



Overview of the Community Trade Mark system - Link with Madrid Protocol

欧共同体商标制度概览

— 与《马德里议定书》的联系

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CTM Roving seminars
欧共同体商标巡回研讨会



Outline 大纲



What is OHIM

欧盟内部市场协调局是什么样的机构

What do we do

我们的工作是什么

Community trade marks 欧共体商标

Registered Community designs 注册式欧共体外观设计



Non-profit-making

European agency

非营利欧盟机构

Seated in Alicante-Spain

坐落于西班牙阿利坎特

Protecting TMs & designs

in whole EU

保护整个欧盟的商标和外观设计

Budgetary autonomy

预算自主



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

Alicante阿利坎特

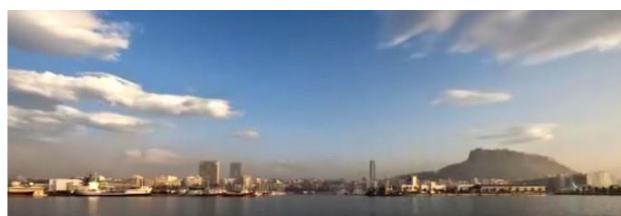
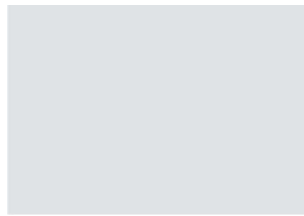


BEAUTIFUL, MEDITERRANEAN, UNIQUE
风光秀丽、地中海风情、独一无二



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

City of Business 商业城市



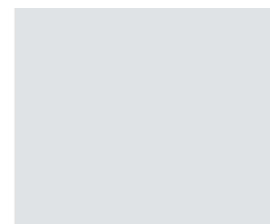
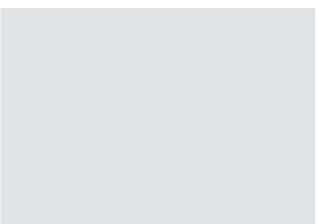
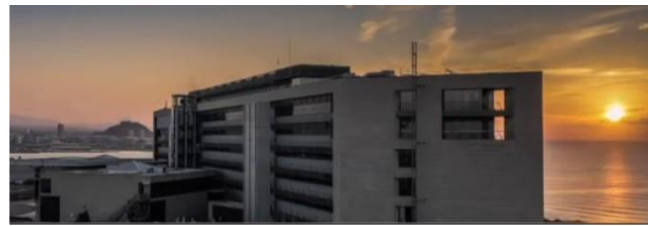
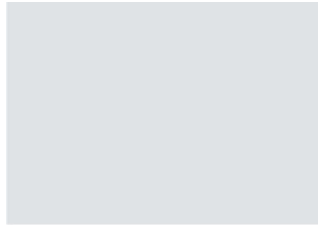


OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

City of OHIM 欧盟内部市场协调局所在城市

OHIM – Agency of the EU 115.000 CTMs and 97 000 RCDs/year The EU Observatory on Infringements of IP rights
Employees from 28 EU Members States / More than 1000 IP Professionals working ...

OHIM-每年处理115,000件欧共同体商标（CTM）和97,000件注册式欧共同体外观设计（RCD）/欧盟知识产权侵权观测站/员工来自28个欧盟成员国/100多位知识产权专业人士





Languages

语言

Spanish 西班牙语

German 德语

English 英语

French 法语

Italian 意大利语





Mission & Legal framework

任务和法律框架



MISSION 任务

- ...whose task is to grant trade mark & design titles of protection valid and enforceable throughout the whole EU territory;
其任务是负责授予商标和外观设计，这些商标和外观设计在整个欧盟境内有效并可强制执行；





MISSION 任务

- ...is a fee-funded organisation (shall not take any money out of the EU tax payers), whose fee receipts serve to cover the cost of its operations.

