

JUDGES MEETINGS:

During the past year, meetings with trade mark judges have been held in Germany, Italy, the Netherlands, Spain and the UK. The meetings provide an opportunity to hear judges discuss recent developments in the law and ask questions. The format of each meeting varies depending on the location and audience.

Further judges meetings are being planned for Belgium, France, Italy, Poland and the UK.

COMMUNICATIONS

A new **MARQUES** website is being prepared and will be launched later this year. The new site will reflect the growth in the number and diversity of **MARQUES** members and activities and will offer a number of new features, as well as clearer presentation and navigation.

The **MARQUES** newsletter, House**MARQUES**, moved to monthly publication in March 2012, having previously been published six times a year. The increased frequency means **MARQUES** members are now kept even more up to date on developments affecting them, in particular at OHIM, WIPO and in Brussels.

Each edition of House**MARQUES** includes reviews of recent **MARQUES** events and activities, updates from the main trade mark institutions and articles on relevant topics by members of **MARQUES** teams.

MARQUES has increased its engagement in social media, focusing on Twitter and LinkedIn, where several animated discussions have been hosted.

The **MARQUES** news blog, Class 46, now has a team of 15 correspondents providing frequent reports on trade mark cases and other developments in EU member states. It has nearly 3000 readers who receive updates by email.

MARQUES has been covered in the specialist IP press and beyond. Notable features include an interview with the **MARQUES** Chair on the European Parliament's EPPTv in January 2012 following the speech given at a Public Hearing on the European Trademark System in the 21st Century and articles in World Trademark Review on EU trade mark reform (January 2012) and on the Trademark Toolkit (April 2012).

TEAMS

MARQUES now has 17 teams. Some of them work on specific areas of IP and trade mark policy, while others focus on **MARQUES** activities, such as education, communications and programming.

Each of the teams has a dedicated page on the **MARQUES** website, which includes details of team members, publications, position papers, current projects and achievements.

All **MARQUES** members are encouraged to view the team pages regularly to find out about the latest developments.

Here is a selection of team achievements in the past year, in addition to those achievements listed above:

- Publication of a product placement survey, reporting on how product placement is regulated according to European Directive 2007/65/EU and national laws in both EU and non-EU jurisdictions.
- Compilation of a chart summarising regulations concerning the protection and infringement of lookalikes throughout Europe.
- Regular reports and analysis of the rollout of ICANN's new gTLD programme, and its impact on brand owners.
- Publication of articles on topical issues including excessive packaging (in light of the EU Packaging Directive) and ambush marketing (ahead of the London 2012 Olympic Games).
- Compilation of a comprehensive database of EU bilateral agreements
- Submission to the UK Department of Health on packaging of tobacco products.
- Submissions on the Proposal for a Regulation of the European Parliament and of the Council on agricultural product quality schemes.
- Response to the UK Intellectual Property Office Design Call For Evidence
- Comments made to interested parties in the appeal to the CJEU in Case C-198/11 P, brought on 28 April 2011 by Lan Airlines S.A. against the judgment of the General Court (Fourth Chamber) of 8 February 2011 in Case T-194/09 Lan Airlines S.A. v OHIM and Air Nostrum, Lineas Aereas del Mediterraneo, S.A.



MARQUES



ACHIEVEMENT LIST 2011/2012



MARQUES

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EUROPEAN UNION ACTIVITIES

MARQUES participated in the meeting of private stakeholder associations and organisations that are members of the EU Observatory on Counterfeiting and Piracy at European Commission's DG MARKT, Brussels on 3 October 2011.

In early January 2012 **MARQUES** was invited to speak at the Public Hearing on the European Trademark System in the 21st century organised by the European People's Party (Christian Democrats) in the European Parliament. The **MARQUES** Chair gave the speech and addressed topics including the fight against counterfeit and pirate goods; counterfeit goods in transit in the context of the regulation proposal on customs enforcement of IP rights; and look-alikes.

MARQUES participated in the EU Commission – IPR Help Desk Stakeholders meeting in Brussels on 18 January 2012.

In February 2012, **MARQUES** took part in the EU Commission's preparatory meeting for the 10th Meeting of the EU-China IP Working Group in Beijing, which was held on 22 March 2012.

MARQUES and its sister organisations APRAM, BMM, ECTA, GRUR and UNION released a joint statement on 23 April 2012 to object to the adoption of any restrictive legislation or policy options, frequently referred to as "generic" or "plain packaging". The statement was also notified to the European Commission.

This joint statement followed the submissions that **MARQUES** presented in December 2010, in response to the European Commission DG SANCO's consultation on the adoption of possible legislation or policy options in connection with the plain packaging of tobacco products within the review of the Tobacco Products Directive 2001/37/EC

MARQUES joined more than 130 organisations in signing a joint letter in support of ACTA, which has been widely disseminated since last March. Many of these organisations gave their support to a common fact-based paper summarising what ACTA is about and what it aims to achieve. However, on 4 July 2012, the European Parliament rejected ACTA with 478 votes against, 39 in favour, and 165 abstentions.

MARQUES devoted significant efforts to the review of EU legislation on customs enforcement of IP rights. **MARQUES'** submissions on the new regulation proposal were sent to the director generals of the DG TAXUD and DG

MARKT and other officers of the European Commission, and to the Rapporteurs in the European Parliament on November 2011.

