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**European Union - EU study grinds to a halt, stranding CTM users**

**By Adam Smith**

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The latest victim of Eyjafjallajökull is the study into the EU trademark system. Today was supposed to be Community trademark (CTM) owners' chance to participate in the ongoing study into the EU trademark system, with no fewer than 15 user associations invited to Munich to meet the researchers from the Max Planck Institute (MPI) and provide further input. However, amid the havoc caused by the ash cloud that recently grounded all European flights, the meeting has been cancelled.

Each user association was to deliver a 10-minute statement to the researchers on the issues they feel are most important (although it is likely that most of them would voice identical concerns). *WTR* understands that the agenda was to include:

- further harmonization of trademark law in the European Union;
- the question of genuine use;
- class headings; and
- the CTM fee structure.

The cancellation is a blow to users' groups, which already feel ignored by MPI's approach to the study. While MPI researchers have taken great pains to travel around a number of national offices across the European Union, their interaction with users has been limited to written statements. One user group complained that the MPI had not given it enough time to write a thorough response to all the questions in the tender.

Furthermore, when the researchers presented their interim report to EU member states on March 31, user associations were not invited. They could not even view the report afterwards. Carla Schwartz, external relations coordinator at the International Trademark Association (INTA), is tasked with organizing staff and volunteer input into the study, and she told *WTR* that since CTM users had not seen the interim report, they had to deduce from MPI's invitation letter the current status of the study. "Thursday's meeting would have been an opportunity for us to better understand what direction MPI is taking in regards to those issues, and any others for which recommendations may be made," lamented Schwartz.

The study, after all, offers stakeholders the chance to have a say in the development of the European trademark system. Just this week, François Griesmar, an IP lawyer at Bacardi, said: "The study is a unique opportunity to lay aside all habits and tinkered solutions to make an unrestricted and unbiased audit of trademark systems in Europe."

*WTR* contacted the MPI for a status update but received no reply. Details of the rearranged meeting have not yet been uploaded to the study's website.

Meanwhile, the Spanish EU presidency has injected some new controversy into the proceedings. *WTR* has learnt that the presidency recently recommended that the EU Council start work on implementing the provisions in the September 2008 agreement, most notably the allocation of 50% of CTM renewal fees to national offices and the extension of OHIM's role to include anti-counterfeiting. Users are bemused by this action, given that many of the issues it touches upon are still subject to the study.

"We think it's too soon to make these recommendations," argued Tove Graulund, who is leading MARQUES' involvement in the study. "These topics should be discussed during the study and then we should wait for recommendations before moving forward."

INTA described the draft Council's recommendation to get the ball rolling on the 50% re-allocation "premature". The association is still encouraging MPI to investigate the possibility of reducing renewal fees, pointing out that otherwise OHIM's reserves will only grow. Schwartz concluded: "We urge that no decision is made as to if and how to allocate renewal fees until the analysis is complete and the Commission and users alike have had the opportunity to consider the ramifications of diverting these funds, which are provided solely by the users of the CTM system."

Users have so far been very diplomatic in their criticisms of the study, but their frustration is clearly growing. If MPI does not involve them soon, users' criticisms may erupt.

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