是一个由收费支撑的机构（不能使用欧盟纳税款），缴费者承担机构运营成本。





MISSION 任务

The Community Trade Mark (CTM) and the Registered Community Design (RCD) were created in order to offer simple, fast and cost effective trade mark and design protection for companies operating in the internal market of the **European Union.**

欧共体商标和注册式欧共体外观设计的设立宗旨是向在欧盟内部市场运营的公司提供简单、快速、高成本效益的商标和外观设计保护。





Trade Mark and Design regulations 商标和外观设计条例制度

Council Regulation (EC) No 40/94 on the Community trade mark (codified in Regulation 207/2009 of 26 February 2009)

■ (EC) 第40/94号 关于欧共同体商标的理事会条例（编入2009年2月26日 207/2009条例）

Commission Regulation (EC) No 2868 of 1995 implementing the CTM Regulation

（EC）1995年第2868号关于实施欧共同体商标条例的委员会条例

■ Commission Regulation (EC) 2869/95 of 1995 on the fees payable to the OHIM

（EC）1995年第2869/95号关于欧洲内部协调局应得费用的委员会条例

■ Commission Regulation (EC) No 216/96 of 1996 laying down rules of procedure of Boards of Appeal of OHIM

（EC）1996年第216/96号规定欧洲内部协调局申诉委员会程序规则的委员会条例

Council Regulation (EC) n° 6/2002 of 12 December 2001 on Community Designs (introduction of New Member States and the link with Hague Agreement)

2001年12月12日制定的（EC）第6/2002号关于欧共同体外观设计（引入新成员国，与海牙协议相联系）的理事会条例

■ Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing the CD regulation.

2002年10月21日制定的（EC）第2245/2002号关于实施欧共同体外观设计条例的委员会条例



OHIM's physical seat is in Alicante in Spain.
OHIM的地理位置是西班牙的阿利坎特

OHIM's "virtual" seat is on-line, namely on:
OHIM在网络上的“虚拟”位置是：
www.oami.europa.eu





The CTM basics

欧共同体商标概况

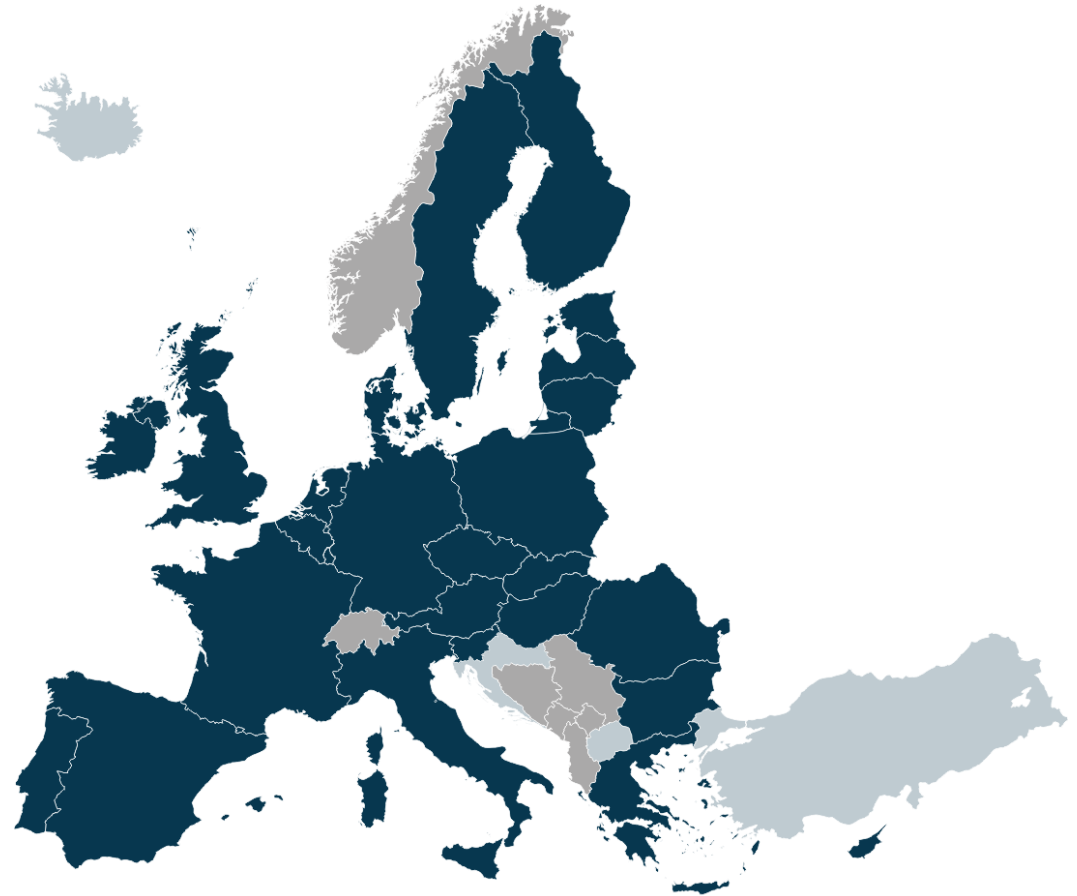


The **CTM** is a **centralized** registration system that gives **unitary** protection in **all** of the **28** Member States of the European Union.

