

Max Planck Institute for Intellectual Property, Competition and Tax Law



MAX-PLANCK-GESELLSCHAFT

Intellectual Property and Competition Law

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Munich, November 17, 2009

Dear Sir/Madam,

The European Commission published, in July 2009, a tender for a study of the functioning of the European trade mark system, including the foreseen distribution of a share of the fees paid to the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) for the renewal of Community trade marks (CTMs) (the “Study”).

The objectives of the Study were described as follows:

The purpose of this study is to provide the Commission with an in-depth assessment of the overall functioning of the trade mark system in Europe as a whole including both Community and national level. The aim is to identify potential areas for improvement, streamlining and future development of this overall system to the benefit of users and the society as a whole. In this context the study shall also establish the potential for an enhanced cooperation between the OHIM and the national offices and look into how best to implement Member States' recommendation of distributing a proportional part of the renewal fees of OHIM to national offices as remuneration for services rendered by them. The results of the study shall enable the Commission to propose amendments in the relevant legislation, involving not only the CTMR but possibly also the TMD.

The contract for carrying out the Study was awarded to our institution, the Max Planck Institute for Intellectual Property, Competition and Tax Law in Munich.

In preparing the Study, for which a period of about one year is envisaged, we will not only seek the views of OHIM and of national IP offices and institutions and carry out a survey among the users of the CTM system, through a professional survey by the *Institut für Demoskopie Allensbach*, but we will also invite the various



organisations representing trade mark proprietors and their representatives and the other organisations active in the field of intellectual property law to present their views and opinions. It is for this reason that we are addressing this letter to you – the organisations represented in the OHIM’s user group – at this very early stage of our Study.

We will carry out a Hearing with the interested organisations, probably toward the end of the first quarter of next year, where we are also likely to present some preliminary findings. However, in the meantime, we are seeking your views on the overall “theme” of the Study, as well as on the individual points raised in the tender. We would be particularly interested in the results of any inquiries or comparative analyses that may have been carried out by your organisation as well as being informed about activities that are likely to be undertaken to develop the opinions on your organisation.

We have made available on the website of our Institute a page dedicated to this Study, which will allow interested parties to follow the development of the Study, and allow any person to submit comments or other contributions of relevance for the Study. We would therefore appreciate it if you would inform your members accordingly.

We are looking forward to receiving your replies by

15 January 2010,

preferably under the email address <trademarkstudy@ip.mpg.de> , so as to allow us to take account of your views and recommendations in carrying the Study. Any comments submitted after that will of course not be disregarded, but obviously an early input would be preferred, in view of the short period of time available for making the Study.

For your convenience we are enclosing a copy of the Invitation to Tender as a .pdf document.

Sincerely yours

Reto M. Hilty

Roland Knaak

Annette Kur