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New national search fees set despite opposition

European Union - [Zacco](#)

The new fees for national search reports have been set and will be implemented as of March 10 2008. National search reports will become optional as of the same date (for further details please see "[New search system from March 10 2008](#)").

The provisions of the [Community Trademark Regulation](#) (40/94) on search reports were revised partly because applicants considered that such searches were not useful to business. As applicants carried out the necessary searches before filing a Community trademark application, conducting searches again as part of the application procedure seemed of little value. However, the revision leaves the door open for applicants wishing to avail of the option of receiving national search reports.

It is expected that only a small number of applicants will choose to receive the national search reports, especially as this will increase the processing time of applications by two to three months. Furthermore, the search fees are currently included in the application fee. However, from March 10 applicants will have to pay an additional fee for national search reports.

Even though it is expected that many applicants will opt not to receive the national search reports, the negotiations for setting the new search fees were difficult.

The current amount is €12 per country. The Budget Committee of the [Office for Harmonization in the Internal Market](#) (OHIM) reviewed this amount in January 2008 and agreed that €12 did not cover the cost of conducting a search at national level. Therefore, it concluded that the amount should be increased to €16. However, as the committee wants to encourage applicants to opt to receive the national search reports, it decided that the user fee should remain at €12 and that an amount of €16 should be passed on to the national offices, with OHIM making up the difference.

Users strongly opposed this decision. They argued that applicants which choose to receive the national search reports should pay the full amount so that the cost is not transferred to other applicants. Users objected to this method of reducing OHIM's surplus funds and to the lack of transparency of the decision-making process.

The [European Commission](#) also expressed concern as to the amount that OHIM would transfer to the national offices which have decided to conduct searches. However, the commission failed to overturn the decision of the committee at a recent meeting in Brussels. Two member states voted to maintain the decision, while 14 member states were in favour of setting the user fee at €16. Some member states abstained from voting and others were absent. Pursuant to the rules on the weighting of votes, the proposition to set the user fee at €16 did not obtain the requisite number of votes, much to the disappointment of user organizations.

Therefore, as of March 10 2008 the additional search fee for applicants will be €204 (€12 multiplied by 17, the number of countries which are expected to provide the service). However, OHIM will then transfer €16 to each of the national offices, making a total of €272 (€16 multiplied by 17).

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TAGS

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