欧共体商标是集中注册制度，为所有28个欧盟成员国提供统一保护。

The **CTM** system exists in parallel with the **national** (in the EU) and **international** trade mark's systems.

欧共体商标制度与国家（欧盟）和国际商标制度并行存在。





Main principles: 主要原则

- **Unitary character 统一特点**
- **Coexistence with national EU marks**
▪ 与国家欧盟商标共存
- **Legal autonomy 法律自主**
- **Link with Madrid Protocol 与马德里议定书相联系**





Main characteristics: 主要特点

- one application in any of the 24 official EU languages,
24种欧盟官方语言均可申请
- one set of fees in one currency (Euro),
单一计费货币（欧元）
- one set of procedures in one office
单一部门的一套程序
- on-line application possible at
在线申请，网址为
www.oami.europa.eu





■ A CTM may be filed:

欧共体商标申请方式:

-directly at OHIM,

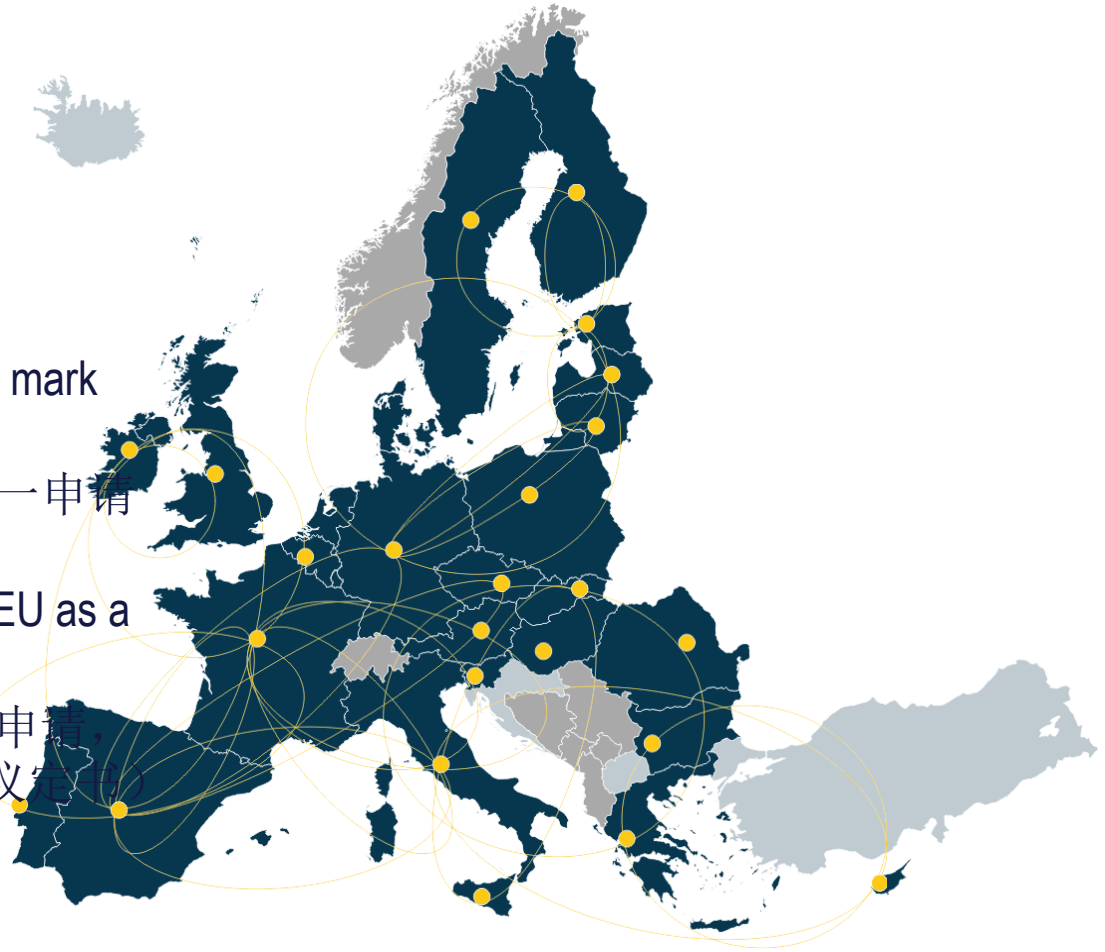
-直接通过OHIM申请

-in each of the national trade mark
offices of the EU,

-在欧盟国家商标部门逐一申请

-- via WIPO, by designating EU as a
whole (Madrid Protocol)

-通过世界知识产权组织申请，
指明欧盟全境（马德里议定书）





- The basic fee for a CTM using the on-line application on the OHIM website is:
在OHIM网站上进行网上申请欧共体商标的基本费用是:

900 EURO.
900欧元

The majority of the CTM applications are registered:
欧共体商标的大多数申请都在

within **6 months.**
6个月内注册完成。





Procedure 流程



EXAMINATION 审查



- ✓ Formalities 格式
- ✓ Classification 分类
- ✓ What **CAN** be a TM?
哪些可以成为商标?
- ✓ What **CANNOT** be a TM?
哪些无法成为商标



PUBLICATION 公告



CTM 006641872

Parte A.1.

546



571 Sobre el fondo naranja oscuro de un rectángulo aparecen situados: en la parte central superior dos líneas plateadas que conforman dos corazones entrelazados invertidos uno en relación al otro; por debajo obra la inscripción INTIM-Y; escrita con un tipo de letra grueso del alfabeto latino, con un guión antecedendo a la letra Y; bandas de color naranja claro, naranja oscuro y amarillo que parten de forma radial desde la línea bajo la cuarta letra de la inscripción; círculo de color naranja oscuro con una cruz dirigida diagonalmente hacia arriba, situada bajo las últimas letras de la inscripción, simbolizando el cromosoma femenino.

