



European Communities Trade Mark Association

June 2007

## PRESIDENT'S REPORT

***Mireia Curell***

More than one year has passed since we last met in Warsaw. During this time ECTA has worked hard and important developments have taken place within the association and also in the IP field.

My duty is to present an Annual Report and I will try to summarise those points I believe of greater interest to you.

There has been a new enlargement of the European Union in January 2007 with the accession of Bulgaria and Romania. We welcome most warmly these two countries in the European Community and also in ECTA. As you know, ECTA's Articles of Association have been amended so that these two new countries be represented in Council. This will bring 3 new members to ECTA Council, which is already very large. It counts at present with 50 members and with the representatives of Bulgaria and Romania and a representative from Slovenia it will be composed by 54 members. Regretfully, not all the 27 EU member countries are represented in our Council. Slovakia and Malta are not yet represented and we are still trying to find candidates to cover these posts.

The Management of ECTA has also experienced a change. Norman MacLachlan, our Treasurer for nearly 20 years, decided to resign in Prague last October. Our new Treasurer is Jaroslaw Kulikowski from Poland. I would like to sincerely thank Norman for his long-standing service to ECTA, and also Jaroslaw for assuming such a big responsibility.

Last year's conference in Warsaw in Poland took place on June 7-10, 2006 under the title "Harmonised Enforcement and Enforced Harmony" and it was very special since the setting was a theatre and the programme was designed as a play, "A Play in Three Acts". Instead of speakers we had actors, stage managers in the place of moderators and the public participated in the shape of critics. The conference was very well attended with around 600 delegates and 85 accompanying persons. It was a big success both professionally and socially. We must all thank the organisers and in particular Jaroslaw Kulikowski for their good job. In fact, the success of our events in the past years has lead to an outstanding attendance for the present conference in Deauville, which has again beaten a record. We are around 750 delegates and more than 100 accompanying persons.

After our last Annual Meeting, the association continued its activities:

The Management Committee met three times in Barcelona, in Brussels and in Antwerp. We also held a special meeting in Dublin for the transfer of ECTA's treasurership.



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The Council and Committee meetings took place in the beautiful city of Prague on October 19-20, 2006. The meeting was very well organized by the Czech Council members under the direction of Vladimir Rott and a Round Table took place on Friday afternoon under the title "Trade Marks and Unfair Competition, Mutual Relations". I wish to also thank the organizers for their good job.

At the Council Meeting in Prague an Action Plan for 2006-2008 was set up with the aim to correct ECTA's weaknesses and to intensify its strengths. The main points are:

1. Stabilise the financial situation of ECTA.
2. Increase membership, particularly in new member states.
3. Establish a relationship with National Offices.
4. Co-operate with Universities and specialised IP Law Schools and obtain recognition as training provider by professional institutions.
5. Improve our relationship with the European Commission, extending our contacts to DGs other than Internal Market (i.e. Pharmaceuticals, Foodstuff, Competition, Trade).
6. Continue our contact with OHIM and WIPO and extend it as far as possible to other organisations such as WTO, WCO.

Prague also hosted the meetings of the Committees with the new Chairs, Vice-Chairs and Secretaries as elected in Warsaw. The work of committees is one of the most important aspects of ECTA. It is essential for their members to play an active role. The mechanism to prepare position papers must be well established. This year ECTA has submitted more than 17 positions. Often time is short and an important background work has to be done in order to prepare a well-grounded paper. On occasions, it is necessary to study lengthy documents, such as OHIM Guidelines or Directives. The role of Chairs to lead the projects and / or to appoint responsible persons among the members of the Committee to take in charge particular issues and preliminary studies or drafts is essential. The Legal Coordinator must be informed of the different ongoing studies and projects. She networks between Committees that have convergent projects, monitors the deadlines and sends reminders where required. My sincere gratitude to all Committee members and to our Legal Coordinator for their efforts and achievements.

This month of May we have had the election of new Committee members for the next three years. We are most glad to say that we have received about 160 applications. This is a very positive sign for the association as it shows the interest of members in an active participation.

Apart from the Management and the Council Meetings, ECTA has participated in many other events. I will not list them all, but I would like to highlight three main axes that have marked ECTA's work during this year:

- In the first place, it is worth mentioning WIPO and the Revision of the Madrid System, in particular the Safeguard Clause as provided for in article 9 sexies of the Madrid Protocol, within the framework of the Ad Hoc Working Group on the Legal Development of the Madrid System for the International Registration of Marks.
- ECTA attended the four sessions of the Ad Hoc Working Group at WIPO in Geneva as an observer, including the last one, which took place a month ago. A carefully prepared and balanced position paper –with the assistance and knowledge of Florent Gevers to whom we are very grateful- was presented on



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behalf of ECTA. I dare say that ECTA's opinion played an important role in the last compromise reached regarding the revision of the Madrid System which resulted in the maintenance for Madrid Agreement member countries in the relations amongst them of the standard designation fee and the refusal period limited to 12 months. Our position and the report on the final compromise as reached are available at ECTA's website.

- ECTA also participated in the WIPO Standing Committee on the Law of Trade Marks, Industrial Designs and Geographical Indications (SCT Meeting) in November 2006 and May 2007.
- As in the past years, we held a bilateral ECTA / WIPO meeting in Geneva on March 5, 2007.

Our relationship with WIPO is excellent and has been especially active this year with the revision of the Madrid System.

➤ In the second place, we must mention OHIM and the Commission's communication on the "Financial perspectives of the Office for Harmonization in the Internal Market" dated 22 December 2006.

