



**OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)**

GENERAL AFFAIRS AND EXTERNAL RELATIONS DEPARTMENT
LEGAL AND INSTITUTIONAL AFFAIRS

OAMI Users Group

UG/03/I/5
EN (OR)

Minutes
of the 9th meeting of the OAMI Users Group,
7 July 2003, Alicante

1. At the invitation of the President of the Office dated 1 April 2003, the ninth meeting of the OAMI Users Group was held on 7 July 2003. The President of the Office had invited the following non-governmental organizations with which the Office co-operates: AIM, AIPPI, BEDA, CEFIC, CNIPA, ECTA, EFPIA, EURATEX, FEMIPPI, FICPI, ICC, ICOGRADA, ICSID, INTA, LES, MARQUES, UNICE, UNION. The European Commission had been invited in an observer capacity.
2. Representatives of the following organizations attended the meeting: AIM, AIPPI, BEDA, CNIPA, ECTA, EURATEX, FICPI, ICC, ICSID, INTA, MARQUES, UNICE, UNION, European Commission. The list of participants is given in the Annex to these Minutes.
3. Simultaneous translation was provided from and into the following languages of the Office: Spanish, German, English and French. The Office noted all interventions made and recorded them on tape. These Minutes are confined to a summary of the results of the meeting.
4. The Office distributed the following working documents in advance of the meeting: document UG/03/I/1, provisional agenda, document UG/03/I/2, draft guidelines on opposition proceedings, document UG/03/I/3, examination guidelines for Community designs, and document UG/03/I/4, new forms of the Office.
5. At the meeting, the following additional information papers were made available to the participants: statistics on Community trade marks from application to registration and on registered CTMs.

AGENDA ITEM 1, OPENING OF THE MEETING BY THE PRESIDENT OF THE OFFICE

6. The President of the Office welcomed the participants, in particular the representative of BEDA who was present at the meeting for the first time.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

7. The President of the Office proposed to add a new point, 5 II on e-business, which had been discussed at management level and which will be put into place in the future.
8. The President concluded that with this amendment, the agenda contained in document UG/03/I/1 was adopted.

AGENDA ITEM 3: ADOPTION OF THE MINUTES OF THE EIGHTH MEETING

9. The President of the Office took note that in absence of any comments, the Minutes of the eighth meeting of the OAMI Users Group were adopted as contained in document TMG/02/II/10.

AGENDA ITEM 4 a): CURRENT STATUS OF THE ACTIVITIES OF THE OFFICE IN GENERAL: FILING FIGURES

10. The President of the Office indicated that in the year 2002, 45.000 trade mark applications had been received. In 2003 under present circumstances an increase of between 5-10% of applications could be foreseen. The daily averages were higher for all months of the year compared to last year, so that a number of 49.000 or 50.000 applications could be foreseen. This statement was very conditional on the results of the last 6 months of the year.

AGENDA ITEM 4 b): NEW DEPARTMENT STRUCTURE OF THE OFFICE

11. The President of the Office mentioned that the OHIM had gone through a period of approximately one year of intensive restructuring which had led to the creation of eight departments. In the core business, users would deal with 4 departments :
 - a) The designs department headed by Mr. Paul Maier that started its activities this year.
 - b) The administration of trade marks and designs department headed by Mr. Vincent O'Reilly, has almost been operational for one year.
 - c) The Boards of appeal under the leadership of Mr. Bruno Machado
 - d) The new trade marks department headed by Mr. Hans Jakobsen in which the activities that were formerly executed by the examination, opposition and cancellation division were grouped together.

This change has been subject to transitional difficulties, which will be solved as soon as possible.

AGENDA ITEM 5a: LEGISLATION: CTM REFORM AND IMPROVEMENT: AMENDMENT OF THE CTM REGULATION

12. The President of the Office reminded the participants about the challenging times for the CTM with the amendment of the CTM regulation, the possible accession of the EU to the Madrid Protocol, the enlargement of the EU and the new Designs Regulation. These events, although they have been prepared for quite some time, could lead to a number of uncertainties in the present operations.
13. The representative of the Commission informed the participants that the Commission made a proposal for the amendment of the CTM Regulation to the Council in December 2002. Since then, various meetings have taken place at the Council. The last one took place on 4 June 2003. At that meeting a text amending this proposal was distributed by the Greek presidency of the Council to the national delegations. Amendments have been presented regarding the following Articles :

Article 7 CTMR regarding trade marks contrary to geographical indications. The Commission agrees with this modification.

