

## Report Q212

### Trademarks

by Peter Widmer, Chairman of Q212

#### **Names and Functions of Committee Members**

Chairman	Peter Widmer	(Switzerland)
Co-Chairman	Uli Widmaier	(USA)
Secretary	tbd	
Members	Brett August Christian Rohnke Jan Vleck Anne Marie Verschuur Bartosz Krakowiak Masako Nishimura	(United States of America) (Germany) (United Kingdom) (Netherlands) (Poland) (Japan)
Responsible Reporter	Thierry Calame	(Switzerland)

- A number of new members have been added to this committee and more members will be added shortly. Therefore, Q212 will be re-launched during the Hyderabad ExCo-Meeting. It is the plan to have a meeting with the members of the group in order to work on the current draft of the terms of references and to agree on the future mode of cooperation within the group. Should a face-to-face-meeting in Hyderabad not be possible (assuming that not all members of Q212 will attend), it is planned to hold a telephone conference in order to discuss these issues.

- During this year, our committee was approached by the RG in the context of the preparation of the public hearing of user organizations of the trademark system in Europe (European Commission, Brussels, 26 May 2011). AIPPI was represented by our Committee member Bartosz Krakowiak, as well as Dominique Kaesmacher, the President of the Belgian Group, both of whom prepared a very helpful report on that hearing.

- During this year, our committee equally alerted the RG to the Public Consultation Process in Europe regarding Plain Packaging Legislation. The RG and President on behalf of AIPPI filed extensive comments on the proposed Plain Packaging Legislation.

- We are now about to prepare our attendance at WIPO's Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), 26th session in Geneva, October 24 to October 28, 2011. Our focus will be on internet-related aspects of

trademark use and enforcement; I refer to the enclosed communication with the group including the relevant exhibits. In preparation of this session I had today an interesting conversation with the head of the SCT secretariat in Geneva, Mr. Marcus Höpperger. He referred to an interesting issue raised by the Danish Patent and Trademark Office in the context of a current SCT project titled "Information Meeting on the Role and Responsibility of Internet Intermediaries in the Field of Trademarks". In fact, the topic of this item as such and the questions raised by the Danish Patent and Trademark Office are of particular interest to Q212. In addition, Dr. Höpperger raised the question, whether AIPPI has a view on the so called "Joint Recommendation Concerning Provisions on the Protection of Marks and other Industrial Property Rights in Signs, on the Internet", as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the World Intellectual Property Organization (WIPO) at the 36th Series of Meetings of the Assemblies of the Member States of WIPO on September 24 through October 3, 2001 ("2001 – Joint Recommendation"). Indeed, it is now ten years that the 2001 – Joint Recommendation is in force. Therefore, the questions raised by the Danish Patent and Trademark Office are certainly well founded. It is in fact unclear as to what extent the main content of the 2001 – Joint Recommendation has been implemented into national law and how national courts have applied the principles laid down in it. Thus, it may be a good time to discuss this document within Q212 Special Committee in order to find out whether it is still covering the main issues of conflicting use of trademarks on the internet in the broadest sense. We will discuss whether the group finds that AIPPI should look into this issue in more detail and if there are any specific issues which we should bring to the attention of the SCT in the course of the upcoming meeting.