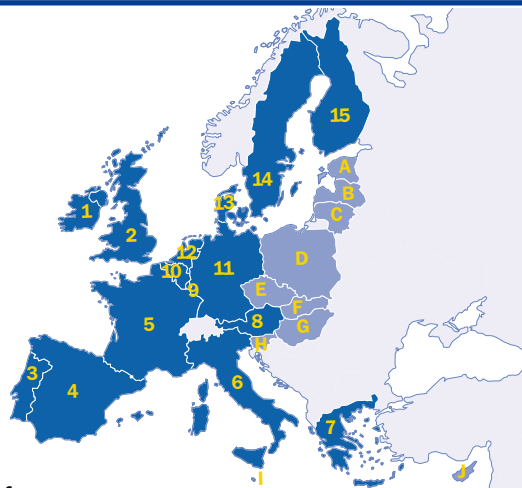


# page white and farrer european IP

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Page White & Farrer is a leading firm of Patent and Trade Mark Attorneys. Page White & Farrer was founded in London in 1876 and now has offices in the United Kingdom and Finland. Our main office is in Doughty Street in the Bloomsbury area of central London, and our Helsinki office is in Runeberginkatu, near the Finnish Patent Office.

## 1 May 2004 - Ten Countries Join the European Union



On 1 May 2004 ten countries, including much of Central and Eastern Europe, will join the European Union. **These are Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia.**

This is the first enlargement of the European Union since it was founded in 1992 with twelve member countries (including Belgium, the Netherlands and Luxembourg as a single entity Benelux). Despite the enlargement, the EU flag will still show 12 stars and will not be altered.

After 1 May 2004 most European countries will be members of the European Union, but there are some important exceptions, including Switzerland and Norway. Both these countries remain outside the EU, and require separate national protection for intellectual property.

The Community Trade Mark and the Community Registered Design will both automatically extend to cover the ten new member countries. Further details of these rights, including transitional provisions, are contained in this newsletter.

### Current Members

- 1 Republic of Ireland
- 2 United Kingdom
- 3 Portugal
- 4 Spain
- 5 France
- 6 Italy
- 7 Greece
- 8 Austria
- 9 Luxembourg
- 10 Belgium
- 11 Germany
- 12 Netherlands
- 13 Denmark
- 14 Sweden
- 15 Finland

### Joining Members

- A Estonia
- B Latvia
- C Lithuania
- D Poland
- E Czech Republic
- F Slovakia
- G Hungary
- H Slovenia
- I Malta
- J Cyprus

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The Community Design Registration

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The Community Patent



**“As experts in European Intellectual Property, we believe the expansion of the EU provides new opportunities for our clients.”**

**Peter Jenkins** Director

## The Community Trade Mark (CTM)



1.



2.

**PROZAC**

3.



4.

1. Registered Trade Mark of Energizer Limited
2. Registered Trade Mark of easyGroup IP Licensing Limited
3. Registered Trade Mark of Eli Lilly and Company
4. Registered Trade Mark of Eli Lilly and Company

### What is it?

A single trade mark right which covers all member states of the European Union.

### What can be registered?

A Community Trade Mark may consist of any sign capable of being represented graphically, particularly words, names, designs, letters, the shape of goods, or their packaging. The Registry will examine the application to ensure that it is not devoid of distinctive character, nor exclusively descriptive. Oppositions can be filed by others based on earlier rights and Observations based on non-distinctiveness reasons.

### Duration, use and renewal

Renewal fees are payable at ten year intervals and there is no requirement to demonstrate use on renewal. A CTM registration is vulnerable to attack on non-use grounds after it has been registered for five years, but use in any part of the EU should suffice to defend the registration.

### Enlargement

On 1 May 2004, ten countries will join the EU. CTM applications and registrations will automatically extend to those countries without any request, application, or additional fee, although the right to use the mark in the ten countries may be restricted there due to earlier rights.

### Current Issues

Only CTM applications with a priority date or application date after 1 November 2003 will be open to opposition based upon earlier national rights in the ten joining countries. As a result, at this time, it is advisable to consider filing CTM applications based on priority applications (eg in the US) filed before 1 November 2003, to avoid oppositions based on rights in the ten countries.

A CTM cannot yet be designated through the Madrid Protocol system, but the position will change in the future.

## The Community Design Registration



1.



2.



3.



4.

1. "Wine glasses" Registered Community Design of Joseph B. Bastianich
2. "Printed matter, including advertising materials" Registered Community Design of Page White & Farrer
3. "Door closer chains" Registered Community Design of Reilor Holdings Limited
4. "Snack foods" Registered Community Design of Recot, Inc.

### What is it?

A single design right which covers all member states of the European Union.

### What can be registered?

There is a broad definition as to what qualifies as a design. Indeed, there is some potential overlap with Trade Mark protection, but a Design Registration confers protection for a design in its application to any product. Possibilities for design protection include:

- Appearance and shape of new products, and new containers
- New get up, packaging and labelling
- Computer icons, logos

### Duration, use and renewal

Renewal fees are payable at five year intervals, up to a maximum protection term of 25 years from the application date. There is no requirement to demonstrate use on renewal, and there are no non-use revocation provisions.

### Grace period

There is a 12-month grace period. Thus, a design can still be validly filed even if it has been disclosed in the previous 12 months.

