

# OHIM and European trademarks: preparing for a new tomorrow

While European trademark practice is on the cusp of significant change, the Office for Harmonisation in the Internal Market's (OHIM) gaze is firmly focused on the present. In this year's annual OHIM survey we asked users to assess the office's current performance and the likely impact that the legislative package will have once enacted

On November 17 2014 the Office for Harmonisation in the Internal Market (OHIM) officially marked its 20th anniversary. The milestone served as an opportunity to celebrate the success that the agency has enjoyed ever since it opened its doors: by the end of its first year of operations alone, over 42,000 Community trademark applications had been filed, a figure which "greatly exceeded even the most optimistic predictions". This trend was to continue in the years to come: as of its anniversary – which also saw the opening of a new extension at its Alicante headquarters – OHIM had received approximately 1.3 million applications from 192 countries and (since 2003) approximately 800,000 registered Community design applications.

Speaking at the opening of the new building, Daniel Calleja, then director general for enterprise and industry at the European Commission (now director general for internal market, industry, entrepreneurship and small and medium-sized enterprises), announced: "The internal market is a foundation stone of European prosperity. It needs strong and effective institutions if it is to work properly and OHIM has shown over 20 years that it is an essential element in building the internal market that we have today. We need risk takers to create for tomorrow's jobs, and risk takers need to know that they can reap the rewards of their investment. OHIM plays a central role in giving that protection."

Those risk takers – OHIM's users – are ideally placed to assess its performance and ponder on its potential development. With that in mind, *World Trademark Review's* annual focus on all things OHIM reveals the top Community trademark filers and gauges their sentiment on the present and future of this trademark powerhouse.

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**Bracing for change**

This year's survey comes at an interesting time for both OHIM and its users, as the ongoing initiative to reform the European trademark environment nears its endgame. In 2011 the Max Planck Institute for Intellectual Property and Competition Law published its Study on the Overall Functioning of the European Trademark System. This was followed by four years of political debate and behind-the-scenes lobbying over proposals for amendments to the EU Community Trademark Regulation (207/2009) and for a new trademark directive.

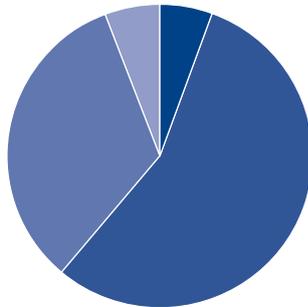
It was hoped that the reform package would be passed early in 2014, but the European parliamentary elections initially stalled progress and when negotiations resumed with new members of Parliament, further compromises proved necessary; rapporteur Cecilia Wikström told delegates at this year's European Communities Trademark Association (ECTA) annual conference that the reform "may not be as ambitious as I would have wanted". On April 21 2015, following 'trilogue' discussions, the European Parliament, Council and Commission announced a provisional agreement on the package, which was approved by the council's Permanent Representatives Committee on June 10. The text will now be sent to the council for political agreement, followed by legal-linguistic revision before formal adoption of the council's position at first reading. The text will then be put for a vote in second reading at a plenary session of the European Parliament. If all goes to plan, the legislative procedures should be completed this autumn, with implementation to take place over the next couple of years.

Thus far, extensive political horse trading has made

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SHUTTERSTOCK

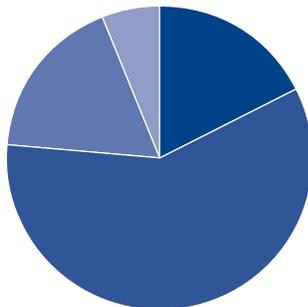
**QUESTION:** In general terms, how would you rate OHIM's performance over the past 12 months?

■ Very good 5.6%  
 ■ Good 55.6%  
 ■ Satisfactory 33.3%  
 ■ Unsatisfactory 5.6%  
 ■ Poor 0%  
 ■ Very poor 0%



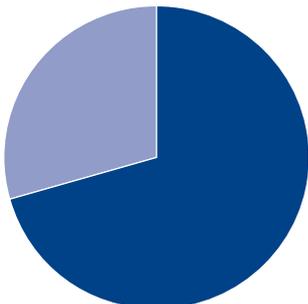
**QUESTION:** In general terms, how would you rate OHIM's performance in terms of handling Community trademark applications over the past 12 months?

■ Very good 17.6%  
 ■ Good 58.8%  
 ■ Satisfactory 17.6%  
 ■ Unsatisfactory 5.9%  
 ■ Poor 0%  
 ■ Very poor 0%



**QUESTION:** Have you had applications treated on the Community trademark fast-track procedure?

■ Yes 70.6%  
 ■ No 29.4%



it difficult to comment definitively on what users can expect from the proposals. What has now become clear, however, is that they focus on national trademark laws and practices in a bid to increase harmonisation and “create as far as possible equal conditions for the registration and protection of trademarks throughout the Union”. They include the following changes:

- OHIM will become the EU Intellectual Property Office, with the Community trademark renamed the EU trademark.
- The requirement of graphic representation will be removed from the criteria for registration of an EU trademark, meaning that a sign can be represented in any appropriate form using generally available technology.
- The ‘one class per fee’ principle will become a reality. The basic fee for registration of a Community trademark will be €1,000 (€850 if filed electronically), with the fee set at €50 for a second class of goods and €150 per class thereafter (meaning that an initial application covering three classes will be marginally more expensive than it is currently).
- The basic fee for renewal of an individual mark will be €1,000, with subsequent classes priced as per the registration proposal.
- An ‘offsetting mechanism’ will be created to cover national office expenses incurred as a result of handling Community trademark procedures – 5% of OHIM’s annual revenue is foreseen for this, with the possibility of increasing this amount by another 5% in case of a substantive budgetary surplus.
- The maximum amount of funding for cooperation projects will be set at 15% of OHIM’s annual revenue.
- Member states should make available both an administrative opposition procedure and administrative procedures for revocation or declaration of invalidity.
- Offices will adapt the designation and classification of goods and services to comply with recent EU case law, in conformity with the Nice Classification.

### Spending the money

For this year’s survey, as well as questioning users on OHIM’s performance over the past year, we gauged their reactions to some of the planned changes. Just over three-quarters of respondents had read the proposals and the ‘one class per fee’ concept, with adjustments to the fee levels themselves, was almost universally welcomed. One respondent noted that “we have many clients that need to file the trademark only in one class”, which will doubtless appreciate the ability to pay less to do so. However, the potential benefits may not only be financial.

## SURVEY METHODOLOGY

In June 2015 *World Trademark Review* sent out a survey to the top 50 representative filers of Community trademarks (listed in the table on page 28) and the top 25 representative filers of registered Community

designs. Participants were asked 24 questions on a range of topics, designed to explore current issues surrounding the European trademark environment and to assess OHIM’s performance over the past 12 months.

