

4 October 2013

## JOINT STATEMENT

### EUROPEAN PARLIAMENT PLENARY VOTE OF 8 OCTOBER 2013 ON TOBACCO PRODUCT DIRECTIVE:

#### OBJECTIONS TO THE ADOPTION OF “PLAIN PACKAGING” AND EXCESSIVE MEASURES RESTRICTING NORMAL USE OF TRADEMARKS

On 8 October, the European Parliament will vote in plenary session on the Tobacco Products Directive. As already supported in our joint paper of July 2013 (here attached), **the signatories of this statement call on the European Parliament to oppose excessive amendments such as those introducing Plain Packaging and proposals to introduce excessively sized health warning labels on packaging.** These measures, if adopted, will fully undermine the legal protection offered by Intellectual Property rights (IPRs) and fundamental rights.

The Study “*Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union*” carried out jointly between the Office for Harmonization in the Internal market (OHIM), acting through the European Observatory on Infringements of Intellectual Property Rights, and the European Patent Office (EPO), released on 30 September 2013, strongly confirms the importance of IPRs for EU industries and EU economy:

- *About **50% of EU industries** are IPR intensive*
- *IPR-intensive industries account directly for **26% of all jobs in the EU** – around **56 million direct jobs**. With the addition of 20 million indirect jobs, 1 in 3 of all EU jobs rely on IPR intensive industries.*
- *These industries generated almost **39% of total economic activity (GDP)** in the EU, worth €4.7 trillion*
- *IPR-intensive industries pay higher remuneration than non-IPR intensive industries, with a **wage premium of more than 40%**. The average weekly remuneration in IPR-intensive industries is €715, compared with €507 in non-IPR intensive industries*
- *IPR-intensive industries account for **90% of the EU's trade** with the rest of the world*

**The above Study reiterates how important the protection of IPRs is for our economy. Therefore, we strongly support the opinions expressed by four opinion giving committees that, last June, voted against Plain Packaging and excessively sized health warnings (by reducing the Commission proposal of 75% size to 50% size, placed at the bottom of the pack).** We again stress that health warning labels of 50% size placed at the bottom of the pack, are to be preferred, as they strike a good balance between the legal protection of trade marks and the need to inform consumers about the health risks.

We call on you, as members of the European Parliament, to seriously take into account the inconsistency between possible proposed amendments on Plain Packaging and 75% size health warning labels on the one hand, and the EU's international trade obligations, including those under the World Trade Organisation (WTO) intellectual property agreement on the other, as well as the threat such extreme measures would pose to the ongoing EU-US trade negotiations. Should discussions on compromise amendments on the size of health warning labels take place, it is paramount that such compromise is as close to 50% as possible for the reasons mentioned above.

**It is crucial that the European Parliament does not send a worrying signal to the business community about its commitment to respecting and protecting intellectual property rights.**

**Consequently, the signatories of this letter encourage the Members of the European Parliament to object to the introduction of Plain Packaging and overly restrictive measures restraining normal use of trademarks, such as 75% size health warning labels.**

**APRAM - Association des Praticiens du Droit des Marques et des Modèles**

**BMM - Association Benelux pour le droit des Marques et des Modèles**

**ECTA - European Communities Trade Mark Association**

**GRUR – German Association for the Protection of Intellectual Property**

**MARQUES - The European Association of Trade Mark Owners**

**UNION-IP - UNION of European Practitioners in Intellectual Property**

Enclosures:

- Joint Statement 3 July 2013
- Presentation of the Signatory Associations

## PRESENTATION OF THE SIGNATORY ASSOCIATIONS



association des praticiens du droit des marques et des modèles

**APRAM - Association of Trade marks and Designs rights Practitioners** – is an international Association for French-speaking specialists in industrial and intellectual property, in particular Trade marks and designs. The association, which now has more than 850 members, was founded 35 years ago and is open to all French-speaking lawyers practicing, all over the world, in the field of Trade marks and designs. It gathers together in-house intellectual property specialists, Attorneys at law and Trade mark Attorneys. The purpose of the association is notably to play an active role in, and be at the forefront of, further to consultation or on its own initiative, discussions concerning intellectual property and business law in France, Europe and the world.

As a prominent international intellectual property association, **APRAM** is notably member of the OHIM's users group and is observer at the World Intellectual Property Organization (WIPO).

More information about **APRAM** and its initiatives is available at <http://www.apram.com>



### **BMM (Benelux Association of Trademark and Design Law)**

The **Benelux Association of Trademark and Design Law** is a professional association of legal specialists. All the members work for patent and / or trademark agents, patent and trademark departments of large companies, as lawyers or as (university) lecturers.

The association promotes and guarantees the quality of the professional practice of its members, ensuring you expert advice and guidance on registration (protection) of trademark and (industrial) design, negotiations and possible conflicts.

For more information on **BMM** visit the website: [www.bmm.eu](http://www.bmm.eu).



