

# Flash

# ECTA

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European Communities Trade Mark Association

No. 19-05, August 1, 2005

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## 1. LAW

### DOMAIN NAMES

#### New Regulation for domain names under '.es'

A Regulation approving a new National Plan on Internet Domain Names under the Spanish country code '.es' has been passed. The new Regulation ITC/1542/2005 of 19 May, which was published in the Official Spanish Gazette of 31 May 2005, reduces the official fees and makes the attribution of domain names '.es' more flexible and simple.

The adoption of domain names under '.es' is now based on a first-in-time priority: *first come, first served* principle. However, a two-phase Sunrise Period has been foreseen:

- The first phase, which entered into force on 7 June 2005 and concluded on 7 July 2005, was reserved to Public Bodies, International Organisations where Spain is a member and entities of International Conventions.
- The second phase will enter into force on 6 September 2005 and is opened to trade mark and trade name holders, designations of origin, company names, foundation and association names. Its duration will be of 45 days.

Another important novelty is that the new Plan extends entitlement to obtain the registration of domain names to any natural or legal persons and entities without legal personality having "*interests or links with Spain*". This means that domain name registrations under the country code '.es' will be allowed to applicants who have an address, their domicile or a business in Spain, and also to those who, despite not having an address or a business in Spain, intend to direct their goods or services to the Spanish market. This flexibility is based on the positive experience of the previous Plan on third-level domain names 'com.es', 'nom.es' and 'org.es'.

In order to resolve the conflicts that may arise in connection with the registration of domain names '.es', the new Regulation establishes an out-of-court dispute resolution system. Its main aim is to avoid the registration of speculative or abusive names. The alternative dispute resolution system should be finalised and enter into force before the end of the second pre-registration phase.

The new plan allows the transfer of domain names in an ordered and controlled manner. It also guarantees that already registered domain names under '.es' remain valid.

The Assigning Authority Red.es may declare precautionary suspensions or cancellations, following a Court order, of the domain names that include words contrary to law, public order or that may infringe the right of a personal name or an Intellectual Property right, or that may constitute a honour offence or lead to the commission of a crime as specified in the Criminal Code. The domain names cancelled pursuant to this chapter may be included in a list of forbidden domain names.

Reported by Mireia Curell, First Vice-President, ES

.eu

[Letter sent to Victor Saez](#) - European Commission

Preliminary comments on the suggestions on the administration of the Sunrise Period envisaged in Commission Regulation (EC) No 874/2004 of April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration.

## 2. OFFICE PRACTICE

### OHIM

1. The OHIM has made available the [Performance Standards and Indicators - Time Quality Standards](#) - Outturn 2<sup>nd</sup> Quarter 2005.
2. **Appointment of Vice-President of the Office and Chairpersons of the Boards of Appeal**

As advised in ECTA Flash 16-05 dated July 1, 2005, Mr Peter Lawrence has been appointed as Vice-President of the Office. He will take up his duties on 1 November 2005 on the retirement of the current Vice-President, Mr Alexander von Mühlendahl.

Please be further informed that, on July 12, 2005, the Council, also decided to appoint Mr. Detlef Schennen, Mr. Théophilos Margellos and Mr. Tomás de las Heras as Chairpersons of the Boards of Appeal of the Office.

Council's Decision can be found at: [http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/c\\_178/c\\_17820050720en00030003.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/c_178/c_17820050720en00030003.pdf)

3. **Alicante news**

The OHIM has released issue # 07/8-2005 of the [Alicante News](#):

The items include:

- The adoption of the Regulations amending the Implementing Regulation and the Fees Regulation for Community Trade Marks which enters into force on 25 July 2005.
- An article titled: Design protection of brand symbols - a useful alternative to trade mark protection?
- The latest trade mark and design news from Luxembourg, as well as advises of new decisions from the Boards of Appeal, including:

Decision: [R 0325/2004-2](#) – dealing with Article 7(1)(h) CTMR and 6ter Paris Convention and the use of the European emblem.



*“It is sufficient that there might be a suggestion to the relevant trade circles that it is an imitation of the European emblem from a heraldic point of view.*

*That is so in the present case. The fact that the circle of stars in the trade mark applied for is angled slightly on the horizontal plane does not mean that there is no imitation from a heraldic point of view. No authorisation for registration as a trade mark can be derived from the Commission letter of March 2004. Under Article 6ter(1)(a) of the Paris Convention, use of the sign can be authorised by the competent authorities. The Commission did so in the present case. However, no authorisation for registration can be inferred from the fact that the Commission authorised the use of the circle of stars.”*

#### 4. ECTA NEWS

1. The official Minutes of the 11<sup>th</sup> OAMI users group held in Alicante on 29 November 2005 are now available on ECTA’s website under the [“OHIM-Link / papers”](#) section.  
  
The 12<sup>th</sup> OAMI users group meeting will take place on 24 October 2005.
2. ECTA is meeting OHIM officials on September 19, 2005.

#### 5. Communications

1. The following letter has been addressed to all ECTA Members in the United Kingdom:  
  
*“Dear Fellow Member of ECTA,*  
  
*On behalf of the officers and all members of our Association in your fellow member states and beyond, I wish to express our heartfelt sympathy at the terrible events that took place in London on July 7, 2005.*  
  
*We sincerely regret that terrorism has cowardly, once again, attacked innocent people.*  
  
*Our thoughts and support are with all those affected by this incomprehensible tragedy.*  
  
*With our deepest condolences,*  
  
*Yours sincerely,”*
2. Following their meetings in London on June 8, 2005, most of the Committee Reports are available on ECTA’s website in the “report” segment of each committee section.