



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

The President

**DECISION No EX-96-1 OF THE PRESIDENT OF THE OFFICE  
of 11 January 1996**

**concerning the conditions for opening current accounts at the Office**

**(as amended by Decision No EX-96-7 of 30 July 1996,**

**Decision No EX-03-1 of 20 January 2003 and Decision No EX-06-1 of 12 January 2006)**

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

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (hereinafter referred to as 'the Regulation'), establishing the Office for Harmonization in the Internal Market (Trade Marks and Designs), and in particular Article 119 (2) (a) thereof,

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), and in particular Article 5 (2) and Article 8 (2) thereof,

Having regard to Commission Regulation (EC) No 2246/2002 of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs, hereinafter referred to as « Commission Regulation No 2246/2002 », in particular Article 5 (2) and Article 7 (2) thereof,

Whereas it is necessary to create a system of current accounts to facilitate the payment of fees and charges to the Office,

HAS ADOPTED THE FOLLOWING DECISION:

**Article 1**

Payments of fees and charges to the Office may be made through current accounts opened at the Office under the terms and conditions of this Decision.

**Article 2**

1. In accordance with the present Decision, the following may be holders of current accounts:

(a) natural or legal persons who, in accordance with Article 5 of the Regulation, may be proprietors of Community trade marks,

(b) persons who, in accordance with Article 89 of the Regulation, may represent third parties before the Office,

(c) associations of representatives.

2. The persons and associations specified in paragraph 1 may not hold more than one current account.

**Article 3**

1. The application for opening a current account must be made in writing and must be sent to the following address:

Office for Harmonization in the Internal Market (Trade Marks and Designs)  
Financial Department  
Avenida Europa, 4  
E – 03080 Alicante  
Fax : 00 – 34 – 96 513 9113

2. (deleted)

3. The application for the opening of a current account must indicate in particular the name of the applicant, his profession or activity, his address and telephone and fax numbers.

4. This application must be accompanied by a declaration signed by the applicant stating his acceptance of all the terms and conditions laid down in the present Decision and all posterior modifications hereto, and authorizing the President of the Office or his representative to debit from the current account, by standing order, all the fees and charges due to the Office.

5. The standing order to debit all the fees and charges due is valid for the payment of all fees and charges which become due to the Office in respect of all applications, requests and procedural acts accomplished before the Office

(a) by the holder of the current account, or

(b) by the representative of the holder of the current account, provided he is duly appointed and authorized, save where Article 6 (2) applies.

6. The Office shall provide the interested parties with application forms for the opening of a current account.

7. The holder of the current account must deposit at the Office an initial provision of not less than 3000 EURO.

8. After receipt of the above-mentioned payment, the Office shall communicate the opening of the account to the interested party and inform him of the account number.

9. The current account shall become operational only when this initial deposit has been made.

#### **Article 4**

1. The current account shall be held in EURO. All provisions must be made in EURO.

2. All provisions must be made by bank transfer.

3. It falls to the account holder to ensure in due time that there are always sufficient provisions in the account.

4. (deleted)

5. All bank charges incurred in any deposit operation for the current accounts shall be borne by the respective holders.

#### **Article 5**

Where a party to a proceedings before the Office or his representative requests that a current account of which he or she is not the holder and for which he or she is not entitled to dispose of pursuant to Article 3 (5) (b) be debited with a particular fee, such request shall be disregarded by the Office, except where he or she furnishes written evidence to the Office, before the date on which payment of the fee is deemed to have been made in accordance with Article 7, that the holder of the current account consents to the debit of that fee.

#### **Article 6**

1. From the day on which the account is opened, the Office may debit, according to the development of the procedures concerned and insofar as there are sufficient funds in the

account, all fees and charges due within the limits of the aforementioned procedures, and each time a payment date will be accorded, always respecting the time limits laid down in the conditions of Article 7 of the present Decision.

2. However, the Office shall not debit the current account for a particular fee or charge if a specific indication is received in writing from the holder stating that the account may not be used for the payment of such a fee or charge.

3. The amount debited shall be the amount in EURO of the fee or charge in question according to the tariffs in force when the payment is deemed to have been made.