The key results are set out in the text and accompanying graphics. In order to guarantee candid answers, respondents were offered the option of having their comments unattributed when used in the article.

The issue of clutter has long been a divisive one – some argue that the Community trademark register is clogged up, making it increasingly difficult to register new marks; while others maintain that these concerns are overblown, with registration levels merely reflecting legitimate commercial activity. Those in the former camp suggest that the fact that Community trademark applicants can currently designate three classes for the same fee as one makes them more likely to do so, regardless of whether protection across multiple classes is really needed. In their view, the new regime should help to reduce clutter on the register, as Imogen Fowler, a partner in Hogan Lovells’ Alicante office, predicts: “The new single class fee structure is likely to cause brand owners to file trademark applications and renewals in fewer classes, ultimately leading to a less cluttered register, which is a desirable thing.”

It could also result in both time and money savings for other rights holders, as Marks & Clerk’s Matt Sammon explains: “There are many unused registrations, so this should help to reduce unnecessary oppositions.”

However, others feel that in reality, the new fee levels will have a limited impact for many applicants as the reduction in the basic filing fee is not sufficiently large to influence registration strategies (aside from arguably making the Community trademark a somewhat more attractive proposition than national filings).

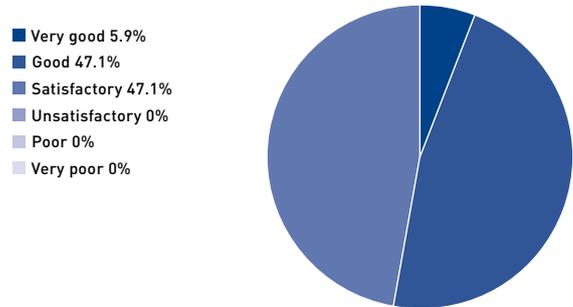
On the flipside, at present, renewal fees are higher than the initial application fee; in previous surveys, respondents suggested that this dissuades rights holders from renewing non-essential marks. Once the initial application fee and renewal are pegged at the same level, this will no longer have the same dissuasive effect, meaning that renewal rates could rise and marks may remain on the register even if not extensively used.

Ultimately, however, the feedback from users is that the positives arising from the reduction in renewal fees will clearly outweigh any negatives. “It is positive that fees were reduced,” responded Tove Graulund, principal of Graulund Consulting and chair of the MARQUES EU Trademark Reform Taskforce. “I know that we previously said that the cost for three classes should be the same as it is currently, but that is not going to be the case. However, we can live with that in view of the fact that renewal fees are reduced and will be coming down to the same level as the application fees.”

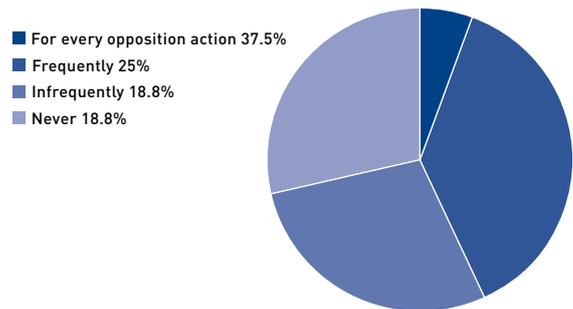
In part, this reduction is aimed at reducing the fund surplus at OHIM, with the treatment of these moneys a keenly debated aspect of the legislative package. The offsetting mechanism formulated to cover national office expenses incurred as a result of handling Community trademark procedures will see 5% of OHIM’s annual revenue redirected for these purposes (with the possibility of increasing this amount by another 5% in case of a substantive budgetary surplus).

While respondents felt that this is not unreasonable, they called for a transparent methodology behind the allocation of funds. To start with, the term ‘substantive budgetary surplus’ is not defined. “It should be clear from outset which statistical data is required to determine the amounts and that these should be obtained by objective means. The percentages and manner of determination should then be reviewed on a

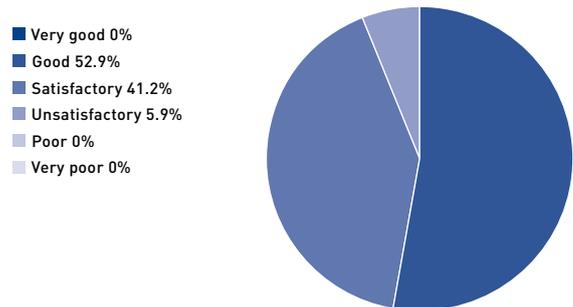
**QUESTION:** In general terms, how would you rate OHIM’s performance in terms of Community trademark opposition action over the past 12 months?



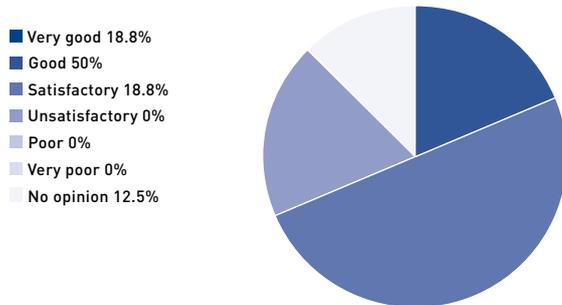
**QUESTION:** How often do you use the e-opposition procedure?



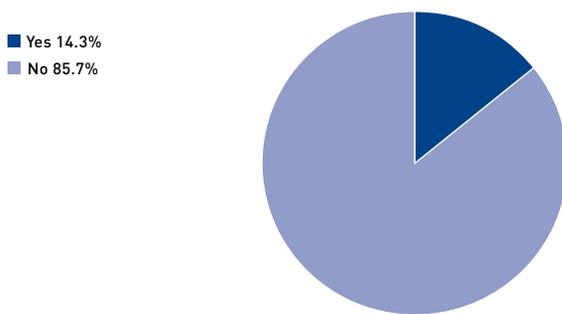
**QUESTION:** In general terms, how would you rate OHIM’s performance in terms of Community trademark appeals over the past 12 months?



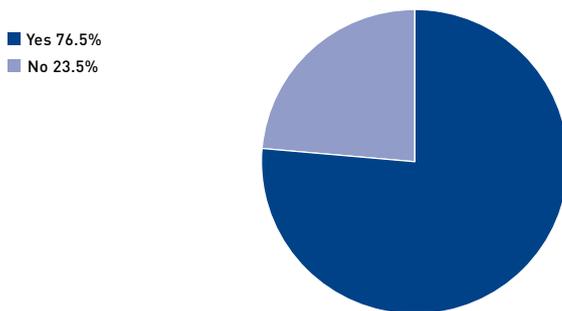
**QUESTION:** In general terms, how would you rate OHIM's performance in terms of handling registered Community design applications over the past 12 months?



**QUESTION:** Have you registered on the Enforcement Database and, if so, how would you rate your experience?



**QUESTION:** The European Parliament, Council and Commission recently announced a provisional agreement on the European trademark package. Have you read the proposals?



