

*(To be filled out in the EDPS' office)*

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 16/11/2012**

**CASE NUMBER: 2012-0999**

**INSTITUTION: OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

Juan Ramón Rubio  
Director, Operations Department  
Avenida de Europa, 4  
E - 03008 Alicante • Spain

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Operations Department

3/ NAME OF THE PROCESSING

Quality Management System, Ex Post Quality Checks (EPQC).

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Checking quality of decisions and tasks made by the examiners.

The aims of this activity is, on one side, to monitor the global quality of the outputs of the Office in relation to the Office's service standards using both objective and suitable for interpretation criteria, and, on the other side, to use the objective criteria's as one of the elements taken into consideration for the appraisal report of the Data Subject concerned, as well as the respective management responsible.

Such quality management system must be carried out in order to (i) control and make public the quality of trademark and design first instance decisions produced and tasks performed by the Office; (ii) obtain feedback information about the reasons of errors, their frequency, their pattern, etc. in order to design quality improvement tools (iii) identify best practices and (iv) evaluate the performance quality of the concerned staff taking into account all the other relevant factors.

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> Please attach all necessary backup documents

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Examiners of the Office dealing with the decisions and tasks which are subject to the EPQC.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Personal Data pointing to quality of individual's work, namely, the identification of the file concerned; the type of decision or task analysed; the date when the extraction point has been reached; the date of the extraction; the organizational service where the decision was taken or the tasks performed; the outcome of the evaluation of the decision (correct/mistake); if mistaken, the type of mistake (objective/subjective); a description of the mistake or of the best practice as the case may be, etc

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Data Subjects – Staff of the Operations Department - will be informed about the way quality is going to be assessed, how the data is going to be used, how they may exercise their rights of access and rectification, where it is going to be stored, etc. This information will be communicated by Heads of Services as well as by Directors in the form of an official communication and by a formal Decision adopted to that effect.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS  
(Rights of access, to rectify, to block, to erase, to object)

To access

Access to the individual data in the EPQC database is granted upon request within three months to the Data Subject concerned.

The summaries of the data by individuals are made available to the Data Subject concerned at the end of each appraisal exercise.

The e-mails indicating individual errors are sent to the Data Subject concerned.

The periodical Quality Reports described in article 7 are available upon publication.

To rectify

Data Subjects shall be entitled to rectification of incorrect data recorded in the EPQC database. A request of rectification shall be submitted in writing to the EPQCG and their respective line manager.

The rectification where justified shall be made in due cause not later than one month upon request and before being taken into account for the concerned appraisal.

To block

In the case of identification of inaccurate personal data, the examiner has the right, in accordance with article 15 of the Regulation (EC) No 45/2001, to block their data.

To erase

The Data Subject shall be entitled to the erasure of personal data referring to her/him which has been collected or processed in a manner incompatible with the legitimate purposes pursued by the Director of the Department concerned and the manner in which that data was obtained by submitting a written request to the EPQCG.

To object

In accordance with Article 18, on compelling legitimate grounds relating to his/her particular situation.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

Data are processed manually and also by automated means.

The processing operations consist of checking quality of decisions and tasks produced by the examiners of the Operations Department in charge of the procedure occurring during the life of community trademarks or designs.

The EPQC shall be performed in particular on decisions taken in the course of the examination of absolute and relative grounds or cancellation, on the Nice Classification work, on tasks done in the course of the CTM examination, Opposition and cancellation proceedings, on Designs invalidity decisions, on Designs examination and proceeding, and any other area defined in the Annex of the decision.

Data from the production database will be extracted on a regular basis. The data will contain basic information about all the trade mark applications, opposition or designs files which were finalized in the given period, such the file number, CTM Name, date of action, etc.

A representative random sample will be selected from each extraction. This list and data will then be used by the quality checkers to access the file and evaluate the quality of the decision or task taken against objective criteria and against criteria suitable for interpretation.

The staff will be informed by the quality checker about the result of the quality check to confirm the quality of their work when it was correct or to prevent repetition of errors.

#### 10/ STORAGE MEDIA OF DATA

The data processed through the EPQC (EPQC Data) shall be stored in a database (EPQC Database) (Unified Quality Check Tool (UQCT) Database).

Users having access to the data:

The members of Ex Post Quality Check Groups (EPQCG), the Head of Legal Practice Service of ICLAD and the Deputy Director for Legal Affairs of ICLAD, the Director of the Department concerned with regard to Objective EPQC Data, one expert in statistics (sampling, etc) from the Quality Management Service (QMS), two experts (database administrators) from the Information Technologies (IT) area **of the** Infrastructure Department (ID), the UQCT project Manager, one of the Department Quality Officers/Data Miners

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Article 5(a) of Regulation 45/2001 ("processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof [...])

Legal instrument:

- Administrative Decision to be formally adopted (*See draft Decision enclosed with the present Notification*)
- Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, in particular Article 131 referred to the examiners.
- Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Design, in particular Articles 45 to 49 (Title V – Registration Procedure)

#### 12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Each staff member concerned, their Head of Service and their Head of Sector.

The members of the EPQCG, the Head of the Service in charge of the EPQC and his hierarchical superior.  
(*See more in detail in Article 11 of the draft Decision enclosed with the present notification*)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The EPQC data shall be kept for a period of no longer than 2 years after the end of the appraisal period. After this period, all individual data in electronic form shall be deleted and hard copies destroyed including any copies that may have been archived.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS  
(Please, specify the time limits for every category, if applicable)

See point 8.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

*If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.*

N/A

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (Please describe):

1 Article 27.2.(b)

*Processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct.*

17/ COMMENTS

Annexes provided enclosed:

Annex 1: draft Administrative Decision,

*Concerning the Ex Post Quality Checks carried out with respect to trademarks and designs first instance decisions in the Operations Department at the OHIM*

PLACE AND DATE: ALICANTE, 15 NOVEMBER 2012

DATA PROTECTION OFFICER: GREGOR SCHNEIDER

INSTITUTION OR BODY: OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET