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COMMISSION REGULATION (EC) No 2869/95

of 13 December 1995

on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs)

(OJ L 303, 15.12.1995, p. 33)

Amended by:

	Official Journal		
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►**M1** Commission Regulation (EC) No 781/2004 of 26 April 2004	L 123	85	27.4.2004

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COMMISSION REGULATION (EC) No 2869/95

of 13 December 1995

on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark [1], as amended by Regulation (EC) No 3288/94 [2] and in particular Article 139 thereof,

Having regard to Commission Regulation (EC) No 2868/95 of 13 December 1995, implementing Council Regulation (EC) No 40/94 on the Community trade mark [3],

Whereas Article 139 (3) of Regulation (EC) No 40/94 (hereinafter 'the Regulation') provides that the fees regulations shall be adopted in accordance with the procedure laid down in Article 141 of the Regulation;

Whereas Article 139 (1) of the Regulation provides that the fees regulations shall determine in particular the amount of the fees and the ways in which they are to be paid;

Whereas Article 139 (2) of the Regulation provides that the amounts of the fees shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient for the budget of the Office for Harmonization in the Internal Market (trade marks and designs) ('the Office') to be balanced;

Whereas, however, in the Office's start-up phase, balance can be achieved only if there is a subsidy from the general budget of the European Communities, in accordance with Article 134 (3) of the Regulation;

Whereas the basic fee for the application for a Community trade mark shall include the amount which the Office must pay to each central industrial property office of the Member States for each search report provided by such offices in accordance with Article 39 (4) of the Regulation;

Whereas to ensure the necessary flexibility, the President of the Office ('the President') should be empowered, subject to certain conditions, to lay down the charges which may be payable to the Office in respect of services it may render, the charges for access to the Office's data bank and the making available of the contents of this data bank in machine-readable form, and to set charges for the sale of its publications;

Whereas, in order to facilitate the payment of fees and charges, the President should be empowered to authorize methods of payment which are additional to those explicitly provided for in this Regulation;

Whereas it is appropriate that the fees and charges payable to the Office should be fixed in the same currency unit as is used for the budget of the Office;

Whereas the budget of the Office is fixed in ecus;

Whereas, moreover, the fixing of these amounts in ecus avoids discrepancies that may result from exchange rate variations;

Whereas payments in cash should be made in the currency of the Member State where the Office has its seat;

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[1] OJ No L 11, 14. 1. 1994, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 83.
[3] See p. 1 of this Official Journal.

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Whereas the measures envisaged in this Regulation are in accordance with the opinion of the Committee established under Article 141 of the Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

General

The following shall be levied in accordance with this Regulation:

(a) fees to be paid to the Office as provided for in the Regulation and in Regulation (EC) No 2868/95;

(b) charges laid down by the President pursuant to Article 3 (1) and (2)

Article 2

Fees provided for in the Regulation and Regulation (EC) No 2868/95

The fees to be paid to the Office under Article 1 (a) shall be as follows:

(in ►M1 *EUR* ◄*)*

1.	Basic fee for the application for an individual mark (Article 26 (2); Rule 4 (a))	975
2.	Fee for each class of goods and services exceeding three for an individual mark (Article 26 (2); Rule 4 (b))	200
3.	Basic fee for the application for a collective mark (Articles 26 (2) and 64 (3); Rules 4 (a) and 42)	1 675
4.	Fee for each class of goods and services exceeding three for a collective mark (Article 26 (2) and 64 (3); Rules 4 (b) and 42)	400
5.	Opposition fee (Article 42 (3); Rule 18 (1))	350
6.	Fee for the alteration of the representation of a trade mark (point 1 of Article 140 (2) and Article 44 (2); Rule 13 (2))	200
7.	Basic fee for the registration of an individual mark (Article 45; Rule 23 (1) (a))	1 100
8.	Fee for each class of goods and services exceeding three for an individual mark (Article 45; Rule 23 (1) (b))	200
9.	Basic fee for the registration of a collective mark (Articles 45 and 64 (3); Rules 23 (1) (a) and 42)	2 200
10.	Fee for each class of goods and services exceeding three for a collective mark (Articles 45 and 64 (3), Rules 23 (1) (b) and 42)	400
11.	Additional fee for the late payment of the registration fee (point 2 of Article 140 (2), Rule 23 (3))	25 % of the belated registration fee, subject to a maximum of 750
12.	Basic fee for the renewal for an individual mark (Article 47 (1), Rule 30 (2) (a))	2 500
13.	Fee for each class of goods and services exceeding three for an individual mark (Article 47 (1), Rule 30 (2) (b))	500