**TABLE 1:** Top 50 representative filers of Community trademark applications for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Marks & Clerk LLP	GB	666
2	Gevers	BE	610
3	Novagraaf Nederland BV	NL	599
4	Clarke, Modet & Co	ES	523
5	Jacobacci & Partners SPA	IT	508
6	Boehmert & Boehmert Anwaltspartnerschaft Mbb – Patentanwälte Rechtsanwälte	DE	489
7	Bugnion SPA	IT	487
8	Taylor Wessing	GB	467
9	HGF Limited	GB	423
10	Baker & Mckenzie	US	397
11	Friedrich Graf Von Westphalen & Partner	DE	393
12	Isern Patentes Y Marcas SL	ES	390
13	Grunecker Patent- Und Rechtsanwälte Partg MBB	DE	386
14	Pons Patentes Y Marcas Internacional SL	ES	383
15	Barzano & Zanardo	IT	381
15	Cabinet Germain & Maureau	FR	381
15	Hogan Lovells	GB	381
18	Herrero & Asociados	ES	374
19	Elzaburu, SLP	ES	369
20	Boult Wade Tennant	GB	367
21	Barker Brettell LLP	GB	361
22	Stobbs	GB	358
23	Ungria Lopez	ES	357
24	Withers & Rogers LLP	GB	346
25	NLO Shieldmark BV	NL	336
26	Meissner, Bolte & Partner	DE	326
27	D Young & Co LLP	GB	321
28	FRKelly	IE	313
29	Young	GB	311
30	Perani & Partners Spa	IT	310
31	Merkenbureau Knijff & Partners BV	NL	300
32	Kilburn & Strode LLP	GB	285
33	Dehns	GB	274
34	Pons Consultores De Propiedad Industrial, SA	ES	273
35	Jeffrey Parker And Company	GB	272
36	Studio Torta SPA	IT	264
37	Forresters	GB	262
38	Awapatent AB	SE	257
38	Casalonga	FR	257
40	Novagraaf France	FR	254
41	Zacco Sweden AB	SE	242
42	Mitscherlich, Patent- Und Rechtsanwälte, Partmbb	DE	240
42	Silex IP	ES	240
44	J A Kemp	GB	238
45	Field Fisher Waterhouse LLP	GB	233
46	Urquhart-Dykes & Lord LLP	GB	229
47	Bird & Bird LLP	GB	224
47	Lane IP Limited	GB	224
47	Murgitroyd & Company	GB	224
50	Merk-Echt BV	NL	219

regular basis,” argued one respondent.

With national offices set to benefit from a greater surplus, the cynical may suspect that they may decide to vote against spending on expensive projects in a bid to keep more money in the pot for themselves. When asked whether this is a concern, Graulund responded: “One might have the suspicion that that could happen. Users will want to keep a close eye on possible projects and push for those that are important for them, even if expensive. It could be that some offices will not see things the same way as users, as they might not wish to spend the money, but I would say that those that attend board and budget meetings are good people. I think that everyone will agree to try to spend the money as sensibly as possible.”

### Where will the money go?

Users have also expressed concerns about exactly where this money will go – the fear being that in certain jurisdictions, funds may not be used for trademark-related activities, but end up being appropriated by national governments. MARQUES has lobbied hard against this eventuality, stating in March (in response to proposals to introduce three permanent new expenses in the OHIM budget) that “diverting funds generated by fees

paid by the users of OHIM to different institutions to pay for services and purposes unrelated to trademarks and designs can prove contrary to the legal nature of the fee”. This sentiment was strongly echoed in our survey results. Luis M Monzon, partner at SILEX IP, suggested that “all funds should revert on users of OHIM’s services. It does not appear reasonable or fair that users of OHIM’s services have to pay for services not strictly related to Community trademarks/designs or other services rendered by OHIM”.

Graulund echoed this sentiment: “While the end result could have been different, I am hoping that this is indeed a solution to the discussions around OHIM’s finances. We will have to see how the offsetting mechanism comes into play, though. I think for the first few years it will be unproblematic, as in all likelihood there will be a surplus. But once the existing surplus has been spent, we will see how it turns out. The big concern is that money will be going to the member states, but we don’t know what will actually happen to it. Will it go to the national offices? And even if so, some of the offices are not financially independent. We couldn’t avoid money going from OHIM to other places, but the least we want is for it to be spent on trademark and design-related activities. Yet that doesn’t seem to be assured. I am sure that the user

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organisations will pay close attention to the plans for what happens to the money and will be pushing for a lot of transparency. I do think we have a common interest with national offices to make sure that they get as much of the money as they can once it goes to the member states.”

**Promoting convergence**

The proposed reforms would also require member states to make available an administrative opposition procedure (allowing at least the owner of earlier trademark rights and anyone authorised under the relevant law to exercise the rights associated with a protected designation of origin or geographical indication to oppose the registration of a trademark application), as well as administrative procedures for revocation or invalidation (the latter within seven years following the directive’s entry into force).

One survey respondent noted that this will “make it easier to fight against national registered trademarks, as the length of the proceedings and the costs would be reduced”. “These are highly desirable improvements,” added Fowler. “Brand owners are currently forced to spend thousands of euros cancelling national marks in countries that do not provide for administrative

**TABLE 2:** Top 15 representative filers of Community trademark applications from Benelux for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Gevers	BE	610
2	Novagraaf Nederland BV	NL	599
3	NLO Shieldmark BV	NL	336
4	Merkenbureau Knijff & Partners BV	NL	300
5	Merk-Echt BV	NL	219
6	De Merkplaats BV	NL	206
7	Office Kirkpatrick NV/SA	BE	194
8	Office Freylinger SA	LU	171
9	VO	NL	164
10	Algemeen Octrooi- En Merkenbureau BV	NL	153
11	Arnold & Siedsma	NL	152
12	Denmeyer & Associates	LU	150
13	Bap IP Bvba – Brantsandpatents	BE	104
14	KOB NV	BE	100
14	Pronovem Marks Societe Anonyme	BE	100



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**METHODOLOGY FOR FILING TABLES**

OHIM data lists the Community trademark and registered Community design filings originating from individual offices (with each designated a unique representative code). This means that a single firm can have multiple entries in multiple countries under the same firm name (because the named firm filed via a range of individual offices, each designated its own unique Community trademark representative code). To obtain an alternative perspective on the market, *World Trademark Review* compiled the tables in this article,

using data kindly provided by OHIM, by adding the filings of all offices (filing 25 or more Community trademarks/registered Community designs) of each named firm and/or brand owner (where a firm operates under distinctly different names/runs a separate consulting business, these are counted separately – hence, PONS Patentes y Marcas SL and PONS Consultores de Propiedad Industrial SA appear separately, despite filings being from the same originating firm).