Article 21 CTMR regarding insolvency proceedings. This Article did not cause any political problems.

Article 44a CTMR regarding the division of the application. The Commission welcomes the new text, as it is clearer. The same applies to the Article regarding the division of the registration.

Article 60a CTMR regarding the revision of decisions in *inter partes* cases. Some small changes have been introduced.

Article 77a CTMR regarding the revocation of decisions. The Commission considers the text clearer than the previous one but notes that there is still some resistance from some national delegations who consider the scope of the provision unclear.

Article 130-131 CTMR regarding the Boards of Appeal have not yet been discussed.

Article 39 CTMR regarding the search system where a lot of resistance has been encountered from the member states against the abolition of these searches. Only two member states are in favour of abolishing it. The majority of the other Member States are in favour of a system of facultative searches. The Commission still considered that the abolition of searches is the best solution but realises that with the opposition of many member states an alternative solution of facultative searches might be considered.

The timeframe from now on will be the following: on 14 July the Italian presidency has scheduled the next meeting of the working groups followed by 4 others with the intention of reaching an agreement on the new text before the end of the year.

14. The representative of ECTA asked the Commission for the opinion of the accession countries regarding the search. The Commission representative underlined that these countries were more in favour of maintaining the existing system. It was important to know their opinion, but they would not have the right to vote on this proposal if the amendments were adopted before the end of the year.
15. The representative of AIPPI asked if the Commission, when exploring alternatives to make the searches optional, could give some more details about this system. The Commission answered that if the abolition of the searches would not be possible, a facultative search, preferably not during the registration procedure and of a better quality, would be the best solution.
16. The representative of INTA added that in its opinion the present articles 130-131 CTMR as contained in the Greek proposal regarding the Boards of Appeal did not solve the problem of the independence of its members.
17. The representative of the Commission after having explained the legislative history of these articles in the Economic and Social Committee and the European Parliament asked if INTA was in favour of the text proposed by the Greek presidency. The representative of INTA supported it but repeated his opposition to maintaining the search system.

AGENDA ITEM 5b: REVISION OF THE CTMIR

18. The representative of AIPPI asked what the plans of the OHIM were in terms of amending the CTMIR following the expected amendment of the CTMR.
19. Mr. Schennen underlined that the CTMIR is a regulation of the Commission. The Office internally collected ideas for making a proposal to the Commission. This text would be sent to the Commission with whom the further proceedings would be discussed unless the representative of the Commission was in a position to tell more about this item at this stage.
20. The representative of the Commission informed the audience that the Commission had not started working yet on the CTMIR but considered that in the light of some proposals made to amend the CTMR, the CTMIR would need to be amended accordingly.
21. The representative of AIPPI asked if, for reasons of transparency, the Office could consult the interested circles before sending the draft to the Commission.
22. The President of the Office confirmed that it is a Commission Regulation and that the interested circles would be consulted anyway, but that the Office would be happy to proceed in that way if the Commission would agree to this.
23. The representative of the Commission said it would be difficult for the Commission to have a meeting with all the interested circles and to receive their opinion and concluded that the preparatory work could be done by the Office,

although it would be the Commission that would present the text as its regulation.

24. The President concluded that the Commission had given the green light to consult interested circles but that no time frame could be scheduled for the moment.

AGENDA ITEM 5c: EC ACCESSION TO THE MADRID PROTOCOL

25. The representative of the Commission pointed out that the meeting of the Assembly of the Madrid Union in September 2003 would also deal with a proposal for inclusion of Spanish as a language under the Madrid Protocol. Regarding the link between the CTM and the Madrid system, one Member State was still opposing it, but hopefully a solution could be reached.
26. Mr. Casado added that the OHIM was in close contact with the Commission and WIPO. The OHIM was already analysing the way in which the link could influence its internal procedures and in addition it was preparing itself for the new activity.
27. The representative of INTA showed his satisfaction with the present progress but asked itself if chapter 13 of the CTMR regarding the link would be adopted before 1 November 2003, the date on which the Madrid Protocol will enter into force for the USA.
28. The representative of the Commission thought that this date was too close. The President of the Office shared his view.

