



European Communities Trade Mark Association

Surveys undertaken by the ECTA Harmonization Committee

No.	Survey	Date	Status of Survey	Legal Provisions	Evaluation Questions of the Tender for the Study	Comments
1	Trade Mark Use in Opposition/Cancellation Proceedings in the European Community	October 2004	finalized	Directive 2008/95/EC Articles 10 and 11	5.1 (1) (a) 5.1 (1) (b) (i)	
2	Trade Mark Issues related to Non-EU States and Regions	March 2007	finalized			does not directly relate to the Questions raised in the Tender for the Study
3	Calculation of the Starting Date for the 5 Years Use Requirement	December 2007	finalized	Directive 2008/95/EC Article 10 (1) and Recital under (6)	5.1 (1) (a) 5.1 (1) (b) (ii)	
4	Trade Mark Issues related to Geographic Designations	December 2007	finalized	Directive 2008/95/EC Article 3, 1. (c)	5.1 (1) (a) 5.1 (1) (b) (i) 5.1 (1) (b) (ii)	
5	Priority of the Conversion (Converted Marks) in the New Member States	July 2008	finalized	CTMR Articles 113 and 114 and the corresponding national provisions	5.1 (1) (b) (ii) 5.1 (2) (c) (iii)	
6	Conversion Issue relating to Seniority of a Cancelled National Trade Mark	October 2008	finalized	CTMR Articles 113 and 114 and the pertaining national provisions	5.1 (1) (b) (ii) 5.1 (2) (c) (iii)	



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7	A Likelihood of Confusion of TMs consisting of a Person's Name	June 2009	finalized	Directive 2008/95/EC Article 4, 1. (b) Article 5, 1. (b)	5.1 (1) (a) 5.1 (1) (c)	
8	Registrable Transactions	November 2009	finalized	Directive 2008/95/EC Recital under (6)	5.1 (1) (b) (ii)	
9	The Pronunciation of a Trade Mark and how this affects the Assessment of Similarity of Marks by the NPTOs	October 2008	finalized	Directive 2008/95/EC Article 4, 1. (b) Article 5, 1. (b)	5.1 (1) (a) 5.1 (1) (b) (i) 5.1 (1) (c)	
10	Question whether Use of a TM in a Form slightly Deviating from registered form supports the Reg., if used Deviating Form is registered on its own	November 2009	finalized	Directive 2008/95/EC Article 10, 1 (a)	5.1 (1) (a) 5.1 (1) (c)	
11	Legal Enforcement of Security Interests		work-in-progress	CTMR Articles 19 and 20 and corresponding national provisions	5.1. (1) (b) (ii)	
12	Protection of Marks with a Reputation		work-in-progress	Directive 2008/95/EC Article 4, 3 and 4. (a) Article 5, 2.	5.1 (1) (b) (i)	
13	Trade Marks filed in Bad Faith		work-in-progress	Directive 2008/95/EC Article 3 2. (d)	5.1 (1) (b) (i) and presumably 5.2 (5) (d)	



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14	How TMOs deal with the ECJ principle that differences in connotation or graphic appearance between two Trade Marks may counteract even stronger similarity under other aspects so as to exclude the likelihood of confusion		work-in-progress	Directive 2008/95/EC Article 4, 1. (b) Article 5, 1. (b)	5.1 (1) (a) and presumably 5.1 (1) (c)	
15 - 23	all deal with not harmonized law applicable to CTMs		work-in-progress	CTMR Article 14 (2) Article 101 (2) Article 103 (1) Article 14 (1) Article 102 (1) Article 110 (1) Article 110 (2) Article 111 (1) Articles 99 (1), 100 Articles and Directive 2008/95/EC Article 4, 4. (c) and corresponding national provisions	5.1. (1) (b) (i)	
General Remarks:						
As far as the Surveys conducted by the ECTA Harmonization Committee among its Members related to harmonized law, the results in each case reflected differing practices of the national Offices/national Courts. The ECTA Harmonization Committee submits to examine whether amendments of the Directive might lead to more clarity and uniformity.				As far as the Surveys conducted by the ECTA Harmonization Committee among its Members related to non-harmonized law, the Members of the ECTA Harmonization Committee generally concluded that a further harmonization would be desirable.		



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Survey undertaken by the ECTA Anti Counterfeiting Committee

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	Monetary Compensation for TM Infringement – as applied in the Courts of the European Union	May 2008	finalized	Directive 2004/48/EC Articles 13 and 14	5.2. (2) third bullet point	