The Spanish government is committed to the protection of creators’ rights, “not only because it is our obligation, but because it is our conviction. Talent must have a price and that price ought to be paid,” he said.

School is where the fight against piracy begins, said Mr. Méndez de Vigo, adding that it should be explained to students in the same way that stealing is. “We want to raise an anti-piracy generation,” he explained, adding that neither piracy nor stealing are “acceptable in our legal framework.”

The government is also working to reach a consensus on the legal framework to achieve better protections for creators. And the results are already beginning to show—the Office of the United States Trade Representative in its 2017 Special 301 Report highlighted Spain as a country that provides adequate and effective protection of copyright.

The European Union, the protection of trade secrets, the fight against counterfeits, and anti-piracy education were highlighted during the Annual Meeting’s Opening Ceremony yesterday. Sarah Morgan reports.

Only we and not the passage of time can shape the present,” said Íñigo Méndez de Vigo (Minister of Education, Culture and Sport and government spokesperson, Spain), paraphrasing poet W H Auden, “Time will say nothing but I told you so.”

Giving the Keynote Address at INTA’s Opening Ceremonies, Mr. Méndez de Vigo said that there are still many important issues, such as the protection of trade secrets, the fight against counterfeits, and the protection of creators’ rights, particularly in relation to the digital world, that need to be worked on.

Bad Faith: Exploring the TM5’s Case Studies

Representatives from the five trademark offices known as the TM5 came together to discuss bad-faith trademark filing yesterday, with the focus on using case studies to formulate enforcement strategies. Ed Conlon reports.

Trademark owners have a new weapon against bad-faith trademark filing, according to speakers in the panel session TM5 Workshop Presentation of the Compilation of Case Examples of Bad Faith Trademark Filing. Led by the Japan Patent Office (JPO), the five trademark offices known collectively as the TM5 have compiled 50 case studies on bad faith from each of the group’s members, the remainder of which are the European Union Intellectual Property Office (EUIPO), Korean Intellectual Property Office (KIPO), China’s State Administration for Industry and Commerce (SAIC), and the U.S. Patent and Trademark Office.

Sunao Sato, Director, Trademark Division, JPO, explained that the main aim of the
Exploring the TM5’s Case Studies (continued)

The cases have been split into the categories of free riding, immoral, and lack of intention to use.

Mr. Song said, with the majority of the 50 cases concerning free riding.

The Office will continue monitoring bad-faith filings, Mr. Song said, particularly as they harm the “national image.”

In China, there are typically five types of bad-faith filings, explained Christopher Shen (NTD Patent & Trademark Agency Ltd., China), who was speaking on behalf of Ouyang Shaohua, Deputy Inspector General of Trade Marks, SAIC. He also passed on a message of thanks from Mr. Shaohua.

He worked with a partner company called FoodCare, which produced the energy drinks and was authorized to use his image, his nickname of “Tiger,” and his trademarks.

In 2007, FoodCare applied for T.G.R. ENERGY DRINK covering energy drinks in class 32, and it was registered in 2008. The T.G.R. ENERGY DRINK covering beverages, including energy drinks,

Mr. Michalczewski then appealed and the Appeal Board backed him, saying there had been bad faith.

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As Ms. Kuhl noted, the Board found the applicant’s bad faith at the time of filing for registration.

The General Court later confirmed the decision, with one of its reasons being that FoodCare intended to develop commercial activity based on the image and reputation of the boxer.

In Korea, there has been a significant decline in the number of bad-faith cases, as Kijoong Song, Deputy Director Trade Mark Examination Policy Division, KIPO, later explained.

“This achievement is due to strong policy measures to eradicate such bad practices,” he said, adding that in many cases “trolls” register a trademark without any intention to trade but instead to use the mark for claiming licensing fees or damages.

KIPO has cracked down on this behavior by introducing a system to verify intention to use when a reasonable doubt arises and also charging a fee when an excessive number of goods have been designated.

The Office will continue monitoring bad-faith filings, Mr. Song said, particularly as they harm the “national image.”

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**STRATEGIC PLAN: EVOLUTION, NOT REVOLUTION**

Following the launch of INTA’s Strategic Plan 2018–2021, CEO Etienne Sanz de Acedo discusses its key aims and why the Association is well placed to meet those goals. Ed Conlon reports.

"We need to talk about brands," says Etienne Sanz de Acedo, INTA CEO, as he discusses one pillar of the Association’s new Strategic Plan 2018–2021.