Having compiled the list according to overall

filings by firm name, we then compiled the top 10 country lists according to each firm's country of origin; so, for instance, Hogan Lovells appears in the UK table, not the Spanish table (the exception is where the firm has registered in separate countries under different names; hence, Novagraaf Nederland and Novagraaf France appear as separate entries). While every care has been taken to guarantee that all relevant figures were considered, *World Trademark Review* accepts no responsibility for any errors in the tables.

**TABLE 3:** Top representative filers of Community trademark applications from Sweden for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Awapatent Ab	SE	257
2	Zacco Sweden Ab	SE	242
3	Groth & Co Kb	SE	156
4	Dipcon Ab – Domain And Intellectual Property Consultants	SE	155
5	Brann Ab	SE	116
6	Advokatbyran Gulliksson Ab	SE	92
7	Von Lode Advokat Ab	SE	63
8	Advokatfirman Lindahl Kb	SE	61
9	Norens Patentbyra Ab	SE	48
10	Setterwalls	SE	39

**TABLE 4:** Top 10 representative filers of Community trademark applications from Denmark for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Arnason Faktor Denmark Aps	DK	185
2	Bech-Bruun Law Firm	DK	104
3	Njord Law Firm Advokatpartnerselskab	DK	79
4	Patrade A/S	DK	78
5	Sandel, Loje & Partnere	DK	76
6	Chas. Hude A/S	DK	74
7	Plesner	DK	70
8	Plougmann & Vingtoft A/S	DK	61
9	Otello Lawfirm	DK	58
9	Zacco Denmark A/S	DK	58

procedures for revocation or invalidity. It is very disappointing, however, that there is a seven-year period before this becomes mandatory.”

However, one respondent worried that “not all offices will be adequately equipped for the increase in workloads and offices that currently do not deal with such proceedings will have an arrears in the substantive handling of such matters. This may lead to a difference in outcomes and legal considerations, and thus a lack of consistency.”

Graulund suggests that offices should thus work together to achieve consistency: “User organisations are bound to keep a close watch over how fast the new procedures are put in place in the different countries that will need to implement the new rules. Now is the perfect time to establish a convergence programme so that those offices that have these processes in place can share their experience and those that currently don’t can start off on the right foot. It really is the perfect opportunity to establish convergence from the outset.”

Also on the matter of convergence, the legislative package states that offices must adapt the designation and classification of goods and services to comply with recent EU case law, in conformity with the Nice Classification. To align practice with the principles set out in *IP Translator*, the proposals state that “the goods and services for which the protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought. The use of general terms should be interpreted as including only goods and services clearly covered by the literal meaning of the term”.

Respondents welcomed the clarity and harmonisation that this change should bring, although concern was expressed that it may “result in inconsistencies with marks that are already registered”. The draft regulation provides that Community trademark owners whose marks were filed before June 22 2012 and cover the Nice class headings will have a six-month period in which to file a declaration indicating that their intentions were to seek protection for goods or services beyond the literal meaning of the class headings (provided that the goods or services claimed were included in the version of the Nice alphabetical list in place when the Community trademark was filed). If no such declaration is filed, the mark will be

deemed to extend only to goods or services that are clearly covered by the literal meaning of the class heading.

However, mark owners with amended specifications will be unable to prevent a third party from using a mark in relation to goods or services where this use commenced before the register was amended or where the use of the mark did not infringe the owner’s rights based on the literal meaning of the goods and services in the register at that time. Fowler notes that Community trademark owners will also face similar limitations where they wish to oppose or cancel a later trademark: “As a result, Community trademark owners whose marks cover the class headings should start reviewing their trademark portfolios and considering the amendments to be made. They should also at least consider implementing amendments to specifications now, before the new regulation goes live. While the limitations and pitfalls set out in the new Article 28(8)(a) will undoubtedly apply to registrations amended during the six-month window, this is not clear in relation to amendments or limitations made prior to the new regulation coming into force.”

**A question of geography**

Another key aspect of the reforms relates to the treatment of goods in transit. The proposals explicitly state that “the

**TABLE 5:** Top 15 representative filers of Community trademark applications from Spain for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Clarke, Modet & Co	ES	523
2	Isern Patentes Y Marcas SL	ES	390
3	Pons Patentes Y Marcas Internacional SL	ES	383
4	Herrero & Asociados	ES	374
5	Elzaburu, SLP	ES	369
6	Ungria Lopez	ES	357
7	Pons Consultores De Propiedad Industrial SA	ES	273
8	Silex IP	ES	240
9	Noerr Alicante IP SL	ES	200
10	Abril Abogados	ES	194
11	Curell Sunol SLP	ES	170
12	Duran – Corretjer SLP	ES	166
13	A2 Estudio Legal	ES	155
14	ARS Privilegium SL	ES	150
15	Garrigues IP SLP	ES	113

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proprietor of a European Union trademark should be entitled to prevent third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods come from third countries and bear without authorisation a trademark which is essentially identical to the European Union trademark registered in respect of such goods. To this effect, it should be permitted to prevent the entry of infringing goods and their placement in all customs situations, including transit, trans-shipment, warehousing, free zones, temporary storage, inward processing or temporary admission, also when these goods are not intended to be placed on the market of the European Union”.

The proposals further seek to align with international obligations under the World Trademark Organisation (WTO) framework, in particular Article V of the General Agreement on Tariffs and Trade on freedom of transit and, as regards generic medicines, the Declaration on the TRIPs Agreement and Public Health adopted by the Doha WTO Ministerial Conference on November 14 2001. As such, it points to the need for appropriate measures to be taken with a view to ensuring the smooth transit of generic medicines. With respect to international non-proprietary names (INNs) that are globally recognised generic names for active substances in pharmaceutical preparations, “the proprietor of a European Union trademark should not have the right to prevent any third party from bringing goods into the Union without being released for free circulation there based upon similarities between the INN for the active ingredient in the medicines and the trademark”.

