

THE BOARDS OF APPEAL

**DECISION 2022-15 OF 7 DECEMBER 2022
OF THE PRESIDUM OF THE BOARDS OF APPEAL ON
THE CALENDAR YEAR SCHEME FOR 2023**

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THE PRESIDUM OF THE BOARDS OF APPEAL,

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark¹ (hereinafter referred to as the ‘EUTMR’), and in particular under Article 165, Article 166, and Article 167, Article 169, Article 170 thereof,

Having regard to Commission Delegated Regulation (EU) 2018/625 of 5 March 2018 supplementing Regulation (EC) No 2017/1001 of the European Parliament and of the Council on the European Union trade mark and repealing Delegated Regulation 2017/1430 of 18 May 2017 – having repealed Commission Regulations (EC) No 2868/95 and (EC) No 216/96² – (hereinafter referred to as the ‘EUTMDR’) and in particular Article 46(1)(a), Article 46(1)(e) Article 46(1)(g) thereof,

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs³ (hereinafter referred to as the ‘CDR’) and in particular Article 106 and Article 108 thereof,

¹ [OJ L 154, 16.6.2017, p. 1-99](#)

² [OJ L 104, 24.4.2018, p. 1-36](#)

³ [OJ L 3, 5.1.2002, p. 1-24 \(unofficial consolidation of 01/07/2013\)](#)

Having regard to Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs⁴ (hereinafter referred to as the 'CDIR'),

Having regard to Decision 2020-7 on the Organisation of the Boards (hereinafter referred to as the 'Decision on the Organisation of the Boards') adopted by the Presidium on 21 July 2020;

Whereas:

- (1) Pursuant to Article 166(4)(a) EUTMR, the Presidium is responsible for laying down the rules and organising the work of the Boards;
- (2) Pursuant to Article 26 of the Decision on the Organisation of the Boards, every calendar year the Presidium establishes the seniority list of the Members of the Boards of Appeal for the purposes of Article 43 EUTMDR and the seniority list of the Chairpersons of the Boards of Appeal for the purposes of Article 45(3) EUTMDR and Article 47(1) and (2) EUTMDR;
- (3) Pursuant to Article 1 of the Decision on the Organisation of the Boards, every calendar year the Presidium establishes a scheme for the distribution of cases applying objective criteria amongst the Boards of Appeal;
- (4) Pursuant Article 106 CDR in addition to the powers conferred upon it by EUTMR, the Boards of Appeal instituted by that Regulation shall be responsible for deciding on appeals from decisions of the examiners, the Invalidity Divisions and from the decisions of the Administration of Trade Marks and Designs and Legal Division as regards their decisions concerning Community Designs;
- (5) Pursuant Article 108 CDR the rules of procedure of the Boards of Appeal shall apply to appeals heard by those Boards established under the CDR;
- (6) Whereas it is therefore necessary to specify the adjustments and adaptations needed for design matters to the provisions concerning the organisation of the Boards of Appeal, including the composition on appeals in design cases of the Grand Board;
- (7) Whereas pursuant to Article 46(3) EUTMDR and to the Decision on the Organisation of the Boards, the decisions adopted by the Presidium in accordance with Article 43 EUTMDR (order of seniority of Chairpersons and Members and replacements of Members and Chairpersons), Article 45 EUTMDR (rotation list for Grand Board proceedings and the alternate of the Chairperson of the Grand Board), Article 46 EUTMDR (constitution of the Boards and allocation of appeal cases) and Article 47 (President of the Boards of Appeal prevented from acting or post vacant) shall be published in the Official Journal of the Office;

HAS ADOPTED THE FOLLOWING DECISION:

⁴ OJ L 341, 12.12.2002, p. 28

TITLE 1
CONSTITUTION OF THE BOARDS

ARTICLE 1
CONSTITUTION OF THE BOARDS OF APPEAL
DEALING WITH APPEALS UNDER THE EUTMR

The constitution of the Boards dealing with appeals under the EUTMR, on the basis of the order of seniority pursuant to Article 43 EUTMDR and Article 3 of the Decision on the Organisation of the Boards, shall be as follows:

- (a) First Board of Appeal: Gordon Humphreys (Chairperson), Maria Bra, Elisabeth Fink, Christoph Bartos and Alejandra González Fernández;
- (b) Second Board of Appeal: Sven Stürmann (Chairperson), Harri Salmi, Cinzia Negro, Stefan Martin and Kinga Guzdek;
- (c) Fourth Board of Appeal: Nina Korjus (Chairperson), Liesbeth Marijnissen, Jan-Kees Govers, Andrej Kralik and Jaime Jiménez Llorente;
- (d) Fifth Board of Appeal: Virginia Melgar (Chairperson), André Pohlmann, Raf Clement Florent Ocquet, Sergio Rizzo and Philipp von Kapff.

ARTICLE 2
ALTERNATES OF THE CHAIRPERSONS OF THE BOARDS OF APPEAL
DEALING WITH APPEALS UNDER THE EUTMR

1. Pursuant to Article 43 EUTMDR and Article 26 of the Decision on the Organisation of the Boards, where the Chairperson of a Board of Appeal is prevented from acting, that Chairperson shall be replaced as follows:

- (a) Alternate of the Chairperson of the First Board of Appeal: Maria Bra;
- (b) Alternate of the Chairperson of the Second Board of Appeal: Harri Salmi;
- (c) Alternate of the Chairperson of the Fourth Board of Appeal: Liesbeth Marijnissen;
- (d) Alternate of the Chairperson of the Fifth Board of Appeal: André Pohlmann.