591 Naranja oscuro, naranja claro, plata, amarillo.
531 1.15.9
2.9.1
24.17.15

731 BIO-TRENDS POLSKA SP. Z O.O. SPÓŁKA
KOMANDYTOWO-AKCYJNA
Podwale 13
38-400 Krośno
PL

740 Szydio, Józef
Lukasiewiczza 23/18
38-400 Krośno
PL

270 PL DE

511 **3** - Cosméticos, cosméticos embellecedores, productos para el cuidado del cuerpo, preparaciones cosméticas para el adelgazamiento.

5 - Productos para uso farmacéutico y médico; sustancias dietéticas para uso medicinal.

39 - Servicios de agencia en materia de venta al detalle y al por mayor de cosméticos, productos farmacéuticos y médicos y sustancias dietéticas por cuenta de terceros; publicidad; asesoría comercial relacionada con el desarrollo de ventas.; marketing.

210 006641872

220 05/02/2008

442 16/03/2009

541

THEATER CONCERT

731 Hoteluluc Hoteluluc, Bogdan Octavian
Estrella de Mar 12, E. 1ª 2ª
08560 Castelldefels (Barcelona)
ES

270 EN ES

511 **9** - Aparatos e instrumentos científicos, náuticos, geodésicos, fotográficos, cinematográficos, ópticos, de pesar, de medida, de ensayo y de enseñanza; distribuidores automáticos y mecanismos para aparatos de pre-pago; cajas registradoras, máquinas calculadoras; extintores.

16 - Materiales para la encuadernación de libros; papelería; adhesivos (pegamentos) para la papelería o la casa; material para artistas; pinceles; máquinas de escribir y artículos

de oficina (excepto muebles); material de instrucción o de enseñanza (excepto aparatos); materias plásticas para embalaje (no comprendidas en otras clases); caracteres de imprenta; clichés.

39 - Trabajos de oficina.

41 - Actividades deportivas.