One issue that has sparked discussion is the observation that, during infringement proceedings on counterfeit goods in transit in an EU member state, “the entitlement of the proprietor of the trademark should lapse where, during the subsequent proceedings initiated before the judicial or other authority competent to take a substantive decision on whether the registered trademark has been infringed, the declarant or the holder of the goods is able to prove that the proprietor of the registered trademark is not entitled to prohibit the placing of the

**TABLE 6:** Top 15 representative filers of Community trademark applications from France for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Cabinet Germain & Maureau	FR	381
2	Casalonga	FR	257
3	Novagraaf France	FR	254
4	Ipside	FR	196
5	Cabinet Beau De Lomenie	FR	172
6	Inlex IP Expertise	FR	161
7	Cabinet Chaillot	FR	149
8	Promark	FR	135
9	Cabinet Armengaud Aine	FR	123
10	Delhaye	FR	116
11	Regimbeau	FR	109
12	Cabinet Lavoix	FR	104
13	T Mark Conseils	FR	96
14	Sodema Conseils SA	FR	92
15	Nextmarq	FR	89

**TABLE 7:** Top 15 representative filers of Community trademark applications from Great Britain for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Marks & Clerk LLP	GB	666
2	Taylor Wessing	GB	467
3	HGF Limited	GB	423
4	Hogan Lovells	GB	381
5	Boult Wade Tennant	GB	367
6	Barker Brettell LLP	GB	361
7	Stobbs	GB	358
8	Withers & Rogers LLP	GB	346
9	D Young & Co LLP	GB	321
10	Young	GB	311
11	Kilburn & Strode LLP	GB	285
12	Dehns	GB	274
13	Jeffrey Parker And Company	GB	272
14	Forresters	GB	262
15	J A Kemp	GB	238

**TOOLS FOR THE JOB**

In addition to its everyday duties administering the trademark and designs registers, a significant focus for OHIM over the past year has been the development of tools and offerings through the European Trademark and Design Network.

In terms of flagship databases, TMview is arguably the best known. OHIM recently reported that the database contains information on more than 27 million trademarks from 45 offices; over 5.2 million searches were made in 2014. The related Designview tool contains information on more than 4 million designs from 26 offices (including OHIM). In its 2014 annual report

OHIM noted that the database, which is available in 28 languages, is being used for more than 50,000 searches a month.

From the outset, OHIM has stressed that such tools complement, rather than compete with, the professional search services offered by private companies. However, its cost-benefit analysis for both TMview and Designview identifies a clear economic saving for users of the system (and conversely, it could be argued, a commercial loss to those that charge for such services).

The cost-benefit analysis for TMview was based on an estimated 5 million searches in 2014 (actual searches totalled 5.2 million).

Having calculated that the average cost per search with a commercial company would be slightly over €10, OHIM notes that the full commercial cost of equivalent searches would have been €56 million.

As design searches are more expensive in the commercial sector, the equivalent costs for the estimated 620,000 Designview searches in 2014 would have been significantly higher, at €208 million.

While unlikely to replace commercial offerings, most respondents regularly used both tools, praising the systems for their ease of use. From a user perspective, the value that resides in these offerings is clear.

goods on the market in the country of final destination”.

Commenting at this year’s ECTA annual conference, K&L Gates counsel Arthur Artinian argued: “This amendment suggests that Community trademark courts will be required to consider trademark rights and laws in foreign jurisdictions, which will present a range of challenges for plaintiffs and defendants alike. Additionally, the practicalities of determining the ‘final destination’ of particular consignments of goods remains to be seen.”

While a number of survey respondents welcomed the clarity that the new legislation will bring, Artinian’s concerns were also echoed, with one trademark counsel arguing that rights holders will now be left wrestling with the question of “what would be considered sufficient proof and how the final destination of goods can be determined without doubt”. Florian Schwab, partner at Boehmert & Boehmert, concluded: “Reduced contestations by holders/declarants are to be expected due to the burden of proof and the apparently complex decision making required by courts.”

The final aspect of the legislative package on which we polled users was the announcement that OHIM will be renamed the EU Intellectual Property Office, with the Community trademark called the EU trademark. While this will not affect trademark practice *per se*, there was a

**TABLE 8:** Top 15 representative filers of Community trademark applications from Germany for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Boehmert & Boehmert Anwaltspartnerschaft Mbb – Patentanwälte Rechtsanwälte	DE	489
2	Friedrich Graf Von Westphalen & Partner	DE	393
3	Grunecker Patent- Und Rechtsanwälte Partg Mbb	DE	386
4	Meissner, Bolte & Partner	DE	326
5	Mitscherlich, Patent- Und Rechtsanwälte, Partmbb	DE	240
6	Harmsen Utescher	DE	218
7	Cohausz & Florack Patent- Und Rechtsanwälte Partnerschaftsgesellschaft Mbb	DE	188
8	Barkhoff Reimann Vossius	DE	166
9	Hoffmann · Eitle Patent- Und Rechtsanwälte Partmbb	DE	141
10	Kuhnen & Wacker Patent- Und Rechtsanwaltsbüro	DE	124
11	Prehm & Klare · Rechtsanwälte	DE	122
12	Vossius & Partner		
13	Patentanwälte Rechtsanwälte Mbb	DE	120
14	Rau, Schneck & Hubner Patentanwälte Rechtsanwälte Partgmbb	DE	116
15	Breuer Lehmann Rechtsanwälte	DE	112

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clear split between those who felt that “the new names are more logical and will be more easily understood by clients”, especially non-IP professionals, and those who slated the change as “ridiculous”, “irritating” and the brainchild of “bureaucratic office sitters”. While each side was equally insistent in its position, the negative voices greatly outweighed the positive.

The main concern was that the name ‘EU Intellectual Property Office’ – while arguably a clearer indication of the agency’s role than its current moniker – is misleading and “may lead to confusion as it implies that it deals with all IP – while it does not, for instance, deal with patents”.

In January last year, the MARQUES EU Trademark Reform Taskforce further noted that the rebrand is expected to cost in the millions of euro, intimating that there may be better uses for user-generated funds. Moreover, it observed: “The abbreviated names – especially OHIM, but also OAMI and others – have become very well known and are in fact quite distinctive. A name change to a more generic name would as a consequence make it easier for fraudulent companies to send fake invoices as the ‘EU trademark office’ or other generic versions of the suggested new name.”

### 2014 in statistics

While these elements of the reform package will have a direct impact on many of OHIM’s activities, until the legislation is passed OHIM itself cannot prepare for the pending changes. The main focus of our survey of the top filers was thus on its current performance and activities.

In June OHIM published its 2014 Annual Report, which provided a statistical overview of its activities in the last 12 months:

- During 2014, OHIM received more than 117,000 trademark applications (up 3% on 2013, but slightly below the historic average increase in trademark applications of 5%).
- While direct trademark applications rose by 4.4%, applications for international registrations fell by 5.6%, totalling 17,200 or 4.6% of all applications.
- Trademark e-filing accounted for 98% of activity, rising 2.5% on 2013 (the design e-filing rate grew by 12% to reach 92%).
- The average time to register a Community trademark has dropped from 178 days to 136 days (or less than 20 weeks).
- At the end of 2014, less than one month after its introduction, 25% of Community trademark applications qualified for fast-track treatment.
- The rate of oppositions against published Community trademarks stands at around 12%, with just over 15,500 filed during 2014.
- Community trademark cancellation requests remained stable at around 1,400, virtually unchanged from the previous year.
- In 2014 there were more than 54,000 Community trademark records, an increase of 5% on 2013.
- OHIM received close to 98,000 registered Community designs, up 1% on 2013.
- In 2014 the Boards of Appeal received 3,284 appeals and issued 2,783 decisions – an increase on the previous year of 26% and 8% respectively.