AGENDA ITEM 5 II: E-BUSINESS - ELECTRONIC COMMUNICATION BETWEEN THE OFFICE AND ITS CUSTOMERS

29. Mr. O'Reilly explained that the Office was already engaged in e-business to a limited extent. Since November 2002 it had been possible to file CTMs over the internet and since last week this was possible for RCDs. The publication of designs is no longer taking place on paper but on the website and the same would apply for the CTM Bulletin as from autumn.
30. The Office had a project to improve its electronic communication and was in the process of examining all its different aspects.
31. The aim was to offer the consultation of the CTM file on line. Direct contact with the examiner by e-mail, as well as the changing of details in the OHIM's databases online, should be possible in the future. Finally, the supply of documents eg for seniority and priority claims could be replaced by the OHIM's consulting of these documents in third parties' databases.
32. The President of the Office added that this was still conditional for the moment but this project had been discussed at management level.

33. The representative of CNIPA welcomed this initiative, but asked whether the measures would be limited to the applicants or would also apply to third parties, particularly concerning public access to the files.
34. The representative of FICPI also welcomed the general concept of file inspection to be made available on line. He added a note of caution regarding priority documents and documents in support of seniority claims. Accessing the information from the database of another office may give the immediate information but there should be a record of these documents somewhere available in the long term.
35. The representative of INTA also welcomed the initiative and made some suggestions in respect of the abolition of the paper version of the Community Trade Marks Bulletin, as well as concerning the confidentiality of file inspection.
36. The representative of AIPPI reminded the participants that the system should be interesting for the users of the CTM. Therefore, an exchange of ideas with the users should take place. If the system is not useful for the users it will not be successful. Secondly, he asked that not only the new files should be accessible but also the old ones. Finally, he underlined that the Community Trade Mark System has its own characteristics which should be taken into account. The security of the transactions between the users and the Office should be safeguarded. He repeated that the users were in search of a safe, transparent and quick system.
37. The representative of AIM asked the Office what the state of the discussion was regarding the business to business solution with software and database providers to the industry.
38. The representative of MARQUES expressed its support to the Office's project of automatic communication and suggested that a step by step approach be taken. At this stage he would opt for an online consultation of the file only for the parties to the proceedings. He suggested organising a poll amongst its members to know their opinion.
39. The representative of FICPI also expressed his support to the business to business solution. He invited the Office to maintain the good quality of its services. He subscribed to the need for transparency but added that the changes should be proportional to the result achieved. He hoped that FICPI would be involved in the consultation process.
40. Mr. O'Reilly was invited to explain the present state of electronic filing. Regarding the question of AIM, he pointed out that for the system of batch filing the Office had talked to the major software providers who supply representatives, giving them the specifications of the Office's system. He hoped that the system computer-talking-to-computer would be possible for the autumn.
41. Rather than answering the different questions separately, he preferred to deal with them as themes. He underlined that the Office should know the real needs and not the imagined needs of the users, that one of the main concerns was that of security of the project. Regarding public inspection (after publication of

CTM and not for confidential elements), all information should be available on line. The Office would go step-by-step not putting in danger the operations as a whole.

42. Regarding the consultation of the users, he suggested that the Office might put its proposals on its website so that people could comment freely.
43. The President of the Office added that at present the system of e-filing of trade marks is used by 13-14% of the applicants.

AGENDA ITEM 6a): THE COMMUNITY TRADE MARK: EXAMINATION OF SENIORITY CLAIMS

44. The representative of FICPI asked the Office for an update regarding the examination of seniority claims which had not been examined before publication of the CTM.
45. Mr. O'Reilly answered that the aim of the Office was to have all the unexamined claims examined by the end of August.
46. The representative of ICC stated that two different approaches from the side of the OHIM had been noted towards formerly unexamined seniority claims. One consisted in inviting the owners to supply the missing supporting documents, the other in stating that these documents had not been submitted, without any invitation and deadline to do so.
47. Mr. O'Reilly asked for an example of each of the letters so that he could prepare an answer to this question.
48. The representative of AIPPI asked, firstly, to what extent deficiencies to remedy have arisen in the claims, that is, whether there had been a lot or a few. Secondly, he wondered whether third parties would be informed about a change in the seniority situation of a CTM as a result of the examination of these claims.
49. Mr. O'Reilly answered to the first part of the question that he was not in possession of detailed figures about the claim being incorrect or about missing documents. He added that the file shows the information, namely that the claim was examined and what the consequences were.
50. The representative of UNION underlined the importance of the examination of seniority claims for the users. It was very important to know if one could rely 100% on the Office's decision on this point, mainly to be able to allow the national trade marks to lapse.
51. Mr. O'Reilly answered the question positively to the extent that the Office's decision was dealing with the validity of the claim and consequently accepted the claim. He added that the validity of a seniority claim could be altered by circumstances intervening after the examination of the claim and of which the Office would not be aware.

