



Company Affairs Department
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Mr Jean-Claude Combaldieu
President
Office for Harmonisation in the Internal
Market
20, Avenida de Aguilera
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Dear President,

Generally speaking, UNICE is satisfied with the result, well ahead of all forecasts, booked by the system created by the Community Trademark Regulation (CTR). The unexpected avalanche of applications which the Office has to process has not made its task easy.

However, in order to respond fully to its customers' expectations, it is important for the Office to move into its stride. Among the improvements to be made to the system for registration of the Community Trademark, UNICE believes that the search regime should be thoroughly overhauled.

The search procedure established by Article 39 CTR is considered by industry to be far from sufficient to evaluate the legal risks involved in launching or registering a Community trademark. The search reports provided by the Office do not provide an applicant for a CTM with sufficiently reliable information regarding the legal position of other existing trademarks which may be invoked against the applicant under Article 8 CTR.

In the majority of cases, applicants will already have done their own searching before they file their trademarks and they will therefore have an accurate knowledge of what the national registers contain. The Article 39 procedure therefore duplicates works and costs companies additional money.

In addition, UNICE believes that the search procedure of Article 39 CTR is one of the reasons for great delay in publication of Community Trademarks, generating legal uncertainty for trademark owners in Europe.

According to Article 39.7, the Commission will submit to the Council, five years after the opening of the Office, a report on the operation of the search system. UNICE believes that this opportunity should be taken thoroughly to review Article 39, which, in UNICE's opinion, should

be removed from the Community Trademark Regulation. It should be left to trademark owners to have searches carried out by in-house or outside agents. This would save a valuable amount of OHIM's time which could be spent more profitably in examining and registering community trademarks.

UNICE suggests that this subject be put on the agenda of the first meeting of the "OAMI Trademark Group" whose establishment we welcome. This should allow a closer and more direct dialogue with the Office, which UNICE has always wanted.

I hope that these comments will help further improve the processes within the Office and look forward to receiving your reaction to the above proposal.

Yours sincerely,

Zygmunt Tyszkiewicz
Secretary General