

**COMMISSION IMPLEMENTING REGULATION (EU) .../... laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 207/2009 on the European Union trade mark**

**MARQUES' feedback on draft implementing regulation**

MARQUES has the following comments on the draft implementing regulation:

**Representation of the trade mark**

**Article 3(3)(a)** – MARQUES believes further clarity on the requirements for representation of word marks would be of assistance to brand owners and the EUIPO. In particular, the reinsertion of the reference to the use of both small and capital letters being permitted that is currently included in the current implementing regulation. MARQUES is also of the view that the guidance currently in part B, section 2, paragraph 10.1 of the Office Guidelines should be incorporated into the implementing regulation, namely that a word mark is a typewritten mark with elements including letters, words, numerals, keyboard signs or punctuation marks written across a single line and that the alphabet of any official union language can be used in a word mark.

**Article 3(3)(b)** – MARQUES supports the removal of the requirement that an indication of the colours making up a figurative mark must be included but proposes that it should be made clear in the implementing regulation that the representation may be accompanied by an indication of the colours making up the mark.

**Article 3(3)(f)** – MARQUES supports the clarification provided in the implementing regulation that a colour per se mark cannot have contours and is therefore an abstract protection of colours, that the applicant can choose to add a description to indicate the systematic arrangement of the colours but is not obliged to do so and, if there is no description, then the systematic arrangement is deemed to be that shown in the representation in the application.

**Article 3(9)** – MARQUES proposes that this provision be incorporated within Article 3(3)(c) as we feel it would provide greater clarity to brand owners if all the requirement for 3D shape marks were to be in the same paragraph. .

**Claiming seniority of a national trade mark before registration of the EU trade mark**

**Article 6** – MARQUES supports the abolition of the certification requirement for seniority claims.

**Conversion**

**Article 22** – there is no equivalent to Rule 44(2) of the current implementing regulation. MARQUES would propose that the implementing regulation include further clarity of the time limits following the changes introduced by Article 47(3) of the EUTMR.

**Languages**

**Article 24** – MARQUES supports the relaxation of translations of supporting documents to be used in written proceedings so that these are only required upon the request of the office.

**Article 25(1)** – MARQUES supports the proposed change whereby a party only has to provide translations for those parts of the document that they have indicated are relevant.

Submitted this [ ] day of [ ] 2016

For and on behalf of **MARQUES**, the European Association of Trade Mark Owners