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(in ►M1 *EUR* ◄*)*

14.	Basic fee for the renewal for a collective mark (Articles 47 (1) and 64 (3), Rules 30 (2) (a) and 42)	5 000
15.	Fee for each class of goods and services exceeding three for a collective mark (Articles 47 (1) and 64 (3), Rules 30 (2) (b) and 42)	1 000
16.	Additional fee for the late payment of the renewal fee or the late submission of the request for renewal (Article 47 (3), Rule 30 (2) (c))	25% of the belated renewal fee, subject to a maximum of 1 500
17.	Fee for the application for revocation or for a declaration of invalidity (Article 55 (2), Rule 39 (2))	700
18.	Appeal fee (Article 59, Rule 49 (1))	800
19.	Fee for *restitutio in integrum* (Article 78 (3))	200
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20.	Fee for the conversion of a Community trade mark application or a Community trade mark (Article 109(1), also in conjunction with Article 154(1); Rule 45(2), also in conjunction with Rule 123(2)) (a) into a national trade mark application (b) into a designation of Member States under the Madrid Agreement or the Madrid Protocol	200
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21.	Fee for the recording of the whole or partial transfer of an application for a Community trade mark (Article 24 and point 4 of Article 140 (2); Rule 31 (4) and (8))	200 per entry, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000
22.	Fee for the registration of the whole or partial transfer of a registered Community trade mark (point 4 of Article 140 (2); Rule 31 (4))	200 per registration, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000
23.	Fee for the registration of a licence or another right in respect of a registered Community trade mark (point 5 of Article 140 (2), Rule 33 (1)) or an application for a Community trade mark (point 6 of Article 140 (2), Rule 33 (4): a) grant of a licence b) transfer of a licence c) creation of a right *in rem* d) transfer of a right *in rem* e) levy of execution	200 per registration, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000
24.	Fee for the cancellation of the registration of a licence or other right (point 7 of Article 140 (2), Rule 35 (3))	200 per cancellation, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000

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(in ►M1 *EUR* ◄*)*

25.	Fee for the alteration of a registered Community trade mark (point 8 of Article 140 (2), Rule 25 (2))	200
26.	Fee for the issue of a copy of the application for a Community trade mark (point 12 of Article 140 (2), Rule 89 (5)), a copy of the certificate of registration (point 3 of Article 140 (2), Rule 24 (2), or an extract from the register (point 9 of Article 140 (2), Rule 84 (6))	
	a) uncertified copy or extract	10
	b) certified copy or extract	30
27.	Fee for the inspection of the files (point 10 of Article 140 (2) No 10, Rule 89 (1))	30
28.	Fee for the issue of copies of file documents (point 11 of Article 140 (2) nº 11, Rule 89 (5))	
	a) uncertified copy	10
	b) certified copy	30
	plus per page, exceeding 10	1
29.	Fee for the communication of information in a file (point 13 of Article 140 (2), Rule 90)	10
	plus per page, exceeding 10	1
30.	Fee for the review of the determination of the procedural costs to be refunded (point 14 of Article 140 (2), Rule 94 (4))	100
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31.	Fee for the filing of an international application at the Office (Article 142(5))	300

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Article 3

Charges laid down by the President

1. The President shall lay down the amount to be charged for any services rendered by the Office other than those specified in Article 2.

