

The Executive Director

**DECISION No EX-20-10 of the
Executive Director of the Office of 22
December 2020 on technical
specifications for annexes submitted
on data carriers**

The Executive Director of the European Union Intellectual Property Office (the Office),

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark⁽¹⁾ (EUTMR) and in particular Article 157(4)(a) thereof, pursuant to which the Executive Director must take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Office,

Having regard to Commission Delegated Regulation (EU) 2018/625 of 5 March 2018 supplementing Regulation (EU) 2017/1001 of the European Parliament and of the Council on the European Union trade mark, and repealing Delegated Regulation (EU) 2017/1430⁽²⁾, (EUTMDR),

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, as amended⁽³⁾ (CDR), and in particular Article 100 thereof, concerning the supplementary powers of the Executive Director, and to Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing the Council Regulation, as amended⁽⁴⁾, (CDIR),

Whereas:

- (1) pursuant to Article 64(1) EUTMDR, the Executive Director shall lay down the technical specifications relating to annexes that are submitted on data carriers;
- (2) it is pertinent to specify that provided the technical specifications are complied with, data carriers as a means for submitting documents or other items of evidence may be used in any proceedings;
- (3) it is essential to maintain that parties that rely on the submission of annexes in electronic format on a data carrier should be placed in a comparable position with those submitting annexes by other means;
- (4) it is important to facilitate the incorporation of the content of data carriers into the Office's internal electronic file system for the purpose of keeping of files pursuant to Article 115 EUTMR and Article 76 CDIR;

⁽¹⁾ OJ L 154, 16.6.2017, p. 1.

⁽²⁾ OJ L 104, 24.4.2018, p. 1.

⁽³⁾ OJ L 386, 29.12.2006, p. 14.

⁽⁴⁾ OJ L 193, 25.7.2007, p. 13.

- (5) it is important to determine the manner in which the original annexes submitted on data carriers, filed by parties to the proceedings and forming the basis of electronic files, shall be disposed of;
- (6) it is essential to give users access to files by providing online availability as outlined in Article 114(6) second sentence EUTMR and Article 74(1) CDIR, and by observing the limitations specified in Article 114(4) EUTMR and Article 72(c) CDIR;
- (7) it is necessary to establish the conditions and the consequences of using specific technical specifications of the files when using data carriers, including the consequences of non-compliance with these requirements.

HAS ADOPTED THE FOLLOWING DECISION:

Article 1
Data carriers

1. The Office accepts the following data carriers: small portable storage drives such as USB flash drives, pen drives or similar memory units.
2. The Office does not accept external hard drives, memory cards, CD ROMs, DVDs, other optical discs or magnetic data carriers of any kind.

Article 2
Technical specifications of annexes submitted on data carriers

1. File format: annexes submitted on data carriers will be accepted in the following formats:
 - (a) graphic representations, images and photographs in JPEG and JPG format;
 - (b) sound files in MP3 format;
 - (c) video files in MP4 format;
 - (d) 3D models in STL, OBJ or X3D format;
 - (e) other attachments, including written submissions in PDF, TIFF images, JPEG and JPG format.
2. File size: the maximum size of each individual annex saved on the data carrier is restricted to 20 MB. This limitation relates to the final uncompressed file.
3. File structure: the annexes recorded on each data carrier can be submitted in a single-level or multi-level folder or sub-folder structure. However, when incorporated into the Office's electronic file system they will automatically be grouped in folders by format type (e.g. all the JPG files will be grouped together, all the MP3 files). For this reason, the folder structure as submitted originally on the data carrier by the sender may not be respected when automatically incorporated into the Office's electronic file system.
4. File name: every file is recorded in the Office's electronic file system with the name provided by the sender. Annexes recorded on each data carrier will be named or numbered consecutively; further to the number of the annex, the name

of the file may contain other indications, determined by the sender. The naming of the files is especially relevant when taking into account the contents of paragraph 3 of this Article. Reference is made to Article 55(2) EUTMDR on the legal requirements that documents or other annexes to a submission must comply with.

Article 3
Illegible annexes

1. Where an annex submitted by means of a data carrier that complies with the technical specifications of Article 2 is illegible (i.e. cannot be opened), the Office shall inform the sender accordingly and shall invite the sender to resubmit the original within a period to be specified by the Office.
2. Where multiple copies of the data carrier are submitted, if an annex or file is illegible in any of the copies submitted, the party must ensure that the resubmission consists of as many copies of the annex or file as originally submitted.

Article 4
Consequences of non-compliance

Any annexes that do not comply with the technical specifications laid down in Article 2 of this Decision, or are not resubmitted as laid down in Article 3 of this Decision, shall be deemed not to have been filed.

Article 5
Keeping of the files and disposal of originals

1. Where an annex submitted by means of a data carrier complies with the requirements of this Decision, the Office shall incorporate it into the electronic files which shall be kept pursuant to Article 115(1) EUTMR, Article 76 CDIR and Decision No EX-20-5 of the Executive Director of the Office on 15 June 2020 on the keeping of the files.
2. The data carriers containing the original annexes, filed by the parties to the proceeding, and which form the basis of electronic files, may be disposed of 5 years after the Office receives them.

Article 6
Repeal of previous decision

Decision No EX-17-6 of the Executive Director of the Office of 22 September 2017 concerning technical specifications for annexes submitted on data carriers is repealed as from the date of entry into force of the present Decision.

Article 7
Entry into force

This Decision will enter into force on 1 March 2021 and will be published in the Official Journal of the Office.

Done at Alicante, 22 December 2020



Christian Archambeau
Executive Director