



All roads lead to Brussels

Ewa Grabiak provides an overview of the association's activities in 2012 and 2013, and looks at what's coming next for European trademarks

Last year was definitely the year of change for the European Communities Trade Mark Association (ECTA), not only because of key legislative developments, but also from an internal perspective—a new ECTA president, a management team and legal coordinator were all named. Beyond a record number of position papers, ECTA's activities in 2012 were mainly concentrated on: the revision of the Customs Regulation; the potential entrance of standardised Tobacco product packaging in European legislation; and recent the reform of the European trademark system. ECTA has also been occupied with establishing partnerships with certain EU organisations, such as the IPR Helpdesk and OLAF (European Anti-fraud Office). ECTA has also been a member of EURid since April 2013.

Two thousand and twelve was also the year of 'visibility' for ECTA. We decided to open our association to new experiences and new possibilities. We are the first IP association to become

an official partner of the European IPR Helpdesk, which is an official service supervised by the European Commission and destined to promote the use of intellectual property rights to European enterprises. European SMEs particularly do not always have sufficient knowledge of IP rights and so do not completely use them to their economic potential. We do believe that this new experience is an opportunity for ECTA to reach new industry members and share our knowledge in this field.

The place of IP rights has never been as uncertain as it was in 2012. We all remember the downfall of the Anti-Counterfeiting Trade Agreement (ACTA), which showed that certain misunderstandings and misleading perceptions of IP rights still persist. Rather than a defeat, we considered ACTA as a lesson that European citizens are still not aware of the enormous potential of IP, especially in the context of an economic crisis. It concerns consumers as much as trademark owners.

For this reason, the revision of the Customs Regulation was one of ECTA's top priorities in 2012. ECTA welcomes the fact that the scope of protection in the new regulation has been significantly enlarged and extends protection to holders of rights in trade names, semiconductor topographies, utility models and technology circumvention devices. Further, the new regulation also establishes a new procedure enabling a rights holder to apply for the destruction of small consignments of allegedly counterfeit or pirated non-perishable goods, without having to undergo formal legal proceedings. We hope that the new regulation will turn out to be the right response to the recent dramatic increase in counterfeit trade in small consignments that are purchased via websites operating outside of the jurisdictional reach of EU rights holders.

We also understood that there many different ways to fight counterfeiting. In this respect, we decided to unify our efforts with OLAF. Again, ECTA is the first association specialised in IP to

establish a memorandum of understanding with an institution, internationally recognised in the fight against counterfeiting. Under this agreement, OLAF and ECTA may consult each other and collaborate in order to fight counterfeiting in Europe. ECTA is honoured to be surrounded by such experienced and recognised partners and we believe the collaboration with our partners will contribute to better promotion and protection of IP rights in Europe.

In 2012, ECTA also focused on the standardised packaging of unhealthy products. Australia was the first country to cross the line with the Tobacco Plain Packaging Act, which officially came into force in the beginning of December 2012. Under the law, all figurative trademarks, logos, colours or a combination of them are prohibited on cigarette packages. By making packaging less attractive, it is envisioned that young people in particular will be less inclined to start smoking, while existing smokers may be discouraged from continuing.

Plain packaging knocked on European doors in December with the publication of the European Commission's revised proposal of the Tobacco Directive. Plain packaging will become a reality in Europe, as Ireland has decided to adopt the brand-free packaging in coming months. This certainly encourages ECTA to intensify efforts to defend the free use of trademarks in Europe. The next step will be the plenary vote at the European Parliament, scheduled for September.

Although 2013 is not over, we can already see that the rest of this year and 2014 will be dedicated to the reform of the European Trademark system. The European Commission published two proposals to amend Council Regulation (EC) No 207/2009, on the Community trademark (CTM), and Directive 2008/95/EC, to approximate the laws of member states relating to trademarks, on 27 March.

ECTA welcomes the commission's decision to revise the current legislation. Although both the directive and the CTM regulation were particularly well drafted and have endured remarkably well, the economic context has changed and it is necessary to give EU trademark laws a makeover so that they may better reflect these changes and provide EU companies with efficient instruments to stay competitive in the global market. The first difficulty was to determine the top priorities and concerns contained in the proposal. Here, ECTA could count on the help of its law, harmonisation, anti-counterfeiting and geographical indications committees, which analysed the texts from various perspectives.

The commission's proposal is now being discussed at the European Parliament and the European Council. It is therefore imperative to continue meeting and explaining ECTA's position on these very technical matters. Time is also a factor, as the European elections are scheduled for May 2014 and they will certainly affect the ongoing legislative

process. At the same time, the new measures will affect national IP offices and national users, so it is necessary to continue the dialogue and defend the common interests. In this sense, our work in the 'Brussels Bubble' requires regular contact with the IP attachés representing member states' interests, which is a new experience for ECTA.

In addition to the above priorities, 2014 will also be dedicated to the 20th anniversary of the European CTM. For this occasion, ECTA will prepare many surprises for its members, starting with the annual conference, which will take place in Alicante, the place where it all began. **IPPro**



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