52. The representative of AIPPI insisted that the change of the seniority situation of a CTM should not be included only in the file but also on CTM online.
53. Mr. O'Reilly answered that he would look into that issue.

AGENDA ITEM 6b): PROCESSING OF AUTHORISATIONS

54. The representative of FICPI expressed its concern regarding the interpretation of Communication No. 2/03 of the President of 10 February 2003 on the processing of authorisations.
55. He stated that the language of the Communication, which did not refer to Article 89 CTMR but only to Rule 76 of the IR, could give the impression that the requirement to file an authorisation did not exist anymore and that it had become something optional. He underlined that they were compulsory.
56. The representative of INTA shared his opinion.
57. The representative of ECTA supported the opinion of the other associations and referred to a former question to the Office to revise its policy and to re-establish the examination of authorisations. ECTA would like to know the position of the Office.
58. Mr. O'Reilly repeated his request to let him know whether practical difficulties had arisen due to the application of the Communication. He said that he had not yet received any example of such difficulties.
59. The representative of AIPPI recalled that there was a practical problem namely with regard to the processing of general authorisations and the allocation of numbers to them. Another practical problem was that the Communication gave the impression that the need to submit authorisations abolished, and this created a problem with the clients from whom obtaining this authorisation involves more work. However the CTMR had not been changed on this point.
60. He enquired how the Office would treat an opposition that had been submitted without an authorisation.
61. Mr. Geroulakos answered that the opposition is admissible even without an authorisation, but when the applicant objected, the opponent would be invited to provide an authorisation.

AGENDA ITEM 6c) : STREAMLINING OF ABSOLUTE AND RELATIVE GROUNDS FOR REFUSAL

62. The representative of INTA recalled the need for streamlining absolute and relative grounds for refusal, namely the criteria for granting a trade mark and for the subsequent scope of protection. She noticed that a generous approach was adopted to allow CTMs on the register but that on the other hand oppositions on the basis of CTMs were also granted more frequently.

63. Mr. Jakobsen explained the new structure of the Trade Marks Department in which the activities from the former Examination, Opposition and Cancellation Divisions were merged. This measure might lead to a more streamlined approach.
64. Mr. Schennen added that he subscribed to the necessity of streamlining the approach to these grounds although the Office had not come to incompatible results in the past, and he explained that this was dealt with to a certain extent in the context of the litigation cases before the Court of First Instance.

AGENDA ITEM 6d) : DRAFT GUIDELINES ON OPPOSITION PROCEEDINGS

65. The Office had prepared a comprehensive set of opposition guidelines which would be submitted to the Administrative Board in November 2003 for approval. The Users were invited to submit their comments before 1 October 2003.
66. The representative of INTA welcomed the new document which was considered as open and dynamic.
67. Mr. Jakobsen added that the document will be a living document and will take into account the new case-law on the subject and that it will be revised every two years. For the purpose of collecting the comments of the users an electronic forum has been created on the Website of the Office. It would be an open forum where the comments of the users would be published and where other users could comment on these observations in their turn.
68. The representative of AIPPI welcomed the new document and asked for an extension of the term to submit comments.
69. The representative of FICPI congratulated the Office for the document but proposed taking out Part 7 as that part dealt exclusively with the new topic of enlargement.
70. Mr. Schennen replied that a period for revision of two years was rather ambitious because of the numerous new decisions even if, in theory, changes could be introduced every week.
71. The representative of AIPPI underlined that, due to the fact that the Office would only revise the document every two years, the outside world would not know which criteria would be applied inside the Office, due to the evolution of new case-law.
72. Mr. Schennen replied that important intermediate changes in the practice would be communicated to the users via the Users Group or via a Communication of the President.