When asked how they rated OHIM’s performance over the past 12 months, one-third labelled this ‘satisfactory’ and over 60% ‘very good’ or ‘good’; just 5.6% deemed it unsatisfactory. Last year, 14% of respondents felt that OHIM’s performance had been ‘unsatisfactory’ or ‘poor’, so OHIM has made clear progress in this regard.

Asked to identify the best improvements, respondents highlighted speedier prosecution times, with the new fast track a key contributing factor. They also praised “improvements in e-communications and online functionality” – in particular, “the ability to save applications, as well as being able to order a wide range of documents, online”.

In last year’s focus we reflected on OHIM’s website overhaul which, due to initial glitches and downtime, caused delays in interactions with the agency. Fast forward 12 months, however, and any initial pain experienced by users has been forgiven. Fowler noted that “the many problematic issues concerning the website and online tools have been solved during the last year”, with the site now functioning smoothly.

That said, some areas were flagged as requiring attention – specifically, the approach to examinations and the subsequent decisions that are being made. One filer expressed concern that, with regard to “the examination of specifications, there are too many inconsistencies and too many second reports being sent out when the examiner changes his/her mind a few weeks later”; others felt that insufficient consideration is paid to written submissions. “Consistency in decisions still remains an issue, especially at the board level,” added Fowler. “And it has become much more difficult to register figurative marks containing descriptive words. The current stance of examiners is overly strict, forcing brand owners to file costly appeals to the boards to try to register their marks.”

For some, the problem is compounded by difficulties in contacting examiners: “Often they are not in the office, or if they are, they are attending some kind of meeting. Further, the time to contact examiners is restricted to between 9:30-13:30 and 15:30-16:30.”

Examiner availability during these dedicated hours is included in OHIM’s accessibility targets for timeliness (specifically, responding to a phone call within 15 seconds and to an email within two days), which the agency acknowledges were not met in the first quarter of 2014. This was largely attributed to the large number of enquiries received following the introduction of the new website in late 2013. The 2014 annual report notes that by the end of the year, performance had improved, while the Overall Accessibility Index ended the year below target at just over 95% – a significant improvement on the 73% achieved in the first quarter.

### Applications and oppositions

Having asked our survey participants for comments on OHIM’s general performance, we then drilled down into specific areas of activity, commencing with its handling of Community trademark applications over the past 12 months.

In this regard, user sentiment was broadly similar to last year’s. The percentage of respondents stating that OHIM’s handling of Community trademark applications was ‘very good’ or ‘good’ remained the same, with a 1.1%

**TABLE 9:** Top representative filers of Community trademark applications from other jurisdictions for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
	FRKelly	IE	313
	Georg Pintz & Partners LLC	HU	45
	Ntova	GR	32
	Metida Law Firm Of Reda Zaboliene	LT	67
	Aaa Patendiburoo Ou	EE	46
	Berggren Oy Ab	FI	136
	Agency Tria Robit	LV	38
	Kondrat & Partners	PL	71
	J Pereira Da Cruz SA	PT	137
	SC Weizmann Ariana & Partners Agentie De Proprietate Intelctuala SRL	RO	61

drop in those deeming it 'unsatisfactory'.

The speed of prosecution was praised, thanks in part to the fall in the average time taken to register a Community trademark since the introduction of the fast-track procedure. To qualify for the fast track, applicants must, among other conditions, select the goods and services from OHIM's harmonised database and pay at the end of the application process (or immediately after submission). Additionally, the application should not trigger any deficiency finding at the time of submission or during examination by OHIM staff.

On June 17 2015 OHIM provided an update on the offering, noting that since November 24 2014, just over one-quarter of all trademark applications had qualified for the fast-track process, with those applications published on average within seven days (in some cases the publication time has been just two days, with 167 trademarks published in this timeframe).

Some 70.6% of respondents had applications qualify for fast-track treatment and their feedback was generally positive. While one filer described it as "a bit of a gimmick, really", others felt that it was an efficient system that they would use more regularly "if more products and services were accepted". That said, a couple of respondents noted that "non fast-track applications are also processed at a good speed", so did not feel that there was a significant downside to remaining in the 'regular track'.

Turning to oppositions, there has been a clear upswing in sentiment, with just over half of respondents rating OHIM's performance as 'very good', or 'good', and the remainder deeming it 'satisfactory'. By contrast, last year 14% stated that performance here was 'unsatisfactory' and 7% 'poor'.

## 2015-2020 STRATEGIC PLAN: WHAT TO EXPECT

OHIM's 2015-2020 Strategic Plan, expected to be published in the coming months, will set out its management path for the next five years. In preparation, earlier this year it called for comments on its Strategic Plan 2020: Guiding Principles and Outline, which provided insight into what the plan may contain.

The 2011-2015 strategic plan aimed to help OHIM become "a true organisation of excellence that, together with the EU national offices, can form part of a comprehensive and increasingly interoperable European Trademark and Design Network". To achieve this, there were three core goals:

- "Build a strong, vibrant and creative organisation", including through the creation of a human resources reform programme and both the refurbishment of the existing headquarters and the construction of an extension.
- "Increase quality and optimise timeliness and efficiency of operations." On this, OHIM notes that it has coped with an increase in Community trademark applications of close to 20% while also improving productivity, quality and

predictability of processes.

- "Promote convergence of practices within the European Trademark and Design Network", with core focuses being the Cooperation Fund and the Convergence Programme, as well as the integration of the EU Observatory on Infringements of Intellectual Property Rights.

For the 2015-2020 plan, a vision of a "user-driven European intellectual property network with a global focus" has been proposed. Three new strategic goals have been suggested – "operational efficiency", "access to IP system and IP knowledge" and "network convergence with global impact" – which will then create five lines of action.

The first two lines of action are to build a dynamic and knowledgeable organisation of people (focused on developing OHIM's staff and enhancing the working environment), and increase transparency and accountability (focused on communication and engagement).

The next three lines of action will be of particular interest to users. The third is to "enhance user-driven quality services",

looking at the user experience when dealing with OHIM. As part of this, new fast-track procedures and search/clearance/classification tools will be developed.

The fourth line of action is to support IP rights enforcement and valuation, with the observatory continuing its work to "provide evidence-based contributions and data to support policy makers; information, tools and databases to support enforcement authorities such as customs; to build capacity among enforcement authorities; to conduct awareness campaigns on the positive side of IP and the negative consequences of IP infringement; and to develop initiatives to help European business protect their IP rights, both inside the EU and in third countries".

The final proposed line of action aims to enhance network engagement, with the convergence and cooperation programmes taking centre stage. The international programme is also expected to further develop OHIM as the IP technical assistance arm of the European Commission, with a focus on regional partnerships and technical enforcement issues.