To influence the progress of the regulation proposal in the Parliament, **MARQUES** supported a number of joint initiatives with other organisations representing the IP and business communities and in view of the Plenary vote in Parliament on 3 July 2012 addressed messages to MEPs to summarise the main concerns of its members, especially having regard to counterfeited goods in transit and small consignments and the need to include appropriate provision in these areas to avoid a negative impact on consumers worldwide, not only on IP rights holders.

MARQUES also responded to the Commission's consultation on Misleading and Comparative Advertising and on unfair commercial practices affecting businesses on 16 December 2011.

Following its submission of 31 March 2011 on the consultation of the European Commission concerning a possible review of the Enforcement Directive 2004/48/EC, **MARQUES** was invited to, and attended, the Commission/Presidency Conference "Enforcement IPR: the review of Directive 2004/48/EC", held in Brussels on 26 April 2012.

MARQUES was invited to and participated in a preparatory meeting of the Internet Governance Forum (IGF), which was held in Brussels by the European Commission on 23 March 2012.

REPRESENTATION BEFORE OHIM

MARQUES has participated in the meetings of experts from EU member states, national IP Offices and admitted user organisations regarding the Cooperation Fund projects, and in particular the E-learning and Search Image projects.

In its role as a permanent observer, **MARQUES** participated in the OHIM Administrative Board and Budget Committee meetings in Alicante in November 2011 and April 2012.

In December 2011, the OHIM published the draft of its Strategic Plan 2011-2015 following consultation with OHIM staff members, national IP offices in the EU, other major international offices and user associations including **MARQUES**.

In February **MARQUES** and other user organisations convened in Alicante to participate in the kick-off meeting of the New OHIM Website Working Group. The project aims to extend electronic processes to all OHIM activities and promote closer contact with stakeholders. **MARQUES** also attended the second meeting in May 2012 and will participate in the third and final meeting on 4 October 2012.

MARQUES has attended the OHIM Liaison Meetings on Technical Cooperation and on Trade Marks in March and May 2012 and will also be present at the Liaison Meetings on Trade Marks and on Designs that will be convened by OHIM in October and November 2012.

On 17 April 2012 **MARQUES** attended the 19th OAMI Users Group meeting in Alicante.

On 30 and 31 October 2012 **MARQUES** will be allowed to attend the Users Sessions of the TM5 (replacing the former Tri-lateral) meeting in Barcelona where the five IP Offices (the JPO, OHIM, USPTO, KIPO and the Chinese SAIC) will convene to discuss and agree on cooperation and best practices concerning trade mark projects.

In December 2011, a **MARQUES** representative was selected to participate in the activities of the Working Group on Classification and Convergence of class headings involving the OHIM, the European IP offices and WIPO with a view to finding common ground and understanding on a harmonised practice.

MARQUES has been actively involved in contributing to these projects, as these matters have always been considered by **MARQUES** as a high priority for trade mark owners.

Following the judgment that the Court of Justice of the European Union (CJEU) handed down in Case C-307/10 – known as the "IP Translator" case – on 19 June 2012 and the adoption of Communication 2/12 of the President of OHIM to repeal and replace the former Communication 4/03 (based on which the adoption of class headings for any classes in CTM applications were understood to provide coverage for all goods or services of a class, without need for any further specification), **MARQUES** had engaged in serious discussion on how the CJEU's ruling should be interpreted.

On 4 July 2012 **MARQUES** submitted to European national IP Offices and to OHIM its observations to explain how **MARQUES** interprets the judgment of the CJEU and the reasons why this interpretation is believed to best reflect the interests of brand owners, i.e. the users of the trade mark registration system.

REPRESENTATION BEFORE WIPO

During 2011 and 2012, thanks to its observer status, **MARQUES** has attended the WIPO's 9th and 10th sessions of the Working Group on the Legal Development of the Madrid System.

During the 9th Session **MARQUES** presented its submissions in support of the so-called Norwegian proposal to abolish the basic mark requirement in the Madrid international registration system.

At the 10th Session, **MARQUES** provided input to the Working Group on the translation upon request practice implemented by the International Bureau.

MARQUES was invited to and was represented by a speaker at WIPO's International Symposium on the Protection of Industrial Designs that took place in Santiago, Chile, on 16-17 November 2011.

MARQUES was also represented at the 26th and 27th meetings of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) in Geneva; and the 4th and 5th sessions of the Working Group on the Development of the Lisbon System.

MARQUES was invited to, and attended, the meeting held by WIPO in Geneva between WIPO's Director General and the representatives of NGOs on 19 April 2012.

MARQUES has been invited to and will speak at the WIPO's Information Meeting on the Role and Responsibility of Internet Intermediaries in the Field of Trademarks which will be held in Geneva on 17 September 2012.

EVENTS FOR MEMBERS AND OTHERS

The Annual Conference was held in Baveno (Italy) in September and was attended by more than 600 trade mark professionals. Speakers included Loredana Gulino of the Directorate for Combating Counterfeiting at the Italian PTO and Marco Boglione, President of BasicNet Group.

As well as conference panels and workshops, there were social activities including a trip to the Borromeo Palace. Reports and photos from Baveno are available on the **MARQUES** website.

The Winter Meeting for **MARQUES** Council and Team members was held in Brussels in February 2012, with more than 140 people attending. As well as meetings of the 17 **MARQUES** Teams, there was an educational session on customs enforcement.

MARQUES also hosted a seminar in Shanghai in June 2012 entitled "Brand protection in China and Europe in the 21st Century, When West meets East to join Forces in Brand Protection".

MARQUES took part in the joint meeting of the European IP/trade mark organisations in Munich on 9 March 2012, hosted by GRUR.