

EUROPEAN COMMUNITY TRADEMARK

The European Commission has announced the intention to enlarge European Union membership by 2004, through the admission of the following new member states:

Cyprus	Czech Republic
Estonia	Hungary
Latvia	Lithuania
Malta	Poland
Slovakia	Slovenia

The enlargement of the European Union will have an immediate impact on the Community Trademark (CTM) system, as

- all CTM registrations in force at the date of enlargement will automatically expand to become effective in all the new member states, subject only to any prior conflicting rights in any of those states
- all CTM applications pending at the date of enlargement will automatically be extended to cover the new member states
- all CTM registrations obtained on or after the date of enlargement will be effective in and throughout the whole of the enlarged Union

The CTM system is unitary in character, which means that all CTM registrations must have full force and effect throughout the European Union. In some cases, the expanded CTM registration may sit alongside a conflicting national right in a new member state for an identical or similar mark, for the same and/or similar goods and/or services. Where appropriate, the respective rights will be effective for the specific goods or services of interest to each of the parties but, where a workable differentiation is not readily available, there may be a need for the parties to negotiate a basis for continued co-existence.

Recommendations

Trademark proprietors for whom the prospective new member states are of current or potential importance, and who do not already have CTM registrations, should consider obtaining CTM registration of their trademark(s), **by mid-2003**, ie well before the enlargement of the EU, so as to minimise the risk of problems arising. The geographical scope of the enlarged CTM registration will offer even more cost-effective statutory protection.

The fact that CTM registrations will continue to be validated by and enforceable throughout the European Union, as the result of use in only one member state, means that the CTM system will provide very extensive international protection for trademarks. The CTM registration procedure should therefore be given serious consideration by all trademark proprietors, especially those with export businesses and, of course, those with competitors both within and outside the EU.

We recommend that trademark proprietors (whether or not they have existing CTM registrations) who are aware of, or concerned that there could be, conflicting third-party rights in prospective new member states, seek our advice on their present position and on the action required in order to secure protection.

If you have any questions, would like more information, or would like more in-depth analysis, please contact Ian Buchan, David Minto, Sanjay Kapur or John Peacock, at our Nottingham office.

The information in this Newsletter was correct at the date of release. More up to date information is available by contacting Eric Potter Clarkson. All comments contained here are of a general nature and full professional advice should be sought on any specific problem.

Please note that all our Newsletters can be found on our website at www.eric-potter.com.

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Park View House + 58 The Ropewalk + Nottingham + NG1 5DD + UK

Tel: +44 (0)115 955 2211

Fax: +44 (0)115 955 2201

E-mail: epc@eric-potter.com

Website: www.eric-potter.com