The administration process and timings of oppositions won particular plaudits, although a number of improvements were suggested relating to the language of proceedings. As Monzon noted: “Certain documents, such as limitations of the contested Community trademark application, can be filed in a language that is not that of the proceedings. It would therefore be helpful to receive a translation in the language of the opposition of relevant documents.”

A significant majority (81.2%) of respondents use the e-opposition procedure. While some aspects of this “could be more user friendly” and the attachment size limit was regarded as restrictive (one respondent noted: “There is still a limit of 20 MB for attachments, and even if the submission is split up, there is an overall threshold of 100 MB which cannot be passed. This is a significant drawback”), overall the offering was regarded as fast, easy to use and flexible.

However, some concerns were raised over the consistency and quality of opposition decisions. “OHIM is now rejecting applications on the basis of earlier marks which, according to our experience, would have been allowed a few years ago,” said Monzon. “Therefore, the predictability of decisions, which is an important matter for all professionals, has now become a problem.” Another respondent agreed that there is some divergence in how cases are handled: “OHIM really needs to start treating like cases alike; its refusal to be bound by its own previous decisions is inequitable.”

**Resolving conflict**

Turning to Community trademark appeals, this was the one area where there was a slight negative shift in sentiment since last year, with 5.9% of respondents deeming OHIM’s performance ‘unsatisfactory’. Once again, the main bone of contention is consistency: “Consistency among the Boards of Appeal has not been achieved and this is problematic. It cannot be that a case is decided in a totally different manner depending on which board examines it. This increases the difficulty of advising after a first-instance decision.” It was further suggested there seems to be some reluctance to overturn examiner decisions.

One offering in the dispute resolution context which is currently underused is OHIM’s mediation service: not a single survey respondent had availed of this so far. The service is available for *inter partes* proceedings during the appeal process, which is suspended to give the parties an opportunity to reach an amicable settlement. An OHIM mediator is appointed to facilitate this and there is no charge where the mediation is conducted in Alicante (if mediation takes place in OHIM’s Brussels office, a €750 fee is charged to cover the mediator’s travel expenses). When asked about take-up, an OHIM spokesperson noted: “Although the number of mediation cases is small compared to the number of appeals, as the service is a relatively new one, the uptake of mediation at OHIM is growing.”

The legislative package also makes reference to the potential establishment of a mediation centre, adding: “In case of disputes subject to the proceedings pending before the Opposition Divisions, Cancellation Divisions or before the Boards of Appeal of the office, a joint request

**TABLE 10:** Top 15 representative filers of Community trademark applications from Italy for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Jacobacci & Partners SPA	IT	508
2	Bugnion SPA	IT	487
3	Barzano & Zanardo	IT	381
4	Perani & Partners SPA	IT	310
5	Studio Torta SPA	IT	264
6	Societa Italiana Brevetti SPA	IT	210
7	Dr Modiano & Associati SPA	IT	132
8	Dott Franco Cicogna & C SRL	IT	129
9	Giambrocono & C SPA	IT	128
10	GLP SRL	IT	126
11	Ing Claudio Baldi SRL	IT	116
12	Al & Partners SRL	IT	113
12	Notarbartolo & Gervasi SPA	IT	113
14	Mondial Marchi SRL	IT	100
15	Ing C Corradini & C SRL	IT	87

**TABLE 11:** Top 25 representative filers of registered Community design applications for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Louis · Pohlau · Lohrentz	DE	1,143
2	Bugnion SPA	IT	830
3	Lorenz Seidler Gossel Rechtsanwälte Patentanwälte Partnerschaft Mbb	DE	767
4	Barker Brettell LLP	GB	644
5	Denmeyer & Associates SA	DE	625
6	Aguilar I Revenga	ES	580
7	Huasun Patent Attorneys And Attorneys At Law	DE	544
8	Barzano & Zanardo	IT	508
9	Hogan Lovells	GB	498
10	Studio Torta SPA	IT	496
11	Grunecker Patent- Und Rechtsanwälte Partg Mbb	DE	486
12	Cabinet Chaillot	FR	478
13	Heuking Kuhn Luer Wojtek	DE	456
14	Jacobacci & Partners SPA	IT	442
15	Bardehle Pagenberg Partnerschaft Mbb Patentanwälte, Rechtsanwälte	DE	441
16	Page White & Farrer	GB	427
17	Modiano	IT	420
18	Bosch Jehle Patentanwalts-gesellschaft Mbh	DE	419
19	GLP SRL	IT	408
20	zK Patentanwälte Blasberg, Kewitz & Reichel, Partnerschaft Mbb	DE	379
21	Marks & Clerk LLP	GB	357
22	Elzaburu, SLP	ES	353
23	Von Kreisler Selting Werner Partnerschaft Von Patentanwälten Und Rechtsanwälten Mbb	DE	330
24	Mewburn Ellis LLP	GB	328
25	Felzenszwalbe	FR	322

**TABLE 12:** Top 10 representative filers of registered Community design applications from Germany for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Louis · Pohlau · Lohrentz	DE	1,143
2	Lorenz Seidler Gossel Rechtsanwälte Patentanwälte Partnerschaft Mbb	DE	767
3	Dennemeyer & Associates SA	DE	625
4	Huasun Patent Attorneys And Attorneys At Law	DE	544
5	Grunecker Patent- Und Rechtsanwälte Partg Mbb	DE	486
6	Heuking Kuhn Luer Wojtek	DE	456
7	Bardhele Pagenberg Partnerschaft Mbb Patentanwälte, Rechtsanwälte	DE	441
8	Bosch Jehle Patentanwalts-gesellschaft Mbh	DE	419
9	2K Patentanwälte Blasberg, Kewitz & Reichel, Partnerschaft Mbb	DE	379
10	Von Kreisler Selting Werner Partnerschaft Von Patentanwälten Und Rechtsanwälten Mbb	DE	330

**TABLE 13:** Top 10 representative filers of registered Community design applications from Italy for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Bugnion SPA	IT	830
2	Barzano & Zanardo	IT	508
3	Studio Torta SPA	IT	496
4	Jacobacci & Partners SPA	IT	442
5	Modiano	IT	420
6	GLP SRL	IT	408
7	Propria SRL	IT	314
8	IPSO SRL	IT	300
9	Perani & Partners Spa	IT	251
10	Cantaluppi & Partners SRL	IT	165

**TABLE 14:** Top 10 representative filers of registered Community design applications from Spain for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Aguilar I Revenga	ES	580
2	Elzaburu SLP	ES	353
3	Herrero & Asociados	ES	222
4	Casalonga	ES	212
5	Clarke, Modet & Co	ES	209
6	Pons Patentes Y Marcas Internacional, SL	ES	189
7	Eurochina Intellectual Property	ES	164
8	Isern Patentes Y Marcas SL	ES	143
9	Abril Abogados	ES	136
9	Balder IP Law SL	ES	136

**TABLE 15:** Top 10 representative filers of registered Community design applications from Great Britain for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Barker Brettell LLP	GB	644
2	Hogan Lovells	GB	498
3	Page White & Farrer	GB	427
4	Marks & Clerk LLP	GB	357
5	Mewburn Ellis LLP	GB	328
6	Boulton Wade Tennant	GB	308
7	Kilburn & Strode LLP	GB	278
8	Dehns	GB	272
9	Squire Patton Boggs (UK) LLP	GB	234
10	Carpmaels & Ransford LLP	GB	230

for mediation may be presented at any time after the lodging of a notice of opposition, an application for revocation or an application for a declaration of invalidity or a notice of appeal against decisions of the Opposition or Cancellation Divisions.”