210 006658629

220 11/02/2008

442 16/03/2009

546



591 Verde, plata, blanco, rojo, negro.

531 19_07_D1

731 Pivovarna Laško d.d.
Trubarjeva 28
3270 Laško
SI

740 Marr, Jure
Ljubljanska ulica 9
2000 Maribor
SI

270 SI EN

511 **39** - Cervezas; mezclas de cerveza rubia y oscura negra; cerveza sin alcohol; cerveza con bajo contenido en calorías y alcohol; bebidas de lupulo; mezclas de cerveza con jugos de frutas, extractos de frutas y/o con sabor a frutas; mezclas de cerveza con limonada o naranjada (clara); mezclas de cerveza con bebidas sin alcohol; agua mineral; agua potable; aguas de mesa; aguas gaseosas; agua de manantial; sodas; limonadas; bebidas aromatizadas a base de agua mineral y frutas o extractos de frutas; bebidas no alcohólicas con frutas; bebidas y zumos de frutas; néctares; bebidas no alcohólicas; concentrados de zumos y otras preparaciones para hacer bebidas; bebidas de frutas y/o zumos de frutas con leche añadida, productos lácteos o postres lácteos; zumos vegetales (bebidas); bebidas no alcohólicas de vegetales o con la adición de vegetales; bebidas fermentadas sin alcohol.

33 - Bebidas alcohólicas (excepto cervezas); ron; ron con bajo contenido en alcohol; bebidas con alto contenido de ron; bebidas a base de mezclas de zumos de frutas con alcohol añadido; bebidas espirituosas, aguardientes; bebidas de frutas; Aguardientes de pera, en particular de la variedad de pera Williams; Aguardientes de ciruela; Aguardientes de enebro; licores amargos no comprendidos en otras clases; aguardientes, destilados vegetales; licores



OPPOSITION 反对





REGISTRATION 注册



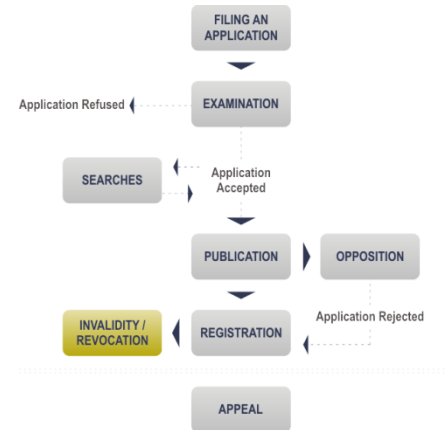


CTMs are valid for 10 years and may be renewed indefinitely
欧共体商标有效期为10年，也可以无限期续展。

10 years



INVALIDITY / REVOCATION 无效/撤销





APPEAL 申诉





OHIM's future challenges

欧洲内部协调局的未来挑战



■ **Quality:** A decade was centred on the setting up of new IT systems and the rationalization of different procedures and processes, all with very successful results.

质量：过去十年重点放在设立新的IT系统，合理调整不同流程和手续上，均取得成功。

OHIM now looks deeper into different quality issues in order to ensure a perfect balance between quantity (number of registrations) and quality (efficiency and predictability).

OHIM现在关注更深层次的质量问题，在注册数量（注册数量）和质量（效率和可预测性）间的最佳平衡。





■ **The internet:** the dependence of the worldwide business community on the Internet and by the rapidly advancing technologies – OHIM needs to be on board.

互联网：全球商业都依赖于互联网和飞速发展的技术-OHIM也需要加入。





Globalization: Companies will increasingly protect their trade marks and designs globally, and they will need to count on harmonized standards as well as common interfaces and platforms.

全球化：全球企业将日益保护商标和外观设计，它们需要和谐的标准以及通用界面和平台。





OHIM Strategy 2011-2015

欧洲内部协调局的战略（2011-2015年）



■ **Cooperation:** Only an enhanced cooperation within and outside the EU will be able to deliver harmonized standards as well as common interfaces and platforms to the users of the global world of today and of the future.

合作：只有加强欧盟内部和欧盟与其他地区的合作才能向当今和未来全球的用户提供和谐标准和通用界面与平台。

The OHIM will do its utmost to work in collaboration with all other trade mark offices towards unified solutions for the users.

