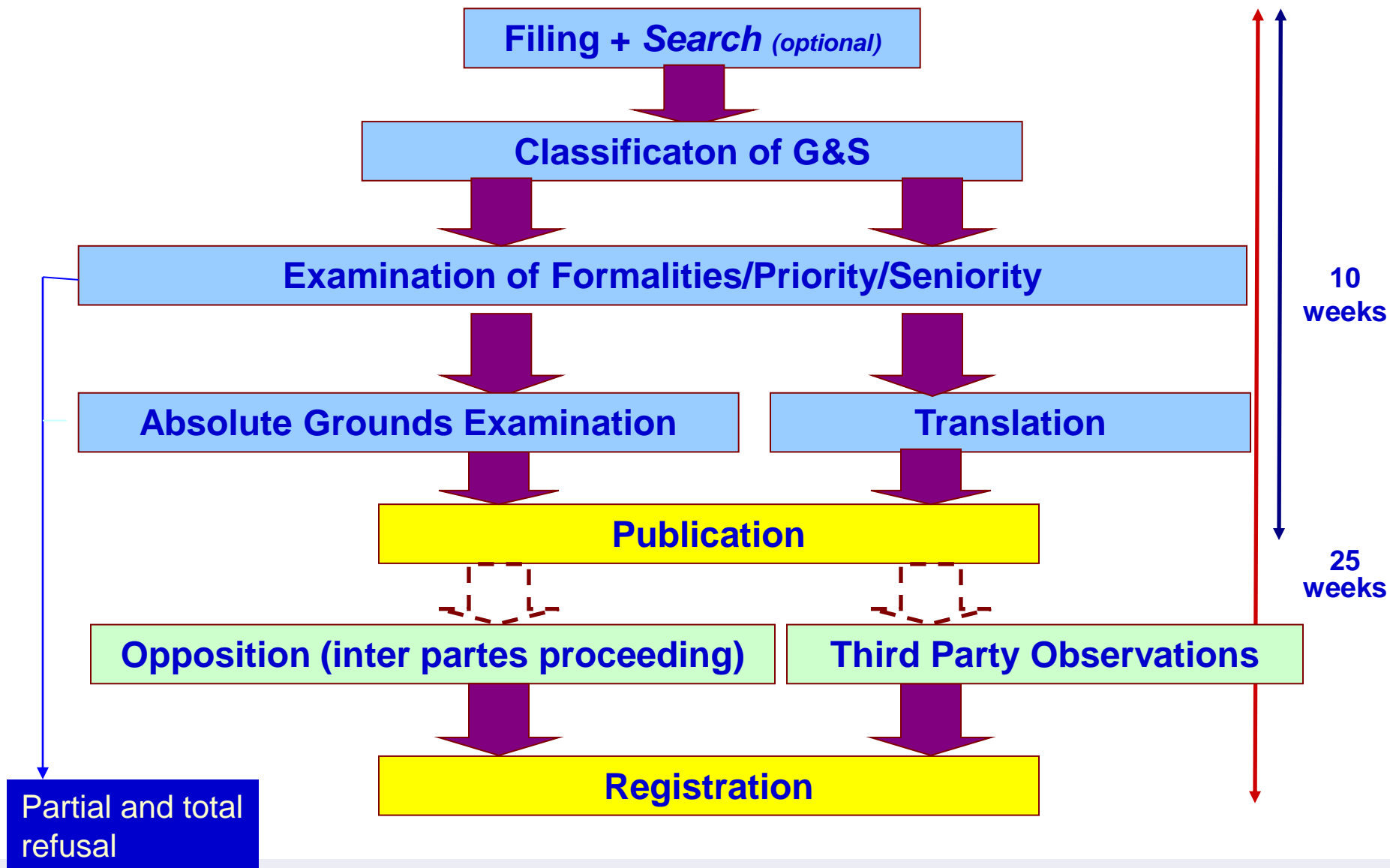
- Right moment to file?
 - As early as possible
- What to file?
 - The trade mark as it will be used
- Modifications after filing?
 - No change of the sign after filing
 - No additional goods/services
 - No change of languages



- Directly at OHIM or with a central national IP office (or Benelux Office)
- Means of filing: E-filing, fax, post, in situ
- Basic Fee:
 - within 1 month from Filing Date
 - Up to 3 classes

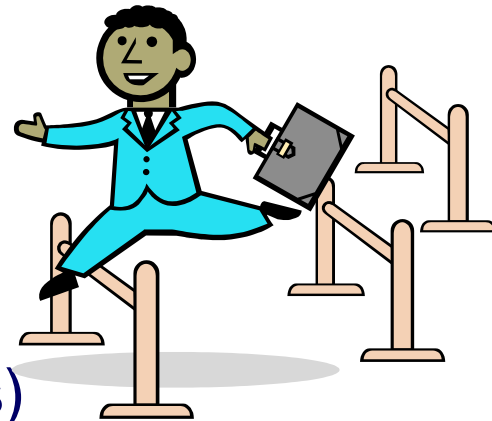
Online filing:	900 euros
Paper form:	1050 euros

- **Extra Class Fee :** 150 euros
- Search Fee (optional)** 144 euros
- CTM registration fee** 0 euro





