This Statutory Instrument has been made in consequence of a defect in SI 1996/1908 and SI 2004/2332 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2005 No. 440

TRADE MARKS

The Community Trade Mark (Designation of Community Trade Mark Courts) Regulations 2005

Made - - - -	*23rd February 2005*
Laid before Parliament	*4th March 2005*
Coming into force	
Regulation 3 -	*1st April 2005*
Remainder -	*31st March 2005*

The Secretary of State, in exercise of the powers conferred on her by section 52 of the Trade Marks Act 1994(**a**), makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Community Trade Mark (Designation of Community Trade Mark Courts) Regulations 2005 and (subject to paragraph (2)) shall come into force on 31st March 2005.

(2) Regulation 3 shall come into force on 1st April 2005.

Amendment Trade Marks (International Registrations Designating the European Community, etc.) Regulations 2004

2. Regulation 15 of the Trade Marks (International Registrations Designating the European Community, etc.) Regulations 2004(**b**) shall be revoked.

Amendment of Community Trade Mark Regulations 1996

3. For regulation 9 of the Community Trade Mark Regulations 1996(**c**) there shall be substituted—

(**a**) 1994 c. 26.
(**b**) SI 2004/2332.
(**c**) SI 1996/1908.

"**Designation of Community trade mark courts**

9.—(1) For the purposes of Article 91 of the Community Trade Mark Regulation, the following courts are designated as Community trade mark courts—

(a) in England and Wales—

(i) the High Court;

(ii) any county court designated as a patents county court under section 287(1) of the Copyright, Designs and Patents Act 1988(**a**); and

(iii) the county courts listed in paragraph (2);

(b) in Scotland, the Court of Session; and

(c) in Northern Ireland, the High Court.

(2) The county courts referred to in paragraph (1)(a)(iii) are the county courts at—

(a) Birmingham;

(b) Bristol;

(c) Cardiff;

(d) Leeds;

(e) Liverpool;

(f) Manchester; and

(g) Newcastle upon Tyne.

(3) For the purpose of hearing appeals from judgments of the courts designated by paragraph (1), the following courts are also designated as Community trade mark courts—

(a) in England and Wales, the Court of Appeal;

(b) in Scotland, the Court of Session;

(c) in Northern Ireland, the Court of Appeal.".

Sainsbury Of Turville
Parliamentary Under Secretary of State
for Science and Innovation
Department of Trade and Industry

23rd February 2005

(**a**) 1988 c. 48.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Trade Mark Regulations 1996 (SI 1996/1908) ("the 1996 Regulations") and the Trade Marks (International Registrations Designating the European Community, etc.) Regulations 2004 (SI 2004/2332) ("the 2004 Regulations").

The amendments made by these Regulations are needed as a result of a failure to include a provision in the 1996 Regulations expressly designating the courts of "second instance" which are to hear appeals from the designated courts of "first instance", as required by Article 91(1) of Council Regulation (EC) No. 40/94 on the Community trade mark (OJ No. L 11, 14.1.94, p.1) ("Regulation 40/94"). That oversight was repeated when the 1996 Regulations were amended by regulation 15 of the 2004 Regulations to extend the number of designated first instance courts.

Regulation 2 revokes regulation 15 of the 2004 Regulations before the date on which regulation 15 was due to come into force. This ensures that the version of regulation 9 of the 1996 Regulations substituted by the 2004 Regulations will never have effect.

Regulation 3 then amends the 1996 Regulations by substituting a new version of regulation 9 designating the Patents County Court and seven other county courts as additional courts having jurisdiction in England and Wales over proceedings arising out of Regulation 40/94. It also, for the first time, designates the Court of Appeal in England and Wales, the Court of Session in Scotland and the Court of Appeal in Northern Ireland as courts of second instance for the purposes of Article 91(1).

A regulatory impact assessment has not been prepared, but the increase in the number of designated first instance courts should assist small and medium size enterprises by providing improved access to justice.

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STATUTORY INSTRUMENTS

2005 No. 440

TRADE MARKS

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