

12 October 2012

António Campinos  
President

Office for Harmonization in the Internal Market (Trademarks and Designs)  
Avenida de Europa, 4  
E – 03008 Alicante, Spain  
*Via email:* [Observatory@oami.europa.eu](mailto:Observatory@oami.europa.eu)

Re: The EU Observatory: Draft 2013 Work Programme

Dear Mr. Campinos:

Thank you for inviting the International Trademark Association to participate in the First Plenary Meeting on 27-28 September for the EU Observatory on Infringements to Intellectual Property Rights (hereafter “the Observatory”). We were delighted to have our Europe Representative Christina Sleszynska share INTA’s views on the Observatory’s organization and planned activities in person. As a follow-up to that meeting in Alicante, INTA would like to provide some written comments to the Observatory’s Draft 2013 Work Programme (“the Programme”), which we hope will be taken into consideration as you refine the draft.

### **Scope of New Projects**

INTA believes that the broad scope of the nine new projects proposed in the Programme might easily consume most of the Observatory’s time and resources. The Observatory will also have the additional (and time-consuming) objective of integrating new areas of expertise on topics like copyright and geographical indications, which have previously been outside of OHIM’s mission. Moreover, it is unclear as to how the legacy projects listed in the Annex will fit in with the nine new projects. To dispel an ambiguity as to the priorities of the Observatory given the new projects, the legacy projects, and bridging the expertise gap, INTA recommends that the Programme provide greater details as to the allocation of resources commensurate to the Observatory’s priorities.

### **Building General Public Awareness about the Value of IP**

A top priority of the Observatory should be building consumer awareness about the value of IP as well as the dangers of counterfeits. Although the new projects of the Programme do mention raising awareness, most of the projects are focused on education and research geared towards government officials, enforcement, or IP rights owners. However, another important audience is the European consumer. We believe that the Observatory could play an extremely important role in changing the misperceptions about IP by raising awareness on its value and the harms of counterfeiting through appropriate communication and/or public relations campaigns, including research and reports on the effects on the economy and the harms of counterfeiting to personal and national safety.

While “Raising awareness on IP value” is listed as part of the legacy projects in the Annexes, the Programme does not highlight how this project will fit within the framework of the nine new projects in the plan, nor does it explain how the Observatory will take the necessary steps to raise awareness of the value of IP. We note that Project 8, “Creating an on-line information centre,” does target consumers as well as businesses and front-line decision makers on policy and enforcement. However, more needs to be done in addition to posting

information online, in order to build an integrated public relations campaign to raise public awareness.

INTA would therefore suggest that public awareness be assigned a higher priority and that projects focused in this area should be further developed and given greater visibility in the Programme.

### **Rand Study Data Collection Methodology**

During the consultation many organizations expressed concerns about the data collection methodology presented by the RAND study, noting in particular that industry was not consulted in the methodology's development. Project 7 of the Programme highlights these concerns and calls for other methodologies to be tested. However, there is no indication as to what other methodologies of data collection might be considered, what will be done with the work already completed by RAND, or whether another framework for data collection already has been selected. As stated in the Programme, the data will serve as the basis for the Observatory's strategy in the future and, as clearly stated by the European Commission, will be an indispensable element to argue for the need for new or improved legislation, especially when it comes to the enforcement of intellectual property rights. While this is clearly an important objective, input from industry regarding the means of obtaining this data should be carefully considered.

INTA is participating in OHIM's Cooperation Fund Project 4.23, and we understand the challenges and complexities involved in the process of determining the appropriate methodology. We look forward to contributing to future discussions of other methodologies that might be used. Should it be decided to develop a new methodology, we highly recommend that industry - associations and individual companies - are brought in from the beginning.

### **The Role of the Private Sector in Observatory Projects**

With the adoption of Regulation (EU) No. 386/2012, OHIM's new responsibility of managing the Observatory includes promoting the close collaboration with public and private sector stakeholders, and we are pleased to be able to participate in these processes. In regards to OHIM's procedures in drafting the Programme, we appreciate our inclusion in the working groups constituting the Cooperation Fund and Convergence Programme. Likewise we hope to further assist OHIM in establishing the Observatory as the IP think-tank of public and private sector stakeholders.

INTA looks forward to playing a role in the Observatory's forthcoming working groups (as we have done in the past, particularly in the public awareness sub-group) and hopes to have the opportunity to provide input during the formative stages of these projects, such as participating in the drafting of the project briefs.

Our members representing INTA in the Cooperation Fund and Convergence Programme working groups have found the overall process to be a rewarding experience, which provides the basis for our expectations for the Observatory's forthcoming groups. Nonetheless, we would like to stress that our members are volunteers and therefore suggest that ample timeframes be given for the eventual requests/tasks. While we appreciate OHIM's continuous efforts to involve users in various activities and discussions, we believe that our members, as practitioners and trademark owners, will be able to provide more valuable and unique insight in support of the Observatory's goals if given sufficient time to do so.

We hope that these comments are helpful in the development of the general foundation of the Observatory's initial activities. If you have any questions, please contact Christina Sleszynska at [csleszynska@inta.org](mailto:csleszynska@inta.org). Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg Marrazzo". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Gregg Marrazzo  
President