

**REGISTER NUMBER: 392**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 14/07/2008

Case number: 2008-437

Institution: OHIM

Legal basis: article 27-5 of the regulation CE 45/2001(1)

(1) OJ L 8, 12.01.2001

**INFORMATION TO BE GIVEN (2)**

*(2) Please attach all necessary backup documents*

1/ Name and adress of the controller

**Beate Schmidt, Director  
Hans Jakobsen, Director**

**OHIM, Avenida de Europa , 4 03080 ALICANTE**

2/ Organisational parts of the institution or body entrusted with the processing of personal data

**Trade Mark & Cancellation Department  
Trade Mark & Register Department**

3/ Name of the processing

**Quality Management System, Ex ante Quality Checks**

4/ Purpose or purposes of the processing

The processing operations consist in checking quality of decisions made by examiners in the examination of absolute grounds (objection letters and final refusals) and in the opposition proceedings (decisions) before they are notified to the parties of the procedure.

**Absolute grounds**

Final drafts of all objection letters and decisions will be passed by the examiner to the Legal Advisors and especially nominated examiners of his service for a 100 % ex ante check to evaluate the quality of the decision and examination and retrieve information on the categories of errors and mistakes on the basis of the quality criteria which have been published internally and externally ( see <http://oami.europa.eu/ows/rw/pages/QPLUS/serviceCharter/serviceCharter.en.do> ) .

**Opposition decisions**

Opposition decisions are drafted by one examiner and co-signed by two other examiners (Article 127(2) CTMR), the third signer being the one who is responsible for carrying out ex ante checks (HoS, Legal Advisors and especially nominated examiners). Quality of the decision is evaluated and information retrieved on the categories of errors and mistakes.

In both cases the findings will be introduced into a database (MS Access Database – Quality Check Tool). The data will contain basic information about all the trade mark applications and oppositions which were checked in the given week, such as the name of the examiner, file number, CTM Name, opposition number, date of entering final status, errors made etc. The main aim of this activity is to improve the global quality of the outputs of the Office in relation to the Office's service standards and to collect information on areas where improvement/ special measures are needed. This procedure complements the ex post checks which the TMDs perform since February 2007. As – related to the performance of individuals – necessary measures to improve quality/error rates will be taken, for the ex ante checks evaluation of individuals is part of the objectives of quality checks. Examiners will be informed by the persons performing the check about the errors found to prevent repetition of errors. As the examiners name is recorded this direct identification of the data subject will lead to processing of personal data. Legal advisors and HoS may use the findings when drafting appraisal reports. Information collected will be taken into consideration as one of several elements in the evaluation exercise. Information will be kept for a period of 15 months in the MS Access Database – Quality Check Tool. After this period the data will be deleted from the system.

5/ Description of the category or categories of data subjects

**Examiners.**

6/ Description of the data or categories of data

*(including, if applicable, special categories of data (article 10) and/or origin of data)*

**Direct Personal Data pointing to quality of individual's work**

7/ Information to be given to data subjects

**Examiners will be informed about the way quality is going to be assessed, how the data is going to be used and where it is going to be stored. This information will be communicated by Heads of Services as well as by Directors in the form of an official communication. (see annex)**

8/ Procedures to grant rights of data subjects  
(rights of access, to rectify, to block, to erase, to object)

**For access: email to the data controller**

**For rectification: email to the data controller.**

**For blocking: Not applicable**

**For erasure: automatic procedure agreed with IT Department 15 months**

**For storage: idem 15 months**

9/ Automated / Manual processing operation

**Manual processing operation**

10/ Storage media of data

**MS Access Database – Quality Check Tool/ ex ante checks**

11/ Legal basis and lawfulness of the processing operation

**Article 5(a) of Regulation 45/2001 (“processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof [...]”)**

12/ The recipients or categories of recipient to whom the data might be disclosed

**Directors of TMCD and TMRD, Legal Advisors and 1 Senior Examiner, Classification Experts, Heads of Services,  
Quality Officers, Quality Check Administrator**

13/ retention policy of (categories of) personal data

**TIME LIMITS**

**For access: 1 3 months 0 Other: Not applicable**

**For rectification: 1 Immediate 0 Other: Not applicable**

**For storage: 15 months**

13 a/ time limits for blocking and erasure of the different categories of data  
(on justified legitimate request from the data subject)

**For blocking: Not applicable**

**For erasure 15 months**

*(Please, specify the time limits for every category, if applicable)*

14/ Historical, statistical or scientific purposes

*If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,*

**Not applicable**

15/ Proposed transfers of data to third countries or international organisations

**NO.**

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

**Article 27.2.(b)**

**Processing operations intended to evaluate personal aspects relating to the data subject,**

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

PLACE AND DATE: **Alicante, 14th July 2008**

DATA PROTECTION OFFICER: **Ignacio De Medrano Caballero**

INSTITUTION OR BODY: **OHIM**