Fowler commented: “Under the current rules, mediation is only available after a first-instance decision. Moreover, to take advantage of it, one must file a notice of appeal, pay the appeal fee and submit a statement of grounds before actually entering into mediation. However, we understand that this will change after the revised Community Trademark Regulation enters into force, and that it will be possible to opt for mediation at an early stage of the proceedings (eg, after the lodging of a notice of opposition). This is a positive change.”

Future surveys will measure the extent to which increased awareness and legislative changes affect demand for OHIM-led mediation services.

### The road ahead

For the purposes of this article, we have predominately focused on OHIM-related activities rather than those undertaken by the European Observatory on Infringements of Intellectual Property Rights. Looking into the immediate future, the latest annual report identified a number of challenges facing the agency, such as promoting use of e-business tools, implementing the 2015-2020 Strategic Plan (see page 39), expanding the convergence efforts of the European Trademark and Design Network and increasing the output of the observatory.

OHIM’s biggest challenges, however, are political. The first is the Multi-annual Financial Framework for 2014 to 2020, which requires most EU institutions and agencies to reduce staff by 5% and to operate within strict budgetary constraints. While OHIM is in the unique position of being self-financing, the austerity measures still apply, so the squeeze is on.

More significant will be the passage of the European trademark package, which will have a major impact on OHIM’s income, expenditure, surplus and practices. In that respect, the focus on OHIM’s finances will not go away any time soon.

**TABLE 16:** Top 50 brand owner filers of Community trademark applications for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Novartis AG	CH	361
2	LG Electronics Inc	KR	241
3	Monteiro	FR	197
4	Samsung Electronics Co Ltd	KR	151
5	Actavis Group PTC EHF	IS	133
6	L'Oreal (Societe Anonyme)	FR	131
7	Glaxo Group Limited	GB	127
8	IGT, A Nevada Corporation	US	104
9	Reckitt Benckiser Corporate Services Limited	GB	111
10	Novomatic AG	AT	98
11	Lidl Stiftung & Co Kg	DE	90
12	The Procter & Gamble Company	US	78
13	Merck Sharp & Dohme Corp, A New Jersey Corporation	US	76
14	Unilever NV	NL	74
15	Olympus Corporation	JP	72
16	Astrazeneca AB	SE	71
17	Johnson & Johnson	US	69
18	King.Com Limited	MT	63
19	ADP Gauselmann GmbH	DE	59
19	Bayer Intellectual Property GmbH	DE	59
21	Siemens Aktiengesellschaft	DE	54
22	Actervis GmbH	CH	53
23	Arcelik Anonim Sirketi	TR	52
24	Bsh Hausgerate GmbH	DE	50
25	Gtech UK Interactive Limited	GB	49
26	Disney Enterprises Inc	US	45
27	LRC Products Limited	GB	45
28	GTech Canada ULC	CA	44
29	Dansk Supermarked A/S	DK	43
29	Etam (Societe Par Actions Simpliffee)	FR	43
29	General Motors LLC	US	43
29	Hewlett-Packard Development Company LP	US	43
33	Gibson Brands Inc	US	42
33	Google Inc	US	42
33	Monster Energy Company	US	42
36	British American Tobacco (Brands) Inc	US	41
36	Gilead Sciences Ireland UC	IE	41
38	Bristol-Myers Squibb Company	US	40
38	Henkel Ag & Co Kгаа	DE	40
40	Jaguar Land Rover Limited	GB	39
40	Japan Tobacco Inc	JP	39
42	Beiersdorf AG	DE	38
42	Cipla Limited	IN	38
42	Colgate-Palmolive Company	US	38
42	Koninklijke Philips NV	NL	38
42	World Wrestling Entertainment Inc	US	38
47	Eli Lilly And Company	US	37
47	Kaufland Česká Republika VOS	CZ	37
47	Tesco Stores Limited	GB	37
50	Apple Inc	US	35
50	Syngenta Participations AG	CH	35

**TABLE 17:** Top 25 brand owner filers of registered Community design applications for the 12 months to May 31 2015

Position	Representative name	Country of origin	Filings
1	Rieker Schuh AG	CH	1,112
2	Robert Bosch GmbH	DE	871
3	Samsung Electronics Co Ltd.	KR	765
4	Pierre Balmain, Societe Anonyme	FR	579
5	Eglo Leuchten GmbH	AT	521
6	Doors Bulgaria Eood	BG	387
7	Nike Innovate CV	US	370
8	Apple Inc	US	347
9	Bsh Hausgerate GmbH	DE	337
9	Bulthaup GmbH & Co Kg	DE	337
11	Microsoft Corporation	US	332
12	Decathlon	FR	308
13	Marant	FR	294
13	Prada SA	LU	294
15	Stroili Oro SPA	IT	280
16	Gabor Shoes Aktiengesellschaft	DE	271
17	Armstrong World Industries Inc	US	267
18	LG Electronics Inc	KR	257
19	Imperial SPA	IT	256
20	Brunello Cucinelli SPA	IT	251
21	Grohe AG	DE	244
22	Silikomart SRL	IT	225
23	Jaguar Land Rover Limited	GB	224
24	Google Inc	US	206
25	Robinsons Soft Drinks Limited	GB	184

OHIM may also be tasked with new responsibilities, as hinted in the Strategic Plan 2020: Guiding Principles and Outline published earlier this year. This noted that over the next five years, “the office will also prepare for possible integration of new IP rights”. The prospect of additional responsibilities already has officials contemplating another extension to OHIM’s Alicante HQ.

When the idea of entrusting OHIM with the observatory was first mooted, the message from user associations was that additional responsibilities are fine as long as OHIM’s central responsibility – oversight of the register – is not neglected. Today, with the benefit of hindsight, this is less of a concern: “This is a very big reform and one thing I find disappointing is that nowhere is it stated that the first priority of OHIM is to look after the core businesses. MARQUES has asked for this many times. On the flipside, as the core business does fund its other activities, I am sure it will be well looked after,” concluded Graulund. “OHIM is well run and we don’t see the same staff issues as we see at other institutions, and that is a big achievement of the management. So I’m sure that they will handle any new responsibilities they are given using the same positive approach.” **WTR**