

OHIM reveals plan to extend “fast-track philosophy” to CTMs

In its 2013 Annual Report, the Office for Harmonisation in the Internal Market (OHIM) has revealed plans to extend the ‘fast track’ option – currently applied to Community designs – to Community trademarks (CTMs).

OHIM’s report was officially published on May 20, following its presentation to OHIM’s Administrative Board and Budget Committee. Key statistics include the following:

- During 2013 OHIM received over 114,000 CTM

applications, up 6% compared to 2012.

- Of those CTM applications, 96% were submitted electronically.
- OHIM received over 96,000 Community design applications, representing a rise of 5%.
- The percentage of Boards of Appeal decisions confirmed by the General Court increased to 86.5%.

With regard to timeliness,

the standards for registration of straightforward, non-opposed CTMs were met in more than 99% of cases in the third and fourth quarters. However, opposition and cancellation decisions did not meet the target level (10 weeks in 99% of cases). The report notes that since 2010, the average time to CTM publication is down from 59 days to 40 days, with the average time to register a CTM falling from 178 days to 141 days.

However, these average times could change significantly as, under the new Service Charter for 2014, OHIM “plans to extend the ‘fast-track’ philosophy to [CTMs] so that applications meeting certain conditions will be examined and published in an expedited manner”. The new service charter measures performance against timeliness and sets timeframes (in days, weeks or months) within which certain procedures should be carried out.

For statistical highlights from OHIM’s 2013 Annual Report, see page 7.

Comment

“Given that the processing of applications for CTMs has always been reasonably fast, it is difficult to see what motivation businesses could have for paying extra to have their marks registered more quickly. Indeed, the UK Intellectual Property Office dropped its fast-track procedure for UK applications, which suggests a lack of interest by applicants. Having said that, we have experienced a slowing of OHIM’s current processes over the last couple of months, although I do not see that this is connected with the planned introduction of a more expensive fast-track procedure.”

Nick Bolter, partner in charge, London office of Edwards Wildman Palmer UK LLP



Comment

“There are likely to be some issues with a fast-track CTM registration system – in particular, its relationship with a standard CTM registration and, for example, whether this would lead to a two-tier system with two registers. However, the registered Community design system, which relies on post-registration assessment of validity, seems to work well. What I would not wish to

see is a fast-track CTM registration system eventually replacing the existing system. Ultimately, whether the system succeeds or even gets off the ground will depend to a large degree on whether there is a perceived need for it other than at OHIM.”

Chris McLeod, director of trademarks at Squire Patton Boggs (UK) LLP

The CTM applications surge

The Office for Harmonisation in the Internal Market's (OHIM) annual report for 2013 has revealed a rise in the number of Community trademark applications. Some of the key facts and figures are represented below.

Key facts:

- During 2013, OHIM received more than 114,000 CTM applications, up 6% compared to 2012 (meaning that since 2010, there has been an increase of close to 20%).
- Cancellation requests rose by 10% when compared to the previous year – however, when measured against the total number of CTMs, cancellations have remained broadly constant.
- The proportion of Boards of Appeal decisions confirmed by the General Court

increased in 2013 to 86.5%.

- OHIM's Consistency Index (which measures consistency via a scorecard looking at such factors as the proportion of first instance and Boards of Appeal decisions which are appealed, and the subsequent treatment of the decisions) reached just under 79% in the final quarter (compared to 74% at the end of 2012).
- During 2013 the target service levels of 98% for phone call attendance at the first line (switchboard) and second line, and email response within two days, were met during the first three quarters (the fourth quarter results were affected by "a huge number of inquiries" generated following the introduction of the new website).

Figure 2. CTM opposition levels

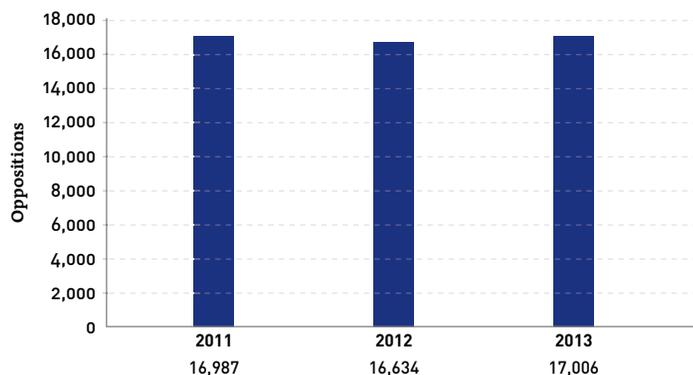


Figure 3. Cancellation requests

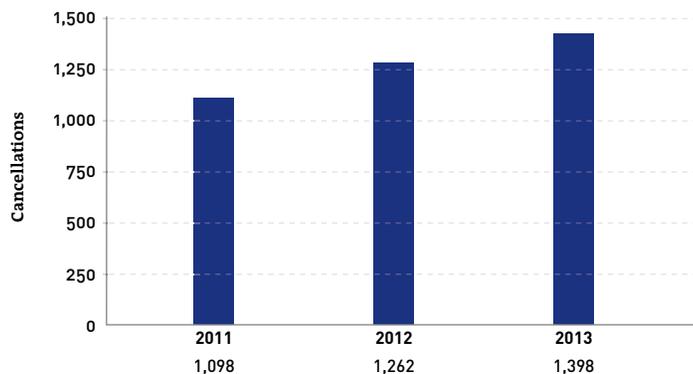
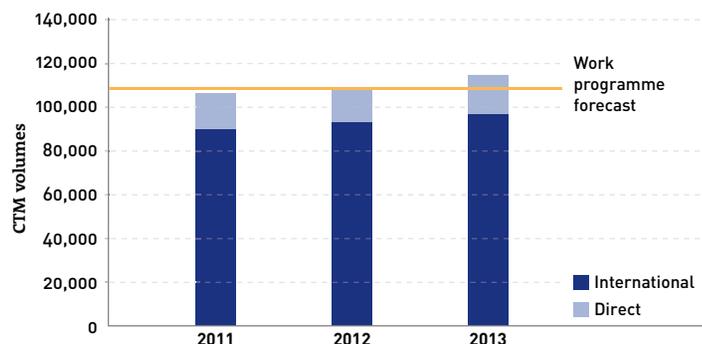
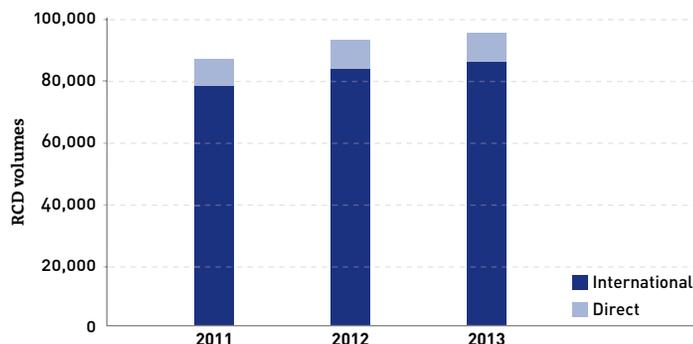


Figure 1. CTM volumes



Direct	89,329	91,933	96,221
International	16,585	16,029	1,820
Total	105,914	107,962	114,427
CTM e-filing %	95%	95.5%	95.5%

Figure 4. RCD volumes



Direct	78,978	83,129	86,734
International	8,841	9,163	9,854
Total	87,639	92,292	96,588
RCD e-filing %	10%	10%	10%

During the year, design e-filing continued to grow in popularity, reaching 80% of the total.

RCD e-filing %	73%	78%	80%
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