2. When the alternate mentioned in paragraph 1 is not available, the Chairperson shall be replaced by the most senior of the other Members of the Board of Appeal.

ARTICLE 3
CONSTITUTION OF THE BOARDS OF APPEAL
DEALING WITH APPEALS UNDER THE CDR

The constitution of the Third Board, dealing with appeals under the CDR pursuant to Article 7 of the present Decision, shall be as follows:

Gordon Humphreys (Chairperson), Sven Stürmann, Maria Bra, Harri Salmi, Elisabeth Fink, Christoph Bartos, Cinzia Negro, Sergio Rizzo and André Pohlmann.

ARTICLE 4
ALTERNATES OF THE CHAIRPERSON OF THE BOARD OF APPEAL
DEALING WITH APPEALS UNDER THE CDR

1. Where the Chairperson of the Third Board of Appeal is prevented from acting, that Chairperson shall be replaced by Sven Stürmann.
2. When the alternate mentioned in paragraph 1 is not available, the Chairperson shall be replaced by the most senior of the other Members of the Third Board.

ARTICLE 5
ORDER OF SENIORITY OF CHAIRPERSONS

Pursuant to Article 26 of the Decision on the Organisation of the Boards and in accordance with Article 47(1) and (2) EUTMDR, the order of seniority of the Chairpersons of the Boards of Appeal is the following:

- 1) Gordon Humphreys;
- 2) Sven Stürmann;
- 3) Virginia Melgar;
- 4) Nina Korjus.

TITLE 2
ALLOCATION OF APPEALS

ARTICLE 6
OBJECTIVE ALLOCATION CRITERIA CONCERNING APPEALS
UNDER THE EUTMR

1. Subject to the provisions of Article 18 of Presidium Decision 2020-7 on the Organisation of the Boards, appeals shall be assigned to the First, Second, Fourth and Fifth Boards of Appeal by rotation.
2. Appeals whose language of proceedings is German shall be not be allocated to the Fourth Board.

ARTICLE 7
ALLOCATION CONCERNING APPEALS UNDER THE CDR

1. Pursuant to Article 15 of the Decision on the Organisation of the Boards, appeals under the CDR shall be recorded by the Registry of the Boards of Appeal in the order in which they arrive in a specific list.
2. Appeals under the CDR shall be allocated to the Third Board of Appeal.

**TITLE 3
GRAND BOARD**

ARTICLE 8

LIST OF MEMBERS FOR APPEALS OR OPINIONS UNDER THE EUTMR

For the purposes of Article 8 of the Decision on the Organisation of the Boards, the list of Members of the Boards of Appeal in accordance with Article 167(2) EUTMR and Article 45(1) EUTMDR, when the case to be referred to the Grand Board concerns an appeal under the EUTMR or the request for a reasoned opinion concerns questions on a point of law under the EUTMR, is as follows:

Maria Bra
Harri Salmi
Elisabeth Fink
Stefan Martin
Liesbeth Marijnissen
Christoph Bartos
Philipp von Kapff
Jan-Kees Govers
Cinzia Negro
André Pohlmann
Raf Clement Florent Ocquet
Andrej Kralik
Alejandra González Fernández
Sergio Rizzo
Kinga Guzdek
Jaime Jiménez Llorente

ARTICLE 9

LIST OF MEMBERS FOR APPEALS OR OPINIONS UNDER THE CDR

For the purposes of Article 8 of the Decision on the Organisation of the Boards, the list of Members of the Boards of Appeal in accordance with Article 167(2) EUTMR and Article 45(1) EUTMDR, when the case to be referred to the Grand Board concerns an appeal under the CDR or the request for a reasoned opinion concerns questions on a point of law under the CDR, is as follows:

Maria Bra
Harri Salmi
Elisabeth Fink
Christoph Bartos

Cinzia Negro
André Pohlmann
Sergio Rizzo

ARTICLE 10
ALTERNATE OF THE CHAIRPERSON OF THE GRAND BOARD

Pursuant to Article 26 of the Decision on the Organisation of the Boards and in accordance with Article 45(3) EUTMDR, where the President of the Boards of Appeal is prevented from acting as the Chairperson of the Grand Board, the President of the Boards of Appeal shall be replaced in that function and, as the case may be, as Rapporteur to the Grand Board, by the most senior Chairperson of the Boards of Appeal following the order mentioned in Article 5 of the present Decision.

TITLE 4
FINAL PROVISIONS


ARTICLE 11
PUBLICATION

This Decision shall be published in the Official Journal of the Office.

ARTICLE 12
ENTRY INTO FORCE

1. This Decision shall enter into force on 1 January 2023.
2. In accordance with Article 166(4)(b) EUTMR, the President of the Boards of Appeal is entrusted with the implementation of the present Decision.

Done at Alicante, 7 December 2022


For the Presidium
The President of the Boards
João NEGRÃO