



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

THE PRESIDENT

Communication No 2/2016 of the President of the Office

of 20 January 2016

**concerning the calculation of the amount of renewal fees in view of the entry
into force of Regulation (EU) 2015/2424**

THE PRESIDENT OF THE OFFICE FOR HARMONIZATION IN THE INTERNAL
MARKET (TRADE MARKS AND DESIGNS),

Having regard to Council Regulation (EC) No 207/2009 of 26 February 2009 on the
Community trade mark (hereinafter 'CTMR'),

Having regard to 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 (hereinafter 'CTMFR'),

Having regard to Regulation (EU) 2015/2424 of the European Parliament and of the
Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on
the Community trade mark and Commission Regulation (EC) No 2868/95
implementing Council Regulation (EC) No 40/94 on the Community trade mark, and
repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office
for Harmonization in the Internal Market (Trade Marks and Designs) (hereinafter,
'Amending Regulation'),

Whereas:

- (1) Article 46 CTMR states that Community trade marks (hereinafter, 'CTMs') shall be registered for a period of 10 years from the date of filing of the application and that a trade mark registration may be renewed in accordance with Article 47 for further periods of 10 years.
- (2) Article 47(3) CTMR provides that a request for renewal shall be submitted and the corresponding fees paid within a period of six months ending on the last day of the month in which protection ends (basic renewal period). Failing this, the request may be submitted and the fees paid within a further period of six months following the last day of the month in which protection ends, provided that an additional fee is also paid within this further period (grace period). This provision will be amended on the date of entry into force of the Amending Regulation, so that the reference date to calculate the two periods in question will be the date of expiry of the registration (instead of the last day of the month in which protection ends).
- (3) Pursuant to Article 47(5) CTMR (which will become Article 47(6) European Union Trade Mark Regulation (hereinafter 'EUTMR') on the date of entry into force of the Amending Regulation), renewal shall take effect from the day following the date on which the existing registration expires, regardless of when

the renewal is requested and paid for, provided the request and payment are made within the periods indicated in Article 47(3) CTMR.

- (4) Upon entry into force of the Amending Regulation, the renewal fees for individual and collective trade marks that are currently foreseen in Article 2(12) to (16) CTMFR will be replaced by those indicated in points A.11 to A.19 of Annex I EUTMR and the CTMFR will be repealed.
- (5) In the absence of any transitional provision on the application of the old and new fees to CTMs that are due for renewal before and after entry into force of the Amending Regulation, it is necessary to clarify the practice that the Office will follow,

HAS ADOPTED THE FOLLOWING COMMUNICATION:

1. Date taken into account for the calculation of the renewal fee

In accordance with Article 46 and Article 47(5) CTMR (that become Article 46 and Article 47(6) EUTMR on the date of entry into force of the Amending Regulation), regardless of the date when renewal is actually requested and paid for by a CTM proprietor, the due date for the purpose of the calculation of a renewal fee is the date of expiry of the CTM to be renewed.

CTMs expiring before 23 March 2016, date of entry into force of the Amending Regulation, will be subject to the fees established in Article 2(12) to (16) CTMFR, even in the event that renewal is requested and paid for after 23 March 2016.

CTMs expiring on or after 23 March 2016 will be subject to the fees indicated in points A.11 to A.19 of Annex I EUTMR, even in the event that renewal was requested and paid for before the entry into force of this Communication.

2. Payment of renewal fees and refund of excess fees

As from the date of entry into force of this Communication, the Office shall accept payment of renewal fees for CTMs expiring on or after 23 March 2016 in accordance with the provisions in force on their due date, that is points A.11 to A.19 of Annex I EUTMR.

Any excess renewal fees paid to the Office for the renewal of CTMs expiring on or after 23 March 2016 on the basis of the previous renewal fees (Article 2(12) to (16) CTMFR) will be refunded to the persons who made the excess payments.

3. Periods for requesting renewal

The amendment of Article 47(3) CTMR as regards the calculation of the periods for requesting the renewal of a CTM will only be applied to calculate the basic renewal periods that start to run on or after 23 March 2016, the date of entry into force of the Amending Regulation.

Further guidance on the dates to be taken into account for the calculation of the fees and the periods for payment, including specific examples, will be provided in the Office's Guidelines (<https://oami.europa.eu/ohimportal/en/manual-of-trade-mark-practice>).

4. Entry into force

This Communication will enter into force on 1 February 2016. It will be published in the Official Journal of the Office.

Done at Alicante, 20/01/2016

A handwritten signature in blue ink, appearing to read 'António Campinos', with a large, stylized initial 'A'.

António Campinos
President