European Communities Trade Mark Association

**ECTA**, the European Communities Trade Mark Association, was formed in 1980.

ECTA numbers approximately 1.400 members, coming from all the Member States of the European Union with associate members from all over the world. It brings together all those persons practising professionally in the Member States of the European Community in the field of trade marks, designs and related IP matters. These professionals are lawyers, trade mark advisors, trade mark attorneys, in-house counsel and others who can be considered specialist practitioners in these areas. The Association has always concentrated on those issues where the interests of all members coincide and has refrained from taking a position on matters in which there is no common viewpoint. The extensive work carried out by the Association so far, following the above guidelines, combined with the high degree of professionalism and recognized technical capabilities of its members, has established ECTA at the highest level and has allowed the Association to achieve the status of a recognized expert spokesman on all questions related to the protection and use of trade marks, designs and domain names in and throughout the European Union, and for example, in the following areas:

- Harmonization of the national laws of the EU member countries;
- Community Trade Mark Regulation and Directive;
- Community Design Regulation and Directive;
- Organisation and practice of the OHIM.

In addition to having close links with the European Commission, European Parliament, OLAF and the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM), ECTA is recognized by WIPO as a non-Government Organisation (NGO). ECTA does also take into consideration all questions arising from the new framework affecting trade marks, including the globalization of markets, the explosion of the Internet and the changes in the world economy.

For more information: <http://www.ecta.eu>



GERMAN ASSOCIATION FOR THE PROTECTION  
OF INTELLECTUAL PROPERTY

The German Association for the Protection of Intellectual Property (**GRUR**) is the largest and oldest association in Germany that is devoted to the protection of intellectual property. It is also known under the abbreviation "GRUR" and the name "Grüner Verein" (Green Association). **GRUR** was founded in Berlin in the year 1891, initially as an association of those interested in intellectual property and competition law, copyright law being included later, for the purpose of advancing the academic debate on pertinent legal issues and - as

stated at that time - in order to provide assistance to the government with regard to the difficult responsibility of undertaking legislative work in that field of law.

Today, the purpose of the Association according to its statutes is the academic advancement and development of industrial property and copyright law at the German, European and international level, i.e. in the field of law today called "intellectual property law".

For more information about **GRUR**: <http://www.grur.org/en/>.



**MARQUES** is the European association representing brand owners' interests. The **MARQUES** mission is to be the trusted voice for brand owners.

Established in 1986 and later incorporated in the United Kingdom as a not-for-profit company limited by guarantee, **MARQUES** unites European and international brand owners across all product sectors to address issues associated with the use, protection and value of IP rights, as these are vital to innovation, growth and job creation, which ultimately enhance internal markets. Its membership crosses all industry lines and includes brand owners and IP professionals in more than 80 countries. The trade mark owners represented in the Association together own more than two million trade marks which are relied upon by consumers as signposts of genuine goods and services.

**MARQUES** is an accredited organisation before the Office for Harmonisation in the Internal Market (OHIM), appointed observer at the OHIM Administrative Board and Budget Committee, an official non-governmental observer at the World Intellectual Property Organisation and a registered interest representative organisation (ID 97131823590-44) in the Transparency Register set up by the European Parliament and the European Commission, which extends and replaces the former Register of Interest Representatives, opened by the commission in 2008.

An important objective of **MARQUES** is to safeguard the public interest by ensuring the proper protection of trade marks and to preserve the interests of trade mark proprietors with regard to the regime of trade mark protection. **MARQUES** attempts to achieve these objectives by advancing the cause of trade mark laws which protect the public from deception and confusion. Intellectual property rights are a crucial aspect of the global economy and trade marks play a significant role in free trade and competition in the marketplace.

More information about **MARQUES** and its initiatives is available at <http://www.marques.org>.



*Foundation* - In 1961, twenty two far-sighted Patent Attorneys from nine European countries founded the "**union** of European Patent Attorneys" with the intention of providing European colleagues with a forum for discussing and influencing forthcoming draft laws and international agreements, and also helping the profession in Europe to grow together. Although originally restricted to Patent Attorneys in the countries of the European Economic Community, **union** has meanwhile removed these limitations from its statutes today welcomes free and employed intellectual property practitioners from all (geographical) European countries, as expressed in the present name "**union** of European Practitioners in Intellectual Property". Still retained are the limitations to European membership and the concentration of activities on problems and developments which especially affect the professionals in Europe.

*Aims* – **union**, also referred to as **UNION-IP**, is an association of practitioners in the field of Intellectual Property, that is, of individuals whose principal professional occupation is concerned with Patents, Trademarks, Designs or Copyright and related subjects and who carry on their profession independently or as employees. **UNION-IP** is a private, free, international association that is not dependent on any national or international authority: it approves its own members, in accordance with its statutes, in total independence, and likewise decides on its own activities and its own budget. It aims on the one hand to work continuously on current developments in Intellectual Property in Europe, especially by making early submissions during the preparation of proposed laws and treaties with the intention of influencing them and on the other hand to devote itself to the improvement of professional and personal understanding between European practitioners in the Intellectual Property field in different countries and different branches of the profession. For more information: <http://www.union-ip.org>