ECTA
European Communities Trade Mark Association

32nd ANNUAL CONFERENCE

THE JURY IS STILL OUT

BUCHAREST, 19-22 June 2013
OHIM CONVERGENCE PROGRAMMES REGARDING DESIGNS

20 June 2013

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Chair of ECTA Design Committee

BUCHAREST, 19-22 June 2013
Dear Friends of OHIM

Please consider the following issues
Strike while the iron is hot

**STRIKE WHILE THE IRON IS NOT SO HOT...**

- Efforts to achieve convergence in the way offices around the world operate have led to only modest results.

- Within the EU, there is still a long way to go in order to iron out the discrepancies among the 27 offices.

- There are still unnecessary differences of practices that need to be addressed in order to strengthen the trade mark and design protection in Europe.
Always the sun....

ALWAYS THE TRADEMARKS ®

- **WHAT ABOUT DESIGNS?** a long way to convergence notably when considering the CDR and IR – Hague System (WIPO)

- Convergence of formalities requirements in national and international design registration laws in order to:
  
  i. simplify and harmonise these formalities, saving cost and duplication of effort for applicants and

  ii. reduce the current uncertainty as to the legal effect of design registrations arising from different national rules and practices on the interpretation of representations in design registrations
Global Harmonization

• RCD (direct registered Community design filings at OHIM) and International (Hague Agreement - IR) filings where only the OHIM is designated in the IR

• There are no differences in the legal effect of a RCD obtained directly as opposed to an international registration designating OHIM. The comparison really concerns speed, ease of use and costs, with a few issues concerning the application as a basis for protection outside the UE

• Harmonization of national practices (IPOs)
Comparison RCD v. IR

- Fees
- Eligible Applicants
- Priority claims
- Timescales
- Representations and multiple designs
- Languages
- Prosecution bureaucracy
- Post grant administration
- Searching RCDs and IRs designating OHIM
- Representations and multiple designs
2012
A Year of Achievement

• What a year it’s been for the Cooperation Fund, and for the Convergence Programme

• 2012 saw great success for both, and concrete results – a tribute to the dedication of the teams at national and Benelux offices, EPO, WIPO, user associations and OHIM
Main Issues – 2013 (...)

• The Design View – continuing the improvement...

• Postponing of a filing date if the representations need to be amended to exclude background material, etc

• Need of Convergence of practice on design representations – a convergence project on this and other design law issues can be expected at the beginning of 2014
Main Issues – 2013 (...)

• Practice surveys disclosed a complete diversity of practice in the IPOs on many substantive issues

• Priority claims

• Disclosure

• Procedural practice aligned with CTM
Main Issues – 2013 (...)

• Moving images and methods of publication of designs, including new three dimensional CAD style representations

• What is required for the future?

• Everywhere except Denmark you can file black and white representations based on a coloured representations priority filing but not the other way around
Main Issues – 2013 (...)

• Drawings and their interpretation

• The maximum 7 representations rule from RCD – removal?

• The WIPO review in November last year on the Hague Agreement disclosed wide variations in practice even in Europe

• The Apple v. Samsung cases showed the need for a coherent regulation of the matter
Good achievements

- DesignView (project has gone live November 2012)

- GR OBI, ES, BG, BX, SK, EE and PT have all integrated their databases successfully!

- Implementation of convergence – regular meetings (ABBC)
What we should expect?

• Convergence of practice on design representations – beginning of 2014

• Integration of IPOs databases

• Alignment of practices with IPOs

• Alignment with WIPO/ Hague System
With kind regards

Mulţumesc – Thank you!

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