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MARQUES' concerns towards the growing IP protection challenges in Europe

Since its establishment, **MARQUES** has been highly committed to maintain a principled, balanced and coherently articulated system of national and international treaties, laws and regulations, particularly in regards to trade marks and related intellectual property rights.

Faithful to its mission, **MARQUES** has always supported the European Commission's initiatives aimed at the objective of creating an efficient IPR strategy for Europe.

The review of the trade mark system certainly is one of the elements to take into account in order to establish an efficient legal framework for the protection of trade marks and **MARQUES** believes that the revision of the EU Community Trade mark Regulation and the EU Trade marks Directive has the potential to implement many of the improvements that trade mark holders need.

In **MARQUES'** view, there should also be coherence between trade mark law and those regulations affecting legal fields that closely interact with it, such as the regulation of marketing practices or those regulations protecting geographical indications and designations of origin for agricultural productions and foodstuffs. All types of trade mark use, including trade mark use on the Internet, should be governed under the umbrella of trade mark law as this would enhance harmonisation and legal certainty.

For the brand owners that **MARQUES** represents, lookalikes are likewise a serious problem and thus **MARQUES** welcomed the European Commission's commissioning of a comprehensive study from Hogan Lovells on trade secrets and parasitic copying and agrees with the European Commission that companies suffering from parasitic copying should be given proper and effective legal means to tackle such unfair practices.

MARQUES strongly supports the strengthening of available measures to protect trade marks and all IP rights against infringements and believes that fundamental legislative change is also needed to tackle the serious problem of counterfeiting and piracy. The trade in counterfeit products is a global concern and has a clear effect on the economy, notably on the ability of businesses, especially small and medium-sized enterprises, to allocate sufficient budget to defend themselves from counterfeiting while investing in innovation and human resources.

MARQUES contributed with comments to the Commission's consultation on the possible review of the EU IP Enforcement Directive and made submission on the proposal for a regulation on customs enforcement of IP rights in which it supported, among others, the inclusion of parallel trade in the scope of the draft regulation and the closure of significant gap in enforcement on the goods in transit. The text of the regulation that was approved in the first reading by the European Parliament in early July this year should in fact provide a more effective IP rights customs enforcement system to prevent the ever-growing trade in counterfeit and pirated products. Nonetheless, there is scope for further improvement, as customs control should extend to all intellectual property rights in the same way and illegal parallel imports ought to be efficiently tackled in the frame of truly consistent customs enforcement rules.

As a business organisation of IP rights holders, notably of brand owners, **MARQUES** is also very concerned over possible legislation or policy options demanding the removal of brands, trade marks and logos from product packaging, which the introduction of plain packaging, or standardised packaging, would require.

Intellectual property rights are vital to boost worldwide innovation and growth, as well as to create jobs and ultimately to enhance the markets. Trade marks are a strong cornerstone of the European and international economic system and provide significant value to their legal owners. Trade marks are also an essential safeguard to the interests of consumers.

MARQUES is highly concerned with the direct impact that plain packaging for tobacco products will bring about. The implications are not limited to the tobacco industry: implementation could well have a domino effect on other products and industries, especially those subject to other regulatory constraints such as the alcohol, food, medicines, confectionary, beverage, cosmetics and automotive industries.

Plain packaging legislation or policy options would deny one sector of industry the benefits of its intellectual property rights, and would be a dangerous precedent for the potential loss of rights in other industries. The issue is, therefore, a matter of concern to trade mark owners in Europe and worldwide, as plain packaging would undermine the intellectual property protection system as a whole by dismantling the role and value of such marginalised trade marks.

Trade mark owners and the IP community at large justly expect that the legality of any plain packaging legislation or policy options is seriously addressed from the point of view of international conventions, as well as the general impact on intellectual property rights lawfully acquired in respect of legal products. Any public health policy objectives ought to be properly balanced with an appropriate protection of those proprietary rights.



About **MARQUES**

MARQUES is the European association representing brand owners' interests. The **MARQUES** mission is to be the trusted voice for brand owners.

Established in 1986 and later incorporated in the United Kingdom as a not-for-profit company limited by guarantee, **MARQUES** unites European and international brand owners across all product sectors to address issues associated with the use, protection and value of IP rights, as these are vital to innovation, growth and job creation, which ultimately enhance internal markets. Its membership crosses all industry lines and includes brand owners and IP professionals in more than 80 countries. The trade mark owners represented in the Association together own more than two million trade marks which are relied upon by consumers as signposts of genuine goods and services.

MARQUES is an accredited organisation before the Office for Harmonisation in the Internal Market (OHIM), appointed observer at the OHIM Administrative Board and Budget Committee, an official non-governmental observer at the World Intellectual Property Organisation and a registered interest representative organisation (ID 97131823590-44) in the Transparency Register set up by the European Parliament and the European Commission, which extends and replaces the former Register of Interest Representatives, opened by the commission in 2008.

An important objective of **MARQUES** is to safeguard the public interest by ensuring the proper protection of trade marks and to preserve the interests of trade mark proprietors with regard to the regime of trade mark protection. **MARQUES** attempts to achieve these objectives by advancing the cause of trade mark laws which protect the public from deception and confusion. Intellectual property rights are a crucial aspect of the global economy and trade marks play a significant role in free trade and competition in the marketplace.

More information about **MARQUES** and its initiatives is available at www.marques.org.