AGENDA ITEM 6e) : OPPOSITION PROCEDURE ON THE BASIS OF MORE THAN ONE EARLIER RIGHT

73. The representative of CNIPA indicated that the proposed changes to the CTMR include that the Office will make decisions regarding conversion. He expressed his concern about opposition cases based on more than one earlier right where the Office selects one earlier right to base its decision upon, but does not deal with the other earlier rights. He asked if, in conversion cases, the Office's decision on where to convert would be taken on the basis of the one earlier right or if the Office would examine all the other earlier rights before taking a decision on conversion.
74. Mr. Geroulakos confirmed that when the new provisions of the CTMR entered into force the Office will examine whether the request for conversion is admissible and if it is valid. It will not examine all the other earlier rights in case of a multiple opposition. In reality the Office chooses the strongest right upon which to base its decision.
75. He added that he was aware of the fact that some users did not support this way of working by the Office and informed the users that this practice was now the subject of a litigation case T342/2002 before the Court of First Instance, "MGM".
76. The representative of CNIPA indicated that the Office should take into account more the interest of the users because the decision of the Office will be taken on the basis of partial information which could leave the users in an uncertain situation.
77. The representative of INTA asked whether statistics were available on conversion on the basis of decisions on absolute or relative grounds. She thought the impact on the Office's practice was not so great in reality.
78. Mr. Geroulakos added that no statistics were available and he supported the practice by the fact that the main purpose of an opposition is to have the CTM application rejected on whatever basis and that the applicant still has the opportunity to withdraw the CTM before a decision on the opposition is rendered, and subsequently convert to national trade marks in all or selected member states.

AGENDA ITEM 6f) : RENEWAL GUIDELINES

79. Mr. Jakobsen informed that the Office will submit the final guidelines on renewal to its Administrative Board for approval in November 2003. The document will subsequently be published on the website.

AGENDA ITEM 6g) : NEW CASE LAW OF THE ECJ AND CFI AFFECTING THE PRACTICE OF THE OFFICE

80. The representative of AIPPI asked if, since the last meeting of the OAMI Users Group, new case law was rendered influencing the practice of the Office.
81. Mr. Montalto gave an overview of the new judgements of the CFI and the CJ which were important for the practice of the Office. These decisions go along the line that the Office has followed.
82. He discussed the MINIMAX case regarding the genuine use of a trade mark where the mere fact of commercialising the goods was considered as sufficient for genuine use.
83. Following the SIECKMANN Case (C-273/00), the Office will, for the time being, not register smell marks as their graphical representation is not possible yet.
84. The LIBERTEL case (C-104/01) confirmed the principle that a colour per se can be registered. Nevertheless a lot of conditions were laid down by the ECJ. The Office would issue a Communication of the President dealing with the consequences for the practice of this decision.

AGENDA ITEM 7a): THE REGISTERED COMMUNITY DESIGN: FILING FIGURES

85. Mr. Maier gave an overview of the implementation of the registered Community design, for which application has been possible since 1 January 2003, with 1st April 2003 as their earliest filing date. He specified that the first 3 months the applications entered slowly but that this changed from 1 April. Despite the novelty of the system the first designs were already published on 1 April, which he felt had to be considered as an achievement. The improvement of the IT system is being worked on. Since 31 June 2003, the possibility has existed to e-file Community designs.
86. The number of applications received up to 1 July 2003 was 4525 of which 1418 have been examined fully. Regarding the type of applications, it was expected that 20% of the applications would be multiple applications and that they would include, on average, four designs. In reality, an average of 48% of the applications are multiple applications, which include on average 7,4 designs. Up to the date of the Users Group meeting six Bulletins have been published. The publications are in electronic format only. The Bulletin is searchable to a limited extent for the moment.
87. Regarding the countries filing designs, Germany is in the first position with about 18%, followed by Great Britain with 13,3% and the USA with 10%.
88. The types of products for which the registration is most frequently sought belong to the following classes of the Locarno Classification: class 9 containing packaging and containers, class 6 containing furniture, class 6 containing furnishing, class 12 containing means of transport, class 14 containing communication equipment, and class 7 for household goods.

89. Mr. Maier concluded by giving some predictions of what he thought the first year of the life of the RCD would be. An extensive market study had been made on what the volume of design applications would be. An extrapolation of the actual filing figures would lead to the same results as foreseen and would arrive at between 27.000 and 39.000 applications.
90. Mr. Maier added that the number of national design registrations was dropping at a relatively high rate.
91. The representative of AIPPI asked how the design system, which actually does not foresee any requirement of use (as is the case for trade marks) or exploitation (as is the case for patents), could prevent a monopoly on designs which are not used.
92. Mr. Maier answered that the definition of the design contained in the Design Regulation was the same as in the Directive. Contrary to patents, Mr. Maier did not believe that the use of the term "monopoly" was appropriate for designs. Designs protect the appearance of a product. Every product has its own appearance. The design intends to protect creations of new appearances of products. When technical aspects dictate the shape of a product it would not be possible to protect it as a design. The life of products is much shorter regarding the design so that one could not speak about a monopoly.
93. The representative of INTA reported on a concern that had arisen due to the fact that some logos had been registered as designs. She indicated that in the absence of a requirement of use, the easiest solution would be to register logos as designs rather than as trade marks, even if they did not fulfil the requirement of novelty and even if the scope of protection of a design would be more reduced.
94. Mr. Maier answered that two regulations and directives with a different scope exist, namely one on the CTM and one on the RCD. Both texts exist without any prejudice to other forms of protection. The Designs Department applied the Designs Regulation and its definition of the RCD. It is the applicant who chooses the protection which is more appropriate. Regarding the logos he underlined that logos are falling under the definition of the design and that according to the Regulation the Office was not allowed to check the novelty. Whether design is a better protection than a trade mark would very much depend on the evolution of the case-law.
95. The representative of CNIPA asked for the statistics on the product types.
96. The representative of FICPI wondered why the Designs Department sent a filing receipt to the applicant and why the reference, which figured on the application, was not mentioned in the filing receipt.
97. Mr. Maier underlined that on this point some problems were faced due to the infancy of the system. The target, which should be respected in sending the filing receipt, should be 3 weeks. Some of the receipts that have been sent were generated automatically so that they only included the elements which have