2. The President shall lay down the amount to be charged for the Community Trade Marks Bulletin and the Official Journal of the Office as well as any other publications issued by the Office.

3. The amounts of the charges shall be laid down in ►M1 EUR ◄.

4. The amounts of the charges laid down by the President in accordance with paragraphs 1 and 2 shall be published in the Official Journal of the Office.

Article 4

Due date for fees and charges

1. Fees and charges in respect of which the due date is not specified in the Regulation or in Regulation No 2868/95 shall be due on the date of receipt of the request for the service for which the fee or the charge is incurred.

2. The President may decide not to make services mentioned in paragraph 1 dependent upon the advance payment of the corresponding fees or charges.

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Article 5

Payment of fees and charges

1. Fees and charges due to the Office shall be paid

(a) by payment or transfer to a bank account held by the Office,

(b) by delivery or remittance of cheques made payable to the Office, or

(c) in cash.

2. The President may allow methods of payment other than those set out in paragraph 1, in particular by means of deposits in current accounts held with the Office.

3. Determinations made pursuant to paragraph 2 shall be published in the Official Journal of the Office.

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Article 6

Currencies

All payments, including by any method of payment allowed by the President pursuant to Article 5(2), shall be made in EUR.

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Article 7

Particulars concerning payment

1. Every payment must indicate the name of the person making the payment and must contain the necessary information to enable the Office to establish immediately the purpose of the payment. In particular, the following information shall be provided:

(a) when the application fee is paid, the purpose of the payment, namely 'application fee';

(b) when the registration fee is paid, the file number of the application which is the basis for the registration and the purpose of the payment, namely 'registration fee';

(c) when the opposition fee is paid, the file number of the application and the name of the applicant for the Community trade mark against which opposition is entered, and the purpose of the payment, namely 'opposition fee';

(d) when the revocation fee and the invalidity fee are paid, the registration number and the name of the proprietor of the Community trade mark against which the application is directed, and the purpose of the payment, namely 'revocation fee' or 'invalidity fee'.

2. If the purpose of the payment cannot immediately be established, the Office shall require the person making the payment to notify it in writing of this purpose within such period as it may specify. If the person does not comply with this request in due time, the payment shall be considered not to have been made. The amount which has been paid shall be refunded.

Article 8

Deemed date of payment

1. The date on which any payment shall be considered to have been made to the Office shall be as follows:

(a) in the cases referred to in Article 5 (1) (a), the date on which the amount of the payment or of the transfer is actually entered in a bank account held by the Office;

(b) in the case referred to in Article 5 (1) (b), the date of the receipt of the cheque at the Office, provided that the cheque is met;

(c) in the cases referred to in Article 5 (1) (c), the date of receipt of the amount of the cash payment.

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2. Where the President allows, in accordance with the provisions of Article 5 (2), other methods of paying fees than those set out in Article 5 (1), he shall also lay down the date on which such payments shall be considered to have been made.

3. Where, under the provisions of paragraphs 1 and 2, payment of a fee is not considered to have been made until after the expiry of the period in which it was due, it shall be considered that this period has been observed if evidence is provided to the Office that the person who made the payment —

(a) in a Member State, within the period within which the payment should have been made:

(i) effected the payment through a banking establishment;

(ii) duly gave an order to a banking establishment to transfer the amount of the payment; or

(iii) dispatched at a post office or otherwise a letter bearing the address of the Office and containing a cheque within the meaning of Article 5 (1) (b), provided that the cheque is met;

and —

(b) paid a surcharge of 10 % on the relevant fee or fees, but not exceeding ►M1 EUR ◄ 200; no surcharge is payable if a condition according to sub-paragraph (a) has been fulfilled not later than 10 days before the expiry of the period for payment.