OHIM将竭力与所有其他商标部门合作，为用户提供统一解决方案。





■ **New competences:** OHIM has recently assumed new responsibilities:
新能力：OHIM近来承担了新的职责：

- The European Observatory on Counterfeiting and Piracy.
欧洲假冒伪劣观测站

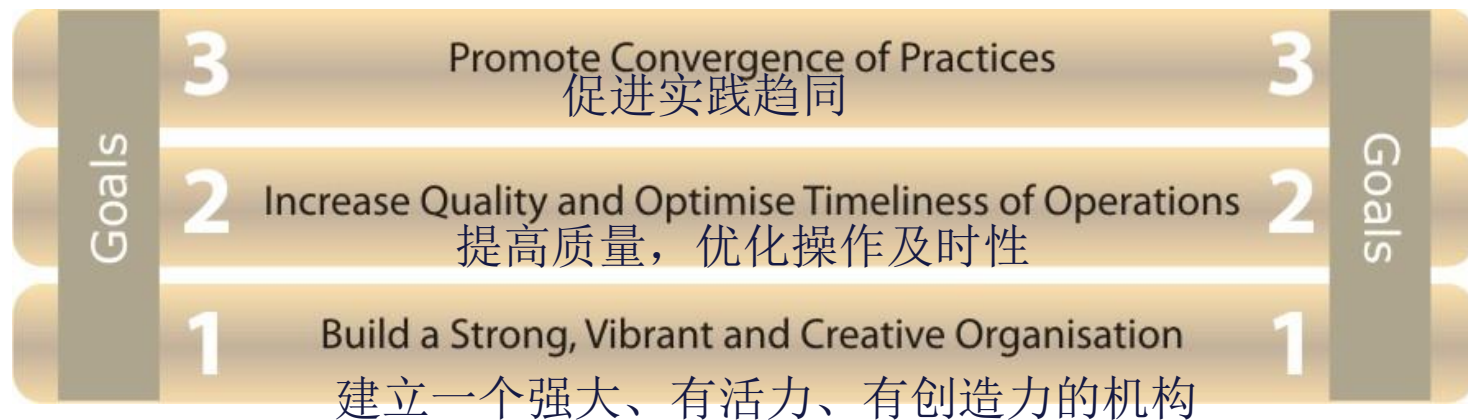
-Other IP rights that could be added to the OHIM portfolio?
可以加入OHIM业务范围的其他知识产权？