been encoded. For the moment the reference of the applicant is encoded only at the examination stage; it is not included in the actual filing receipts. The Office was working hard on improving this item.

98. The representative of AIPPI insisted that there was a problem regarding the design applications that could be considered as trade mark applications, comparing them with three-dimensional trade marks that could be considered as designs. He asked the Office to search for a balance in the examination of these three-dimensional trade marks, which was very strict, and the examination of these designs, which was very liberal.
99. The representative of CNIPA expressed his astonishment at the fact that the encoding of the applicant's reference was postponed until the examination stage and for multiple applications he requested the possibility of having a reference number for each design.
100. Mr. Maier answered that regarding the search for a balance between the examination of CTM and RCD applications, the Design Regulation did not allow anything else other than examining whether the design complies with the definition of a design and is contrary to public policy or morality. Determining the cutting line between these trade marks and designs should not be the task of the Office but the one of the Court of Justice.
101. Regarding the applicant's reference Mr. Maier insisted that the main aim of the Design registration system was to go fast, and once the system was functioning a filing receipt could be delivered in three weeks. For multiple applications a reference number for each design could be inserted on page 4 of the application form or on a blank paper.

AGENDA ITEM 7b): EXAMINATION GUIDELINES

102. Mr. Maier indicated that the draft examination guidelines for Community designs have been sent to the associations for comments and at the date of 27 June the Office had received 6 replies. Mr. Maier said that the Office would take these comments into consideration as much as possible. The guidelines would be submitted to the Administrative Board of the Office in November for an opinion and then be adopted formally by the President of the Office. The submissions would be published on the OHIM website including an answer from the side of the Office indicating the reasons for which some comments would not have been taken into consideration.
103. The representative of UNICE said that for reasons beyond their control, they had not been in a position to submit their comments.
104. The representative of MARQUES pointed out that point 3.2 of the examination guidelines is not being applied for the moment which means that the examiner is not sending out a notification of receipt and an examination report.
105. Mr. Maier indicated that for reasons of rapidity of the proceedings this is not the case yet, but that this point would be applied again in the future. A small unit

would be put into place into the Designs Department in order to issue these notifications.

AGENDA ITEM 7c): INVALIDITY GUIDELINES

106. Mr. Maier specified that invalidity guidelines for Community designs have been prepared internally and are now being discussed regarding the procedural aspects. They would be sent to the interested circles for consultation before the end of the year and submitted to the Administrative Board of the Office in April 2004.

AGENDA ITEM 7d): EC ACCESSION TO THE INTERNATIONAL REGISTRATION SYSTEM FOR DESIGNS

107. The representative of AIM underlined that it has been in support of the Commission's proposal for establishing a link between the CTM system and the Madrid international registration system and similarly it was in favour of such a link between the registered design system and the Hague system. He wanted to know what the plans there were in this regard.
108. The representative of the Commission replied that the services of the Commission are in the process of examining the possibilities of an accession to the Hague Agreement. A proposal regarding this would soon be handed over to the members of the Commission. He stressed that this accession would be even more evident now that other countries such as the USA have expressed their intention to accede to the Hague Agreement. Japan on the contrary did not have such an intention yet.
109. The representative of AIPPI asked how many European countries had already ratified the Geneva Act.
110. The representative of the Commission thought it was only Spain, Switzerland and Slovenia.

