



Association des Industries de Marque  
European Brands Association  
Europäischer Markenverband



Dr. Margot Fröhlinger  
Director, Knowledge-Based Economy  
DG Internal Market  
European Commission  
Brussels

Brussels, June 29, 2009

Subject: CTM Review

Dear Dr. Fröhlinger,

AIM, BUSINESSEUROPE, ECTA, INTA and MARQUES, the largest and most representative CTM user organisations and Observers to the Administrative Board of OHIM, would like to thank you for maintaining a proactive and open dialogue with trade mark owners and professionals concerning potential changes to the European trade mark systems. In these times of economic crisis, it is more important than ever to ensure the effective and efficient operation of these essential systems in order to permit innovative and creative industries of all sizes to fully contribute to European competitiveness.

Our associations and members are strong supporters of OHIM and the CTM and, from the outset of the creation of the Office in 1994, we have contributed to the recognition and success - including financial - of OHIM and of the Community trade mark.

We fully endorse the view expressed by the Council in its Conclusions of May 2007 that the time is now right for a comprehensive study of trade mark systems in Europe. Given the fundamental changes since the CTM system was conceived and created – not least the two enlargements of the EU and the ever-increasing globalisation of markets – a substantive and comprehensive review of the current legal framework is appropriate.

This study will provide an unprecedented opportunity for improving and advancing the existing trade mark systems in the EU. We are looking forward to an all-encompassing study, which will examine the overall functioning of the Community and the national trade mark systems, with the aim, inter alia, of leading to harmonisation of procedures, practices and services in the CTM and national systems.

In anticipation of the forthcoming study, we would like to outline a few of the key expectations of the upcoming process which our organisations share.

*CTM users should be fully involved*

We reiterate our common view that user organisations should continue to be consulted throughout the process, as users are the driving force of the trade mark systems and will be significantly affected by the outcome of the study and any resulting changes to these systems. We look forward to remaining fully engaged in this process, and in turn offer the European Commission any support or feedback it may request throughout the various upcoming stages of the study and subsequent implementation.

*The study should be comprehensive and wide-ranging*

The outcome of the study, as we understand it, will have a significant impact on various levels, from identifying long-term joint cooperation projects between OHIM and national offices, determining ways for national offices to improve and strengthen the services offered to users, to potentially proposing multi-level legislative changes leading to fundamental changes in the trade mark systems in Europe. Given the quantity and complexity of issues to be considered, we stress that sufficient time should be allowed for this study. Its scope should be comprehensive and wide-ranging, covering, for example: the interaction of the Madrid System of WIPO with the CTM and national trade mark systems; harmonisation of practices; removal of unnecessary bureaucracy; transparency of the finances and financing of national offices; users' perceptions of best practice. We also expect that proper processes will be put in place to ensure that legislative changes respond to legitimate expectations and deliver legal certainty.

*Enforcement activities for OHIM and/or national offices to be very carefully considered*

We understand that the study may also explore the possibility of national offices and OHIM participating in or coordinating certain anti-counterfeiting and enforcement activities. We welcome proposals to improve registration procedures at national offices because rights-holders need rapid, efficient and cost-effective registration procedures to protect their rights against infringements. Beyond this, moving into anti-counterfeiting work would be a significant departure from the current activities of trade mark offices bearing in mind the efforts already being undertaken by other institutions and law enforcement agencies. It would require a fundamental change of

the mission of national offices, may not be an effective way to tackle the issue with quantifiable measures and could be counter-productive. A thorough analysis must be carried out before any conclusions can be reached.

*Council request for renewal fee reduction should be explored in the context of a review of OHIM finances.*

We ask the Commission to keep in mind that the Council, in its 2007 Conclusions calling for an immediate reduction of CTM fees, had instructed that a reduction in renewal fees also be explored along with a reduction of application and registration fees. While we are aware of the difficult negotiations which led to the September 2008 Conclusions of the OHIM Administrative Board and Budget Committee and the subsequent reduction of the application and registration fees, we believe that the forthcoming review should include an overall review of the financing of OHIM operations and of OHIM fees. This may lead to further fee reduction proposals, including the renewal fees which would benefit existing businesses, particularly SMEs.

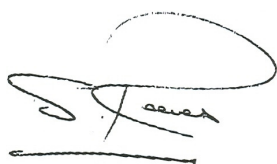
We thank you for your attention to these matters and remain at your disposal should you have any further questions.



Dawn Franklin, Chairman AIM Trademark Committee



Philippe de Buck, Director General, BUSINESSEUROPE



Simon Reeves, President, ECTA



Richard Heath, President, INTA



Guido Baumgartner, Chairman, MARQUES

## Who we are

### European Brands Association (AIM)

AIM is the European Brands Association. It represents the branded goods industries in Europe on key issues which affect the ability of brand manufacturers to design, distribute and market their brands. AIM's membership groups 1800 companies of all sizes through corporate members and national associations in 22 countries. These companies are mostly active in every day consumer goods. They employ some two million workers and account for over 350 billion Euro in annual sales in Europe alone. AIM's mission is to create for brands an environment of fair and vigorous competition, fostering innovation and guaranteeing maximum value to consumers now and for generations to come. See [www.aim.be](http://www.aim.be) for further information.

### BUSINESSEUROPE

BUSINESSEUROPE, the Confederation of European Business, represents more than 20 million small, medium and large companies. BUSINESSEUROPE's members are 40 central industrial and employers' federations from 34 countries, working together to achieve growth and competitiveness in Europe. BUSINESSEUROPE missions:

- Actively promote the role of enterprises in Europe
- Advocate a competitive business environment
- Be a recognised social partner in the European social dialogue
- Be the voice of business for building the future of Europe

Please consult [www.businessseurope.eu](http://www.businessseurope.eu) for further information.

### European Communities Trade Mark Association (ECTA)

ECTA, which stands for European Communities Trade Mark Association, was formed in 1980. ECTA numbers approximately 1.500 members, basically coming from the Member States of the European Union with associate members from all over the world. It brings together all those persons practising professionally in the Member States of the European Community in the field of trade marks, designs and related IP matters. These professionals are lawyers, trade mark advisors, trade mark attorneys, in-house counsel and others who can be considered specialist practitioners in these areas. With this membership, ECTA takes care of the needs of large, middle and small sized companies. ECTA's secretariat is in Brussels. Please consult [www.ecta.eu](http://www.ecta.eu) for more information

### International Trademark Association (INTA)

Created in 1878, INTA is a membership association of more than 5,500 trademark owners and professionals, from more than 190 countries including all 27 EU Member States. INTA is dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce. The Association is headquartered in New York and has representative offices in Brussels and Shanghai. You can find more information about our activities at [www.inta.org](http://www.inta.org).

### MARQUES

**MARQUES**, the European Association of Trade Mark Owners, represents over 750 trade mark owners and trade mark and design law professionals. **MARQUES**, which was founded in 1987, represents trade mark owners' interests before the relevant European Union and other international bodies in all relevant areas. It also organises networking and educational events and promotes communication between brand owners in Europe. The goal of the Association is to assist brand owners in the management, protection and exploitation of their trade marks, designs and other IP rights, and to provide an effective platform for the representation of their interests.