



## Report Q212

### Trademarks

#### Names and Functions of Committee Members

Chair	Peter Widmer	(Switzerland)
Co-Chair	Uli Widmaier Alexander von Mühledahl	(USA) (Germany)
Secretary	Elena Molina	(Spain)
Members	Brett August Theresa Corneau Eduardo Kleinberg Masako Nishimura Aleli Angela G. Quirino Richard Watts Christian Rohnke Jan Vleck Bartosz Krakowiak Béatrice Thomas Eléonore Gaspar Stefano Vatti Abdurrahim Ayaz Maxim Koval Michael Reinle Shane Smyth Jorge Llevat Elena Molina López Fiona Brittain Elisabeth Siemsen do Amaral	(USA) (Canada) (Mexico) (Japan) (Philippines) (New Zealand) (Germany) (United Kingdom) (Poland) (France) (France) (Italy) (Turkey) (Ukraine) (Switzerland) (Ireland) (Spain) (Spain) (Australia) (Brazil)
Responsible Reporter	Anne Marie Verschuur	(The Netherlands)

## **Annual Report of Special Committee Q.212 TRADEMARKS**

### **1. Summary:**

2.1. Q212 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 is the subject of a specific questionnaire and may be also the issue of a resolution during the up-coming ExCo.
- b) Madrid System: studying the implications of the proposed abolishment of the basic mark requirement as suggested in a recent MARQUES' initiative and the interrelation of the basic mark requirement and transcription marks if different writing systems are involved. This will be the topic of new Q239 (Toronto congress, 2014)

2.2. On a more operative level there are four goals:

- a) to improve the efficiency within our special committee by forming "Special Interest Teams" in particular in relation to the International Marks (Madrid System), European Mark (CTM) and topical issues (such as Plain Packaging).
- b) To improve the visibility of AIPPI in meetings of WIPO and OAMI by securing adequate personal representation and by submitting substantive papers where necessary;
- c) To liaise with SC Q227 Designs in order to coordinate the representation at the WIPO SCT which covers both aspects of design and trademarks.

### **2. Report of Committee's activities and Recommendations**

2.1 Committee meeting during the congress in Seoul

There was a well attended gathering of members of SC Q212 in Seoul; the minutes of 4 November 2012 were circulated amongst the members of the committee. We plan to hold a meeting in Helsinki this year.

2.2 Work and Contributions on Substantive Matters

- a) Madrid System: Basic Mark Requirement: Earlier last year AIPPI was approached by our sister organization MARQUES with a request for support of the so called Norwegian proposal which basically suggests to completely abolishing the basic mark requirement in the Madrid system. Upon request of the RGT, Q212 has prepared a summary analysis of MARQUES' proposals and submitted a report to the Bureau.  
This challenging issue is now the object of Q239 "The basic mark requirement under the Madrid System"
- b) Supporting the Drafting Process regarding two pressing issues

(i) **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 has 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. In 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. In this context AIPPI prepared a questionnaire with the intention to either submit an **independent study** or a **resolution**.

(ii) **Proposals to revise and update the Community Trade Mark Regulation (CTMR) and the Trade Marks Directive (TMD)**

Members of SC Q212 were asked to analyze the proposed revision of CTMR and TMD with the goal to publish a first assessment. This is an ongoing project.

(iii) **Proposals to review IP Translator decision**

We received an elaborate draft questionnaire by Shane Smyth (Annex 1); this is an issue to be discussed in the upcoming SC Q212-meeting in Helsinki, also in the context of the revision of the Trade Marks Directive in regards to CTMs.

### 2.3 Representation of AIPPI at WIPO and OAMI meetings

WIPO and 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 2012/2013 due to the participation of several group members for which we take the opportunity to thank them.

### 2.4 Support of RGT in regards to other items

SC Q212 was involved

- a) in clarifying the role and concept of the so called TM5-Interest Group (consisting of the JPO, KIPO, OHIM, SAIC and the USPTO). We suggested that this is something AIPPI should further explore in order to establish as to how to be informed on the agenda of this specific interest group of TM offices.
- b) the organization of one of the workshops in Helsinki; we were able to establish contacts with (Ms.) Dr. Ballocco Mattavelli of WHO, responsible for INN at Department of Essential Medicines and Health Products (EMP).

Report written by:

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