AGENDA ITEM 7e): SEARCH FACILITIES FOR THE COMMUNITY DESIGN DATABASE

111. An on-line search facility demonstration was given for the RCD Bulletin.

AGENDA ITEM 7f): IMPLEMENTATION OF E-FILING FOR COMMUNITY DESIGN APPLICATIONS

112. An e-filing demonstration was given.

AGENDA ITEM 8a): ENLARGEMENT OF THE EUROPEAN UNION : STATE OF PREPARATIONS

113. Mr. Maier said that no new developments had to be reported since the last meeting of the Enlargement Working Group (a subcommittee of the Users Group) which took place in Brussels on 26 March 2003 where the following items had been discussed : the automatic extension of existing trade marks and designs which are totally grandfathered, the concept of bad faith, the translation of the application forms and Eurolocarno and Euronice, modification of the guidelines and the recruitment of personnel from the new member countries.
114. Mr. Maier asked if the Users considered that a new meeting of the subcommittee should be organised.
115. The representative of CNIPA answered that this would not be necessary unless the need arose.
116. The representative of INTA shared his view and asked if the Office would draw up a list with rights in the sense of Article 8 (4) of the Regulation for the new Member States.
117. Mr. Schennen answered that these rights were included in the new opposition guidelines.

AGENDA ITEM 8b): POSSIBLE FEES INCREASE FOLLOWING THE ENLARGEMENT

118. The representative of AIPPI asked if a fee increase was to be expected following the enlargement.
119. The representative of the Commission underlined that this would not be the case.
120. He added that in the interest of cost control the Commission was preparing a text that, as regards Maltese, the filing of a trade mark or design could be possible in Maltese but that the Office did not need to translate into Maltese.

AGENDA ITEM 9a): MISCELLANEOUS : CODE OF CONDUCT FOR PROFESSIONAL REPRESENTATIVES

121. The representative of FICPI recalled that in its document on the functioning of the system of professional representation according to Article 89 CTMR (COM (2002)766), the Commission suggested establishing a voluntary code of conduct of the professional representatives before the Office.
122. He requested that the Commission also introduce a requirement of a national harmonised examination in order to have a properly qualified profession.

123. He considered that, although his organization did not agree with the voluntary character of the code, it would be willing to participate in preparing such a code and suggested the EPI code of conduct as a starting point.
124. The representative of the Commission repeated that a harmonised examination was not in the plans of the Commission and that the voluntary code was the proposal.

AGENDA ITEM 9d): NEW FORMS OF THE OFFICE

125. Ms Melgar presented the new simplified forms which the Office was going to introduce. An official Communication of the President would follow once the forms were made available. The Office was also working on harmonised attachments to the forms.

AGENDA ITEM 9e): AVAILABILITY OF Art. 6ter DATABASES TO THE PUBLIC

126. The representative of CNIPA underlined that to assess whether a trade mark contained an emblem or symbol protected at national or international level, a consolidated source of information should be available.
127. Mr. Schennen informed that emblems and symbols protected under Article 6 ter of the Paris Convention could be searched on a CD-ROM, which is available at WIPO for 100 Swiss Francs.

AGENDA ITEM 9f): DATE OF NEXT MEETING

128. The date of the next meeting was scheduled at 16 February 2004.

OAMI Users Group, 7. 7. 2003
Lista de representantes / Teilnehmerliste / List of participants / Liste des participants / Lista dei partecipanti

AIM

Ms Marie Pattullo, Legal Affairs Manager, 9 Avenue des Gaulois, B-1040 Brussels
Mr Jean Bangerter, Chair AIM Trade Mark Committee, Valmont, 18 CH-1010 Lausanne

AIPPI

Mr Luis-Alfonso Durán, Reporter General, c/o Durán-Corretjer, Córsega, 329, E – 08008 Barcelona
Mr Martin Sick Nielsen, Chairman Q85: Community Trademark, c/o Zacco A/S, Hans Bekkevolds Allé 7, DK-2900-Hellerup

BEDA

Mr Stephen Hitchins, President 2003-2005, Diagonal, 452- 5º, E-08006 Barcelona

CEFIC**CNIPA**

Mr Christian Hano, European Patent and Trademark attorney, Fünér Ebbinghaus Finck Hano, Mariahilfplatz 2+3, D-81541 München
Mr Robert D. Weston, Chartered Institute of Patent Agents Representative to CNIPA, c/o Phillips & Leigh, 5 Pemberton Row, EC4A 3BA London
Mr Ramón Cañizares, c/o Elzaburu, Miguel Angel, 21, E – 28010 Madrid