4. The Office may request the person who made the payment to produce evidence as to the date on which a condition according to paragraph 3 (a) was fulfilled and, where required, to pay the surcharge referred to in paragraph 3 (b), within a period to be specified by it. If the person fails to comply with this request or if the evidence is insufficient, or if the required surcharge is not paid in due time, the period for payment shall be considered not to have been observed.

Article 9

Insufficiency of the amount paid

1. A time limit for payment shall, in principle, be considered to have been observed only if the full amount of the fee has been paid in due time. If the fee is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired.

2. The Office may, however, in so far as this is possible within the time remaining before the end of the period, give the person making the payment the opportunity to pay the amount lacking or, where this is considered justified, overlook any small amounts lacking without prejudice to the rights of the person making the payment.

Article 10

Refund of insignificant amounts

1. Where an excessive sum is paid to cover a fee or a charge, the excess shall not be refunded if the amount is insignificant and the party concerned has not expressly requested a refund. The President shall determine what constitutes an insignificant amount.

2. Determinations by the President pursuant to paragraph 1 shall be published in the Official Journal of the Office.

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Article 11

Individual fee for an international registration designating the European Community

1. The applicant for an international application designating the European Community shall be required to pay to the International Bureau an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.

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2. The holder of an international registration who files a request for territorial extension designating the European Community made subsequently to the international registration shall be required to pay to the International Bureau an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.

3. The amount of the fee under paragraph 1 or 2 shall be the equivalent in Swiss Francs, as established by the Director General of the World Intellectual Property Organization pursuant to Rule 35(2) of the Common Regulations under the Madrid Agreement and Protocol, of the following amounts:

(a) for an individual mark: EUR 1 875 plus, where applicable, EUR 400 for each class of goods or services exceeding three,

(b) for a collective mark as referred to in Rule 121(1) of Commission Regulation (EC) No 2868/95: EUR 3 675 plus, where applicable, EUR 800 for each class of goods or services exceeding three.

Article 12

Individual fee for a renewal of an international registration designating the European Community

1. The holder of an international registration designating the European Community shall be required to pay to the International Bureau, as a part of the fees for a renewal of the international registration, an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.

2. The amount of the fee referred to in paragraph 1 shall be the equivalent in Swiss Francs, as established by the Director General of the World Intellectual Property Organization pursuant to Rule 35(2) of the Common Regulations under the Madrid Agreement and Protocol, of the following amounts:

(a) in the case of an individual mark: EUR 2 300 plus EUR 500 for each class of goods and services contained in the international registration exceeding three;

(b) in the case of a collective mark as referred to in Rule 124(1) of Commission Regulation (EC) No 2868/95: EUR 4 800 plus EUR 1 000 for each class of goods and services contained in the international registration exceeding three.

Article 13

Refund of fees following refusal of protection

1. Where the refusal is for all the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 149(4) or Article 151(4) of the Council Regulation (EC) No 40/94 shall be

(a) in the case of an individual mark: EUR 1 100 plus EUR 200 for each class of goods and services contained in the international registration exceeding three;

(b) in the case of a collective mark: EUR 2 200 plus EUR 400 for each class of goods and services contained in the international registration exceeding three.

2. Where the refusal is for only part of the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 149(4) or Article 151(4) of the Regulation shall be equivalent to 50 % of the difference of the class fees payable under Article 11(3) and the class fees that would have been payable under Article 11(3) of this Regulation if the designation of the European Community had included only those goods and services for which the international registration remains protected in the European Community.

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3. The refund shall be made once the communication to the International Bureau pursuant to Rule 113(2)(b) to (d) or Rule 115(3)(b) to (d) and (4) of Commission Regulation No 2868/95 has been issued.

4. The refund shall be made to the holder of the international registration or his representative.

Article 14

Articles 1 to 10 do not apply to the individual fee which is to be paid to the International Bureau.

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Article 15

Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in is entirety and directly applicable in all Member States.