- ECTA prepared a position, which was sent to OHIM, the European Commission, national offices and IP associations. ECTA's paper stressed the need for quality of services and for the cooperation of OHIM with the national offices to the extent that the effective interaction between the Community and national trade mark systems be assured. The position can be found on ECTA's website.
- We also had a double meeting with the European Commission: on March 15, 2007 the Management and the Chair of the Law Committee met Erik Nooteboom, Harrie Temmink and Benoît Lory and subsequently, on April 12, 2007, we met the new Director General of the European Commission Internal Market and Services, Mr. Holmquist along with Tom Marlow, Seconded National Expert Industrial Property in Brussels. We expressed to the Commission our wilfulness to be heard in this important moment where a debate in depth on the Trade Mark system in Europe is required.
- Also as far as OHIM is concerned, ECTA participated in the 13<sup>th</sup> and 14<sup>th</sup> OAMI Users Group Meetings, in Alicante, on July 3, 2006 and March 9, 2007.
- And we had our own meetings, the so-called OHIM Link Committee Meetings on September 12, 2006 and February 5, 2007.
- Finally, ECTA was invited on October 27, 2006, to the 10<sup>th</sup> Anniversary of the Boards of Appeal of OHIM, where we stressed the importance of the independence of the Boards and congratulated them for the relevant task performed.

At this point, it must be said that contributing to the development of the Community Trade Mark and Design systems is considered one of the main tasks of ECTA. Our exchanges of views with OHIM are fluent and we have no doubt that they are useful to both sides.



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- In the third place, in the development of the domain name .eu, the need to set up a Code of Conduct for Registrars was raised.
- ECTA was consulted by EURid in respect of this point and a position was submitted.
- ECTA was invited to the .eu interim council meeting in Lisbon on March 29, 2007
- and also to the IDN Advisory Board meeting.

Nor should we forget the frantic activity of the Anti-Counterfeiting Committee in submitting comments in respect of the draft Directive on Criminal measures aimed at ensuring enforcement of IP rights and many other important contributions.

The relevant Committees will report on all these important aspects of ECTA's activities.

ECTA was also invited to speak at the Pan-European Intellectual Property Summit that took place in Brussels, on December 7 and 8, 2006. A round table was set up on the 10<sup>th</sup> Anniversary of the CTM with Joao Miranda de Sousa representing OHIM, and on the side of ECTA, Max-Oker Blom, immediate past President, Simon Reeves, First Vice-President, Fabio Angelini, Vice-Chair of the Law Committee, and myself as Chair of the session. The round table was extremely well attended and it was followed by a lively discussion.

Our yearly meeting with the sister associations, APRAM, BMM, GRUR, ITMA and MARQUES, hosted by the latter, took place in Copenhagen on March 5, 2007. Interesting points, including the revision of the Madrid System and the Commission's Communication on OHIM Financial perspective, were discussed. The need to try to work on common positions to have more strength before the authorities in defence of the users of the trade mark and design systems was stressed. We have had common views so far, but the interests of the associations are not always coincident.

At the request of the past Chair of MARQUES, Tove Graulund, we restored our bilateral annual meeting with this association. We met with the new Management of MARQUES on November 23, 2006 in Brussels and the possibility to organize a joint seminar on domain names was raised. Although we agreed with the project, it is not clear that it will be accomplished, at least during 2007.

ECTA has been invited to conferences of other NGOs such as APAA, GRUR, UNION, BMM, MARQUES, AIPPI, ASIPI and APRAM. I would like to thank the President of the latter, Mrs. Laurence Julien-Raes, for the support shown to ECTA and in particular for the diffusion among its members of our Conference here in Deauville.

To close this section regarding co-operation with other NGOs, it is worth mentioning that the Management of ECTA has been invited to participate as speakers to the International Baltic Conference on Intellectual Property in September 13 to 15 this year in Vilnius, Lithuania. Annick Mottet-Haugaard and myself will represent the association in a session devoted to the Community Trade Mark.

I will finish by reporting on three important initiatives of the association:



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1. The organisation of ECTA Round Tables at local level. Apart from the one organized in Prague on the occasion of the Council Meeting, we had one in Germany, at Weil am Rein on March 23, 2007 under the title “The Community Design in particular relation to Austria, France, Germany and Switzerland” and another one in London on May 30, 2007 under the title “Relative Grounds of refusal all change in the UK”. There are further projects for Round Tables in Belgium, Hungary, England and Spain for the second half of 2007.
2. The launch of the electronic ECTA Flash under a new layout. I would like to stress in particular the high quality case law updates provided in the Flashes with the support of DARTS-IP.
3. The publication of the biannual ECTA Gazette, which contains in-depth articles on trade marks, designs, domain names and related rights, as well as the speeches and presentations of the Round Tables.

We hope that this material is of interest to our members. The figures could be understood as an approval of ECTA's performance, since membership has grown this year more than ever before (around 120 new membership applications have been received until May 2007 which corresponds to the total figure for 2006).

We would of course welcome any suggestion from ECTA members to try to improve our task.

I cannot finish my report without thanking the ECTA Secretariat, Sue Van Looy and Cathy Van Vuuren for their efficient work and support, our Legal Coordinator, Sandrine Peters, for her dedication, knowledge and constructive initiatives, and my good colleagues at the Management, Keith Havelock, Secretary General, Simon Reeves, First Vice-President, Annick Mottet-Haugaard, Second Vice-President, and Jaroslaw Kulikowski, Treasurer, without whom the progress of the association would not be possible.

Mireia Curell  
ECTA President