

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1024

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 19/06/2013

CASE NUMBER: 2013-0680

INSTITUTION: OHIM

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Juan Ramón Rubio
Director, Operations Department

Avenida de Europa, 4
E - 03008 Alicante • Spain

Alain Rassat
Director, Operations Support Department

Avenida de Europa, 4
E - 03008 Alicante • Spain

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Operations Department and Operation Support Department (called Operational Departments).

3/ NAME OF THE PROCESSING

Follow up of individual production and timeliness.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Measuring the quantity and timeliness of decisions and tasks made by the examiners.

The aims of this activity is, on one side, to monitor the global outputs of the Office in relation to the Office's service standards (including the timeliness service standards), and, on the other side, to use this objective criteria's as one of the elements taken into consideration for the appraisal report of the Data Subject concerned, as well as the respective management responsible.

Such production and timeliness management system must be carried out in order to measure the production and timeliness of the concerned staff taking into account all the other relevant factors.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

¹ OJ L 8, 12.01.2001.

² Please attach all necessary backup documents

Examiners of the Office dealing with tasks which are subject to evaluation.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Personal Data pointing to quantity of individual's work, namely, the identification of the file concerned; the type of task measured; the date when the task has been allocated; the date when the task has been executed; the time limit when the task was expected to be executed; the identification of the Data Subject concerned; the organizational service where the tasks was performed; etc.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Data Subjects – Staff of the Operational Departments - will be informed about the way their production is going to be measured, how the data is going to be used, how they may exercise their rights of access and rectification, where it is going to be stored, etc. This information will be communicated by Heads of Services as well as by Directors in the form of an official communication and by a formal Decision adopted to that effect.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS
(Rights of access, to rectify, to block, to erase, to object)

To access

Access to the individual data in the production and timeliness data is granted upon request within three months to the Data Subject concerned.

The summaries of the data by individuals are made available to the Data Subject concerned during and in particular at the end of each appraisal exercise.

To rectify

Data Subjects shall be entitled to rectification of incorrect data recorded. A request of rectification shall be submitted in writing to their respective line manager.

The rectification where justified shall be made in due cause not later than one month upon request and before being taken into account for the concerned appraisal.

To block

In the case of identification of inaccurate personal data, the examiner has the right, in accordance with article 15 of the Regulation (EC) No 45/2001, to block their data.

To erase

The Data Subject shall be entitled to the erasure of personal data referring to her/him which has been collected or processed in a manner incompatible with the legitimate purposes pursued by the Director of the Department concerned and the manner in which that data was obtained by submitting a written request to the Director of the Department concerned.

To object

In accordance with Article 19, on compelling legitimate grounds relating to his/her particular situation.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Data are processed manually and also by automated means.

The processing operations consist of checking the production and timeliness of the examiners of the Operational Departments in charge of the procedure occurring during the life of community trademarks or designs.

Data from the production database will be extracted on a regular basis. The data will contain basic information about all the trade mark applications, opposition or designs files which were finalized in the given period, such the file number, CTM Name, date of action, etc.

10/ STORAGE MEDIA OF DATA

The data extracted from the IP Tool Database shall be stored in Excel files in specific directories.

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 [...])

Legal instrument:

- Administrative Decision to be formally adopted (*See draft Decision enclosed with the present Notification*)
- Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, in particular Article 131 referred to the examiners.
- Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Design, in particular Articles 45 to 49 (Title V – Registration Procedure).
- Staff Regulations (Articles 34, 43, and 45) - CEOS (Articles 14, 84 and 87)

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Each Data Subject concerned, his Head of Sector, Head of Service and Director.

(See more in detail in Article 8 of the draft Decision enclosed with the present notification)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The EPQC data shall be kept for a period of no longer than 2 years after the end of the appraisal period. After this period, all individual data in electronic form shall be deleted and hard copies destroyed including any copies that may have been archived.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

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

See point 8.

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.

N/A

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

ġ Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct.

17/ COMMENTS

Annexes provided enclosed:

Annex 1: draft Administrative Decision,

Concerning the productivity carried out with respect to trademarks and designs first instance decisions in the Operational Departments at the OHIM

PLACE AND DATE: ALICANTE, 19 JUNE 2013

DATA PROTECTION OFFICER: GREGOR SCHNEIDER

INSTITUTION OR BODY: OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET

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EDPS OPINION

OF DATE:

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FOLLOW UP *(in case of acting measures to be taken)*