ECTA

Mr João Pereira da Cruz, Past president and Chairman of ECTA - OHIM Link Subcommittee, Rua Vitor Cordon, 14, P-1200 Lisboa
Ms Mireia Curell Aguila, Second Vice President and Chairperson Professional Affairs Committee of ECTA, Paseo de Gracia, 65 bis, E-08008 Barcelona

EFPIA

EURATEX

Ms Stéphanie Berre, Legal and Social Affairs, Rue Montoyer, 24 - boîte 10, B-1000 Bruxelles

FEMIP**FICPI**

Mr Terry Johnson, President of EUCOF, c/o Edward Evans Barker, Cliffords Inn, Fetter Lane UK-EC4A 1 BZ London

Mr William Stonehouse, Chairman of FICPI CET (2) Design Group, c/o Barker Brettell, 138 Hagley Road, Edgbaston, B16 9PW Birmingham

Mr Andrew Parkes, FICPI CET Special Reporter (Trade names), c/o Tomkins & Co., 5 Dartmouth Road, IRL-Dublin 6

Mr Petter Rindforth, Chairman of FICPI CET (9) EC Trademark Group, c/o Groth & Co KB, P.O. Box 6107, S-10232 Stockholm

ICC

Mr Luis M^a. Gutiérrez de Quijano, Intellectual Property Counsel, c/o Enrique Bernat F., S.A, Chupa-Chups S.A., WTC Almeda Park N. 2, 1st floor, Plaça de la Pau s/n, E-08940 Cornellà de Llobregat, Barcelona

Mr Jens Jürgen Heumann, Director, Intellectual Property and Research Contracts, c/o BASF Aktiengesellschaft GVX/W – C6, Carl-Bosch Strasse, 38, D-67056 Ludwigshafen

Ms Ana de Sampaio, Lawyer, Conseil en Propriété Industrielle, c/o J.E. Dias Costa, Lda. Rua do Salitre, 195 - r/c - d, P-1269 - 063 Lisboa

ICOGRADA**ICSID**

Mr Michael Thomson, Board member, c/o Design Connect, 17 Ospringe Road, London NW5 2JD, UK

INTA

Mr Carlos Polo, Chair of Community Trade Mark Office Subcommittee, Carlos Polo & Asociados, Profesor Waksman, 10, E-28036 Madrid

Ms Verena von Bomhard, Member of the Community Trade Mark Office Subcommittee, c/o Lovells, C/ Bilbao, 1 - 5^o, E-03001 Alicante

Ms Chehrazade Chemcham, External Relations Coordinator, Europe, 1133 Avenue fo the Americas, New York, NY 10036-6710, USA

LES**MARQUES**

Mr Huib Berenschot, Chairman of the Trademark Team, European trademark attorney, c/o Novagraaf Nederland BV, Heerbaan 246 P.O. Box 9376, NL-4817 Breda

Ms Joanna Gray, member of the Trademark Team, c/o Linklaters, Alicante

UNICE

Mr Ilias Konteas, Adviser Company Affairs Department, 40, rue Joseph II, boîte 4, B-1040 Bruxelles

UNION

Mr Rolf Wiclander, Honorary President of Union, c/o Awapatent AB, P.O. Box 45086, S-104 30 Stockholm

Mr Hans-Joachim Lippert, c/o Lippert, Stachow, Schmidt & Partners, Patentanwälte, Frankenforster Str. 135-137, D-51427 Bergisch Gladbach

COMMISSION

Mr Giuseppe Bertoli, Administrator, DG Market

OFICINA/AMT/OFFICE/UFFICIO

Mr Wubbo de Boer, President of the Office

Mr Alexander von Mühlendahl, Vice-President for Legal Affairs

Mr Alberto Casado Cerviño, Vice-President for Technical and Administrative Affairs

Mr Bruno Machado, President of the Boards of Appeal

Mr João Miranda de Sousa, Director of the General Affairs and External Relations Department

Ms Virginia Melgar, Deputy Director of the General Affairs and External Relations Department

Ms Sophia Bonne, Administrator, General Affairs and External Relations Department

Mr Vincent O'Reilly, Director of the Administration of Trade Marks and Designs Department

Mr Hans Jakobsen, Director of the Trade Marks Department

Mr Panayotis Geroulakos, Deputy Director of the Trade Marks Department

Mr Detlef Schennen, Head of "Industrial Property Matters" Service, Trade Marks Department

Mr Paul Maier, Director of the Designs Department

Ms Cécile Barrio, Designs Department

Mr Oreste Montalto, Director of the Industrial Property Litigation Unit

Mr William Copine, Director of the Quality Management Department