- Formalities
- Classification
- Absolute grounds (Office/third parties)
- Oppositions (third parties)





- First and second language mandatory
- Applications can be filed in all the 22 languages of the E.U.
- Applicants must indicate a second language different from the first one, among the 5 official languages of the Office (EN; FR; ES; DE; IT)

***Languages**

Language of the application or ISO code

Second language

Use second language for all correspondence related to this CTM application



Official EU Languages

- Bulgarian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

OHIM Languages

- **English**
- **French**
- **German**
- **Italian**
- **Spanish**



Any natural or legal person
from any country





NO REPRESENTATIVE NEEDED

UNLESS

THE APPLICANT HAS NO SEAT OR REAL AND
EFFECTIVE ESTABLISHMENT WITHIN THE EU

→ No authorization necessary

- *EXCEPTION:*
 - Filing of an application (=sending)



WHO CAN ACT AS A REPRESENTATIVE?

- A legal practitioner
- A professional representative authorized to act before the OHIM
- An employee (if place of business/commercial establishment in Community or economic connections)

FINDREP: Representative consultation service
<http://oami.europa.eu/en/db.htm>



- Word marks
- Figurative marks
- Colour per se
- Three-dimensional marks
- Sound marks
- Olfactory marks
- Holograms
- Other marks

**ANY SIGN WHICH CAN BE REPRESENTED
GRAPHICALLY**

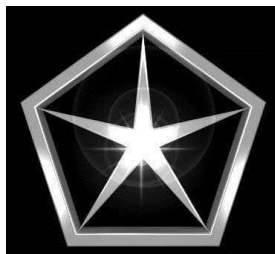


WORDS (word marks)

Adidas Starbucks Whirlpool Nestlé Volkswagen

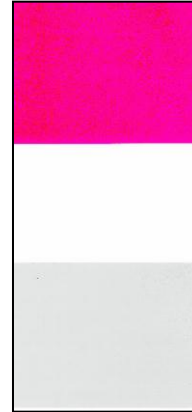
Sony Harley Davidson Philips Just Do It Orange

LOGOS (figurative marks)





COLOURS OR COMBINATIONS (colour marks)



OBJECTS (3-D marks)





SOUNDS (sound marks)



(Tarzan yell)

graphical representation of the sound is required (musical notation). A description of the sound is not enough

A sequence of musical notes is acceptable, sonographs alone are not acceptable.

Electronic sound files are permitted (but e-filing) but must be accompanied by an acceptable graphic representation (musical notation or complete sonograph)



OLFACTORY MARK

The smell of fresh cut grass

HOLOGRAMS



PROBLEM OF GRAPHIC REPRESENTATION!!!



PRIORITY/SENIORITY

- Priority claims (protection will start on the date of the first filing if the ctm application is filed within 6 months)
- Seniority claims (EU national registrations, no need to renew the national mark)



- Color: indication obligatory (in words)
- Description: Not mandatory/Must describe the mark
- Disclaimer: The applicant may disclaim any exclusive right to a non distinctive element of the mark
- Signature: obligatory (except for e-filing)



ABSOLUTE GROUNDS





“absolute grounds” : the sign itself

- Examined ex officio for all applications
- Grounds based on the interest of the consumers:
 - Prohibition of illicit signs (deceiving or contrary to public order and morality)
- Grounds for the sake of a free competition
 - Refusal of signs which are not distinctive, descriptive or generic.



WHICH SIGNS CANNOT BE REGISTERED AS CTMS?

Article 4, CTMR:

- Signs which cannot be represented graphically
(olfactory marks)

Article 7, CTMR:

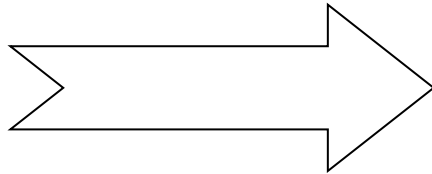
- No distinctive character
- Purely Descriptive
- Generic signs
- Signs which are contrary to public policy or to accepted principles of morality
- Trade marks which might deceive the public



No registration fee (since 01/05/2009)



If no opposition or when opposition is closed,



- the mark is registered
- the registration certificate is issued
- No paper certificate : link to download the certificate



Duration:

10 years from the date of filing

Renewal:

Every 10 years –

Renewal fees:

1.500 EUR paper renewal

1.350 EUR e-renewal



Rights conferred by a Community trade mark

- The *exclusive right* to prohibit third parties to use identical/similar signs for identical/similar goods or services
- Right to oppose the registration of a subsequent trade mark if there is a risk of confusion
- Right to transfer or to license the trade mark for the totality or part of the goods or services.



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET

TRADE MARKS AND DESIGNS

- Information:
-  (+ 34) 965 139 100 (switchboard/information center)
 -  (+ 34) 965 139 400 (e-business technical incidents)
 -  (+ 34) 965 131 344 (main fax)
 -  information@oami.europa.eu
 -  e-businesshelp@oami.europa.eu
 -  [twitter/oamitweets](https://twitter.com/oamitweets)
 -  [youtube/oamitubes](https://youtube.com/oamitubes)