Time will tell...
时间将揭晓答案



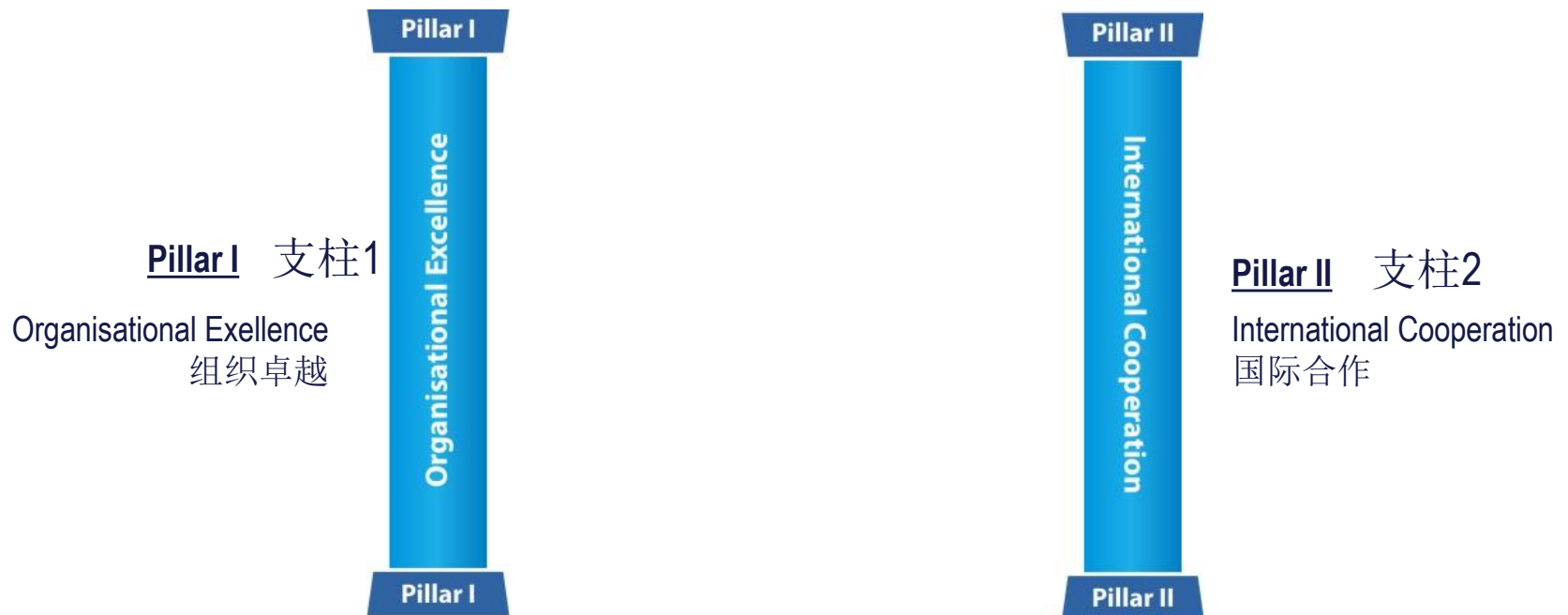


The 2011-2015 Strategic Plan has three fundamental goals
2011-2015年战略规划有三个主要目标





The Strategic Plan is based on the two pillars of the OHIMs functionality and in order to consolidate the success of a the last 15 years
战略规划基于OHIM发挥职能的两个支柱，以巩固过去15年间取得的成功。





The Strategic Plan is constituted by 32 key initiatives which have been organized into 6 lines of action.

战略规划由32个关键倡议组成，分为6个行动路线。





As a result of this OHIM will achieve organization of excellence and contribute to develop the **EUROPEAN TRADEMARK AND DESIGN NETWORK**

结果是，OHIM实现组织卓越，并为发展欧洲商标和外观设计网络做出贡献

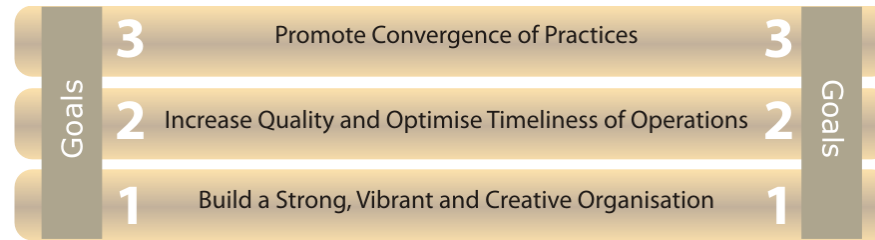




OHIM STRATEGY OHIM的战略



愿景2015
欧洲商标和外观设计网络



The Objectives:

The 2011-2015 Strategic Plan has three fundamental objectives

目标：
2011-2015年战略规划有3个主要目标

The Pillars:

The Strategic Plan is a tool inspired by the two pillars of the OHIMs functionality and in order to consolidate the success of a the last 15 years

支柱：

战略规划作为一项工具，受OHIM发挥职能的两个支柱启发，目的是巩固过去15年间取得的成功。



Lines of actions

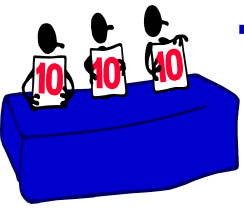
The Strategic Plan is constituted by 32 key initiatives which have been organized into 6 lines of action.

行动路线：
战略规划由32个关键倡议组成，分为6个行动路线。



Protection of trade marks In Europe

欧洲的商标保护



Three possible ways of protection

三种可能的保护方式

- National 国家保护
- International (IR) 国际注册
- Community (CTM) 欧共体商标

- **or a combination of these systems**
- 或三种制度的结合



The national way 国家保护方式

- Registration in each country 逐一国家注册
- **Relevant option when 适应条件**
 - applicant run business only in one country,
• 申请者只在一国经营业务
 - registration not possible through CTM or IR,
• 无法进行欧共同体商标或国际注册
 - country not included in IR system,
• 国家不在国际注册制度之列
 - slightly different TMs in different countries,
• 不同国家商标有细微差异
 - different owners in different countries
• 不同国家商标所有人不同



