



Report Q212

Trademarks

Names and Functions of Committee Members

Chair	Peter	Widmer	CH
Co-Chair	Alexander	von Mühlendahl	DE
Secretary	Elena	Molina	ES
Members (in alphabetical order)			
	Abdurrahim	Ayaz	TR
	Fiona	Brittain	AU
	Tracy	Corneau	CA
(Chair elect)	Eléonore	Gaspar	FR
	T. Cohen	Jehoram	NL
	Sheldon	Klein	US
	Eduardo	Kleinberg	MX
	Bartosz	Krakowiak	PL
	Jorge	Llevat	ES
	Masako	Nishimura	JP
	Denis	Prahl	US
	Aleli A.G.	Quirino	PH
	Michael	Reinle	CH
	Lena	Shen	CN
	Elisabeth	Siemsen	BR
	Shane	Smyth	IE
	Béatrice	Thomas	FR
	Stefano	Vatti	IT
	Jan	Vleck	UK
Responsible Reporter	Anne Marie	Verschuur	NL

Annual Report of Special Committee Q212 TRADEMARKS by Peter Widmer, Chair; Elena Molina, Secretary

1. Summary:

2.1. The SC TM had two priorities in its substantive work:

- a) Plain Packaging: the systematic and scientific analysis of trademark related consequences of the adoption of plain packaging concepts in selected industries with latent health issues was the subject of a specific questionnaire and led to a resolution during the ExCo in Helsinki.
- b) Establishing AIPPI's position in regards to the proposed revision of the Community Trade Mark Regulation and the Trade Marks Directive. This is an ongoing project.

2.2. On an operative level there are three standing goals:

- a) To improve the visibility of AIPPI in meetings of WIPO and OHIM/OAMI by securing adequate personal representation and by submitting substantive papers where necessary;
- b) To improve the involvement of all members of SC TM;
- c) To liaise with SC Designs (Q227) in order to coordinate the representation at the WIPO SCT which covers both aspects of design and trademarks. This worked perfectly in cooperation with Ruth Alvarez, Chair of the SC Design.

2. Report of Committee's activities and Recommendations

2.1 Committee meeting during the ExCo meeting in Helsinki

There was a well attended gathering of members of SC TM in Helsinki and we plan to hold a meeting in Toronto this year.

2.2 Work and Contributions on Substantive Matters

(i) General Assistance

We supported the RGT with input in regards to the working guidelines in the context of the IR-basic mark requirement and the respective Q239.

In June 2014, our committee assisted the RGT to nominate a representative to Madrid Fee Management Project launched by WIPO. The appointed representative was Aurélie Marie.

(ii) Plain Packaging re. Tobacco Products

The new TM regime in Australia in regards to the prohibited use of stylized marks etc. in particular on cigarette packages is certainly a very pressing and highly complex subject matter. In 2011 AIPPI submitted a paper in the course of the Public Consultation of the European Commission on the possible revision of the Tobacco Products Directive 2001/37/EC. 2012, AIPPI held a workshop during the congress in Seoul under the topic "Plain Packaging, a slippery slope?".

Now, a number of tobacco producing countries will or intend to challenge Australia's legislation on plain packaging before the WTO Dispute Settlement

Body. This work resulted in a lively debate during the Helsinki Exco and finally produced the resolution as published on AIPPI website.

(iii) **Establishing AIPPI's position in regards to the proposed revision of the Community Trade Mark Regulation (CTMR) and the Trade Marks Directive (TMD)**

Members of SC TM were asked to analyze the proposed revision of CTMR and TMD with the goal to publish a first assessment. The SC TM concluded during the Helsinki meeting of September 8, 2013, that AIPPI should focus

- on its TM related resolutions in order to compare the current draft revisions of the directive and regulations with the purpose to identify incongruences with AIPPI's recommendations (i.e. goods in transit) and the current wording of the drafts, and
- on international TM related treaties in order to verify if the proposed drafts are in line with international law, also in regards to the TLT.

2.3 Representation of AIPPI at WIPO and OHIM/OAMI meetings

WIPO and OHIM/OAMI hold regular meetings for the purpose of the further development and/or harmonization of formal and substantive trademark law. Our committee succeeded in a reasonable representation of AIPPI in regards to such meetings during 2013/2014 due to the participation of several group members for which we take the opportunity to thank them.

In the course of the 11th session of the Working Group on the Legal Development of the Madrid System, attended by Elena Molina, WIPO launched an informal project consisting of a "think tank" made up by the representatives of the users organizations present at the Working Group session to discuss possible practical improvements in the Madrid system from the user's perspective. This project started by a meeting with the Director of the Madrid System, David Muls, but it has remained alive through exchanged emails during 2013/2014.

After the said Working Group session, in view of the influence of the contributions of other users organizations and the relevance of the topics discussed (eg. the basic marc requirement and central attack), it was agreed that AIPPI should take a more active role in the debates.

2.4 Organizational Aspects

In view of the number of current and/or pressing TM related issues, the different regional flavor of certain issues and the pace/sheer size of such projects, the SC TM discussed during the committee meeting in Helsinki the concept of topic-related standing task-forces, i.e., *sub-committees* to whom the chair can reach out depending on the nature of the questions or projects. Such task-forces could be grouped as follows:

- (1) WIPO,
- (2) OHIM/OAMI
- (3) APAC
- (4) Americas
- (5) Other Regions
- (6) Interrelation of TMs and Domain Names / ICANN

This topic needs further consideration and is tabled for the upcoming SC TM meeting in Toronto.

Peter Widmer/ Elena Molina, August 2014