



European Communities Trade Mark Association

Please reply to :

Mr. Simon Reeves, President,  
ECTA Secretariat,  
Rue des Colonies 18/24, Box 8  
B-1000 Brussels  
Belgium

Lord John Mogg  
Chairperson Management Board  
OHIM Cooperation Fund  
By e-mail: [John.Mogg@ofgem.gov.uk](mailto:John.Mogg@ofgem.gov.uk)

CC Mr. Wubbo de Boer  
President OHIM  
by e-mail:  
[Wubbo.DEBOER@oami.europa.eu](mailto:Wubbo.DEBOER@oami.europa.eu)

Brussels 14 December 2009

Dear Lord Mogg,

We refer to your letter dated 30 November 2009 sent to the members of the Administrative Board and of the Budget Committee as well as to the five observer NGOs.

ECTA takes up your proposal to further provide input to be considered by the Management Board for the use of the Cooperation Fund.

In this context, ECTA is willing to reassure that the priorities for users remain the ones mentioned in the joint letter of the five NGOs dated 16 September 2009 and in ECTA's letter of 10 November 2009 containing additional suggestions.

Regarding the areas of training and anti-counterfeiting activities underlined in your letter of 30 November, ECTA would like to make the following remarks.

In our letter of 10 November 2009, we specifically refer to the training of examiners of the trade mark offices by, for example, organizing symposiums or courses at OHIM and at local level with the participation of examiners of OHIM Opposition Divisions, Board of Appeals and Cancellation Division. It is important that the national examiners take the most benefits from OHIM's experience and knowledge. Secondment of national examiners at OHIM should be considered as a training means. However, as many countries cannot afford to send examiners to Alicante for organizational and practical reasons, it will be helpful that OHIM actively visits the respective national trade mark offices in the EU.

We also mentioned in our letter that other actors confronted with the prosecution and enforcement of trade mark rights should also benefit from training in order to improve harmonization and work efficiency. The civil, commercial and criminal judges of the national courts are the main concerned parties. The same approach as above should be taken with respect to active visits from OHIM with such actors at their respective location.



European Communities Trade Mark Association

With regard to the anti-counterfeiting activities at the national trade mark offices' level, we consider that they should be carefully considered. We could welcome proposals to improve registration procedures at national offices because rights-holders need rapid, efficient and cost-effective registration procedures to protect their rights against infringements. Beyond this, moving into anti-counterfeiting work would be a significant departure from the current activities of trade mark offices bearing in mind the efforts already being undertaken by other institutions and law enforcement agencies. It would require a fundamental change of the mission of national offices, may not be an effective way to tackle the issue with quantifiable measures and could be counter-productive. A thorough analysis must be carried out before any conclusions can be reached on how the national trade mark offices could contribute to the fight against counterfeiting activities. It is clear that the current study on the functioning of the trade mark systems at the EU level will help drawing these conclusions.

As developed in our letter of 10 November, another way to tackle the anti-counterfeiting issue at this stage would be to develop a unique and common database for custom authorities enabling access for all EU customs authorities and Courts to the information provided by the right owners on their products and rights referred to in their EU and national customs applications.

Finally, we are also willing to re-express our full support to the principle of solidarity as it is urgently necessary to give priority to the NPTOs who are less technologically developed in order to raise and unify their level of performance.

We hope that our suggestions will be taken into account as we are of the opinion that they are serving the interest of all kind of users.

We remain at your disposal should you require further clarifications.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Reeves', is written over a horizontal line.

Simon Reeves  
ECTA President