The International option (Madrid system) 国际选项（马德里议定书）

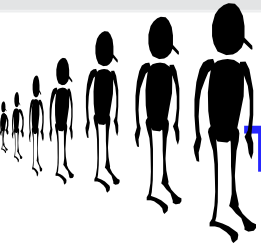
- Madrid Agreement 马德里协议
 - Adopted in 1891, most recently revised in 1967
1891年通过，距今最近一次修改在1967年
 - Established international registration system
成立了国际注册制度
 - **55** signatories countries (status July 2014)
55个缔约国（至2014年7月）
 - Many important IP countries never signed
很多重要的知识产权国家从未签署
- Madrid Protocol 马德里议定书
 - Adopted in 1989
1989年通过
 - Supplements Madrid Agreement
补充马德里协议
 - Makes Madrid Agreement more attractive
使马德里协议更具吸引力
 - **91** signatories countries (status July 2014)
91个缔约国（至2014年7月）



The International Option 国际选项 :



- Centralized Application (WIPO).集中式申请（世界知识产权组织）
- Centralized examination of formalities and registration（集中审查格式和注册）
- Centralized renewal and post-registration records（集中式更新和注册后记录）
- Possibility of subsequent, post-registration, designations 后续、注册后名称的可能性
-but the IR trade mark (once registered) is governed by the rules of each designated country (bunch of national registrations)
-但是国际注册商标（一旦注册）受每个受理国规章的管理（很多国家注册制度）



The Community Trade Mark option 欧共同体商标选项:

Accessible to all: 所有人均可申请:

- Any person or business entity may apply for a CTM.

任何自然人或商业实体都可以申请欧共同体商标

- Regardless the nationality or the place of Applicant's seat

无论国籍或申请者的地理位置

- For non EU applicants, one EU representative must be appointed

对于非欧盟申请者，必须指定一名欧盟代表

- The appointed representative can be an OHIM professional representative or legal practitioner

被指定的代表可以是OHIM专业代表，也可以是司法从业者

- CTM can be assigned to anyone independently from goodwill

欧共同体商标可以授予任何人，与商誉无关



The Community Trade Mark option: 欧共同体商标选择

Reduced administrative constraints & costs:

减少行政制约并削减成本

-one Office : OHIM,

一个办公室: OHIM

-one single Application and legal system

一个申请和法律体系

-one single fee system and attractive fees (900 € for Applications files electronically, e-filing)

一个收费制度和有吸引力的价格（电子申请、在线提交，900欧）

-one single language (one of the 24 EU languages)

一种语言（24种欧盟语言之一）

-plus designation of one of the 5 OHIM languages for possible use in case of opposition

额外指定5种OHIM语言中的一种，出现异议时可以使用



The Community Trade Mark (CTM) option

欧共同体商标选项:

Easy registration 简易注册

- broad concept of the goods and services (acceptance of class headings) 商品和服务的广泛概念（接受分类标题）
- Wide notion of what can be a CTM (Word, Figurative, 3D, names, other types) 欧共同体商标受理的对象非常广泛（文字、图形、三维、名称以及其他类型）

Effective protection 有效保护

- Throughout all member states 通用于所有成员国
- Cost effective prosecution (no need to prosecute those who infringe in each Member State + CTM courts) 低成本高收益的起诉方式（不需要在每一个侵权发生地所在成员国起诉+欧共同体商标法庭）



Flexibility of the CTM system : CTM制度的灵活性 “link” between CTM and IR (Madrid Protocol)

欧共体商标与国际注册（马德里议定书）的“联系”

- **CTM: the basis for International Designations**
- 欧共体商标：国际申请中指定国家的依据
- **EU : designated “country” in the International Application**
- 欧盟：国际申请中的指定“国家”

The “link” is operational from 01/05/2004.

该“联系”于2004年5月1日起具备可操作性。



3 Options for Chinese Applicants 中国申请者的选择

- **Business in one country: National option.**
 - 在一个国家开展业务：国家保护
- **Business in EU only: CTM system.**
 - 只在欧盟开展业务：欧共体商标制度
- **Business worldwide: Madrid system, via**
 - *业务遍布全球：马德里制度，通过*
 - **IR registration designating EU among other countries, or**
国际注册，指定欧盟为受理国之一，或者
 - **CTM registration (basis of IR registration), designating other countries**
 - 欧共体商标注册（国际注册基础），指定其他国家



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THANK YOU.

谢谢！