#### **Article 7**

With the carrying out of the debit of the current account the payment of the fee or charge shall be deemed to have been made:

(a) for the basic fee for the application of a Community trade mark: on the last day of the time limit provided for payment; if the applicant expressly requests debiting at the time of receipt of the application, on the day of receipt of the application;

(b) for the class fee for each class of goods and services beyond the third class for the application of a Community trade mark: on the day on which the Office determines the number of classes for which a class fee must be paid, when and to the extent that there is agreement between the Office and the applicant;

(c) for the fees (including class fees) for the registration of a Community trade mark: on the last day of the time limit provided for payment; if the applicant expressly requests debiting at an earlier point in time, on the day when the corresponding communication is received;

(d) for the fees for the renewal of a Community trade mark (including class fees) or the renewal of a registered Community design: on the day on which the request for renewal is made;

(e) for the registration fee, additional registration fee, publication fee and additional publication fee in respect of an application for a registered Community design, if no deferment of publication is requested: on the day on which the application for a registered Community design was filed;

(f) for the registration fee, additional registration fee, deferment fee and additional deferment fee in respect of an application for a registered Community design, if deferment of publication is requested: on the day on which the application for a registered Community design was filed;

(g) for the publication fee and additional publication fee in case of deferment: on the day which is three months before the day on which the period for deferment expires, or on the day on which the holder requests the earlier publication pursuant to Article 15 (1) of Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs, whichever is earlier;

(h) for all other fees and for all charges: on the day of receipt of the application, declaration, appeal, opposition or request for which the fee is due.

#### **Article 8**

1. If, at the point in time on which the Office proceeds to debiting the current account, the account lacks sufficient funds to cover the payment of the full amount of the fee(s) or charge(s) to be debited, the holder of the current account shall be notified.

2. If the current account is provided with sufficient funds within a month after receipt of the notification referred to in the preceding paragraph, thus allowing payment of the fees

concerned and of the administrative charges provided for in paragraph 3 to be made, the Office shall automatically debit the corresponding amount from the account, and the payment shall be considered to have been made on the day on which it was initially due.

3. The administrative charges referred to in paragraph 2 shall come to 20 % of the total of the late fee, and shall in no case exceed the maximum of EURO 500 nor the minimum of EURO 100.

4. The administrative charge referred to in paragraph 2 shall not be payable if the holder of the current account provides evidence to the Office that the payment to provide the current account with sufficient funds was initiated, in the manner provided for in Article 8 (3) (a) (i), (ii) or (iii) of Commission Regulation No 2869/95 or Article 7 (3) (a) (i), (ii) or (iii) of Commission Regulation No 2246/2002, before the point in time on which the Office proceeded to debit the current account.

#### **Article 9**

1. The holder of the current account may request at the Office to be given access to his statements of account through the Internet. In this case the Office shall provide the holder with a password for restricted access to the account statement. Otherwise the Office shall send on a regular basis, generally once per week, a written statement of accounts specifying the operations carried out in the period concerned.

2. Any irregularity or mistake in the operations carried out shall be notified to the Office by the holder of the account within two weeks, to be counted from the date of receipt of the written statement of accounts or, where access to the account statement through the Internet has been granted, from the date on which the operation was carried out. Any irregular or wrongful operation shall be reversed by the Office, with effect of the date on which the operation was carried out.

#### **Article 10**

If the Office considers that an error has been made in the debiting of the standing order, it shall make a reverse of accounts backdated to the day on which the payment was made.

#### **Article 11**

1. The holder of a current account may close the said account by written notification to the Office. The standing order will cease to have an effect as from the date of receipt of the aforementioned notification.

2. The current account shall be deemed to be closed if the holder cancels or suspends the standing order. The Office shall settle the account.

#### **Article 12**

The Office reserves the right to close the current account by written notification to the holder, in particular where the use made of the current account was not in accordance with the terms and conditions laid down in this Decision. The closing of the account shall come into effect three months after the day on which this notification is sent. The balance of the current account shall be refunded to the holder.

#### **Article 13**

The present decision shall be published in the Official Journal of the Office.

#### **Article 14**

The present Decision shall enter into force on this day.

Done at Alicante, 11 January 1996

Jean-Claude Combaldieu

President