### Advantages

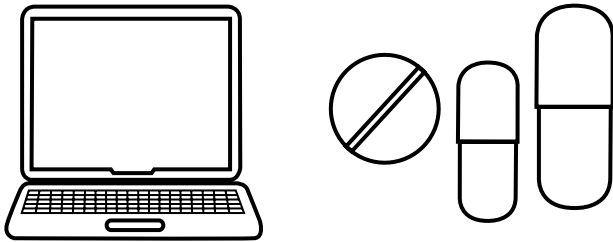
- The new system is quick and simple (typically only a few months from filing to grant)
- The new system is cheap (1,000 euros)

### Enlargement

On 1 May 2004, ten countries will join the EU. Community Design applications and registrations will automatically extend to those countries without any request, application, or additional fee, although the right to use the design in the ten countries may be restricted there due to earlier rights.

## The European Patent Convention (EPC)

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Protection can be available for computer software inventions and inventive products and apparatus for use in methods of treatment of the human or animal body.

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### The procedure is efficient

Applications are prosecuted before a single patent office, namely the European Patent Office.

### The procedure is cost effective

The application is valid in as many contracting states as the applicant wishes to designate, including some non-EU states.

### Contracting states are:

Austria, Belgium, Switzerland, Cyprus, Germany, Denmark, Spain, Finland, France, United Kingdom, Greece, Republic of Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Poland, Portugal, Sweden, Turkey, Republic of Bulgaria, Czech Republic, Republic of Estonia, Hungary, Republic of Romania, Slovenia and Slovak Republic.

### The procedure is simple

**Stage 1:** Filing, formalities examination, search and publication.

**Stage 2:** Substantive examination as to novelty, inventive step and industrial applicability.

**Stage 3:** Centralised post-grant opposition. This is a powerful tool for attacking a patent across all designated states.

### A European Patent is strong

After grant, the patent is treated as a separate national patent in each of the states in which it is ratified. After opposition, these must be attacked separately in order to invalidate.

The European Patent affords the same rights in the designated contracting states as a patent granted in any of these states.

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## The Community Patent (Not yet in force)

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### Europäische Union

Unione europea Union européenne

Den Europæiske Union

Euroopan unioni Europese Unie

Ευρωπαϊκή Ένωση

União Europeia Europeiska unionen

European Union

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### What is it?

A planned new European Community registration system for patents.

### Progress

Reaching unanimous agreement amongst all the European Union member states is causing delays in getting the system up and running. The main stumbling block relates to languages, particularly the period of time for filing claims translations.

However, the European Commission considers that the Community Patent system is a priority for creating favourable conditions for growth and enhancing competitiveness. We are optimistic that the Community Patent system will become a reality sooner rather than later.

### Costs are Reduced

Costs are expected to be significantly less than obtaining protection across the European Union via the EPC.

### Centralised Enforcement

Enforcing a Community Patent will be done through a new Community Patent Court.

### All or Nothing

A Community Patent will stand or fall across the entire European Union.

### A Further Choice

The system under the EPC, and also the systems for obtaining a national patent by filing a patent application at a national patent office, will continue to operate alongside the Community Patent system.

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## Profile of our Firm

**Page White & Farrer** specialises in all areas of Intellectual Property law, including patents, trade marks, registered designs, design right, Supplementary Protection Certificates, copyright, domain names, trade secrets and know how. We act for clients in many different fields and we have experience in virtually every country in the world which has Intellectual Property law.

We prepare, file and prosecute applications, undertake availability searching, write opinions and handle actions in relation to infringement, entitlement and validity. We also advise on use strategy, including dealing with assignments and licences, due diligence and portfolio evaluation, and we

attend to renewals of registered rights through our in-house renewals department. Thus we are involved with every kind, and every aspect, of Intellectual Property.

In the last century there were many changes to the law and practice of patents, trademarks, designs and copyright. The new century promises to accelerate the rate of change. Already we have seen the birth of the Community Registered Design, the enlargement of the European Union and the growth of the Madrid Protocol system for the international registration of trade marks. In order to assist our clients and colleagues, our regular newsletter will discuss these developments in law and in practice.

## London



Doughty Street

Page White and Farrer is located at 54 Doughty Street, which is a particularly noteworthy London street. In the 1830s, the novelist Charles Dickens lived just six houses away. At that time Doughty Street was a private road, sealed by manned gates at both ends.

Dickens's time in Doughty Street was an extremely busy and productive period of his career. He completed and published major works such as "Oliver Twist" and "Nicholas Nickleby" whilst living in that house with his wife Catherine and their first two children. However, as his family and wealth grew with his success, the family moved to a very spacious house in the neighbourhood of London's famed Regent's Park.

The house in Regent's Park has since been demolished, but the home at 48 Doughty Street was saved from a similar fate in 1923 and made into a museum by the Dickens Fellowship. The house has been renovated by the Fellowship and is now open to the public.

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## Helsinki



Helsinki Cathedral

Finland's capital city, Helsinki, was founded on 12 June 1550 by King Gustavus Vasa and became the capital in 1812. The famous centre of Helsinki was largely constructed in the 19th century, using the Empire style. As an illustration of the style, our photograph shows the Helsinki Cathedral, which is the masterpiece of architect C.L. Engel.

Since then, the city has become a showcase of contemporary architecture, as well as a home for cutting-edge design of all forms. Helsinki provides an environment which is unique in its combining of influences from east and west. As shown by its mobile technology revolution, Helsinki is a city looking to the future.

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