Launched in the Keynote Address yesterday, the new plan has three core strategic directions: promoting the value of trademarks and brands, reinforcing consumer trust, and embracing innovation and change.

There are similarities with the 2014–2017 plan—the core aims of which are "Protection of trademarks," "Communications," "International expansion," and "Member satisfaction"—but it builds on those foundations to provide a sturdier outlook.

"This is not a change of focus, it’s an evolution," says Mr. Sanz de Acedo. "Companies do not necessarily talk about trademarks versus patents, for example—they talk about brands.

"We are an organization serving brands, looking at innovation, and we need to talk about brands. Brands play a key role for corporations and consumers and we want to be part of that conversation."

Discussing the second pillar, he notes that INTA is placing greater focus on the importance of consumers while "looking more at innovation." "Innovation is impacting everything we are doing, even the work of our members and the way organizations are structured. We want to be part of that conversation too and be a platform for thought leadership and the exchange of ideas."

These three principles fall into a wider mission statement that INTA is a global organization dedicated to supporting trademarks and related IP, helping to foster consumer trust, economic growth and innovation, according to Mr. Sanz de Acedo.

Work on the new plan began two years ago in the Planning Committee, but with a desire to be "open-minded, inclusive and bold," INTA sought input from a range of stakeholders, both IP and non-IP.

These included Past Presidents, "whose voices are important," Mr. Sanz de Acedo says, as well as the INTA Board of Directors, members, and staff. This latter group were involved for the first time in building the Strategic Plan, with focus groups playing an important role in its creation.

Another first was input from non-IP groups, including CEOs, media professionals, business school professors, and marketing experts.

"We can’t just talk to ourselves," argues Mr. Sanz de Acedo, adding that, as INTA continues to become a truly global organization, the scope of its interaction on substantive issues needs to expand in addition to its geographical coverage.

"Inevitably, factors outside INTA’s control, including political developments, may influence its ability to fulfill the new plan. However, Mr. Sanz de Acedo dismisses the significance of their impact. "There might be some political changes that do make things a little difficult, but trademarks and IP have no political colors. We are a professional, not a political, organization. We need to work with every administration around the world to protect trademarks and brands. "No matter what the political changes may be, we will adapt and do our job properly. Trademarks and brands are tools for companies and consumers, and they will continue to exist no matter what happens on the political scene."

With the current plan due to end in December 2017, Mr. Sanz de Acedo reflects on its performance, stating that not only he is very happy, but the members are too.

"We are reaching our goal with respect to geographical scope and there is more interaction from officials from lots of countries. We are going to China three times a year, and India annually," he says. "INTA’s mindset is ‘you can always do things better,’ if there was one area that we needed to improve, it was communicating our thinking more and why we wanted to introduce changes, which I think we’ve become better at now.”

Other signs of INTA’s health are the Annual Meeting attendance, which was a record this year with more than 10,000 registrants, and the fact that the Association has opened representative offices in Singapore and Latin America.

After the success of the current plan, INTA and its members and staff can look forward to another four years of hard work in achieving the organization’s core aims, says Mr. Sanz de Acedo.

"There are lots of reasons to be proud of the work being done."
Cover Story

Opening Ceremony: The Evolving Role of Brands (continued)

and those who believe in its value must be the ones to follow through,” he said.
As a Member of the European Parliament, Mr. Méndez de Vigo has always been convinced of the European Union’s importance and of the need to have a common space based on freedom, security, and the respect of basic rights.
“We are faced with a new international scenario that demands a restructurizing of roles played by different actors.”

Before Mr. Méndez de Vigo spoke, INTA CEO Etienne Sanz de Acedo welcomed members to the conference.
“We have 10,600 attendees here, 225 officials, 150 universities from around the world, and more importantly, and that makes me extremely proud, 2,400 newcomers and more than 8,000 repeat attendees to our Annual Meeting,” Mr. Sanz de Acedo said.

He discussed the work of the Association during the past three and a half years, with priorities including brand restrictions, harmonization, Internet governance, and counterfeiting.
“When we talk about harmonization, we need strong laws and we need strong enforcement mechanisms,” he said.

The rise of the Internet has changed the distribution channels of products. “Counterfeiting and piracy is a major problem. It’s a major problem for the companies, but also, and perhaps even more so, for the consumers, and finally for the governments,” Mr. Sanz de Acedo noted.
“Counterfeiting is a priority for the brand owners, and is, therefore, our priority as INTA,” he said.

INTA President Joe Ferretti highlighted the changing role of brands from focusing on the functional attributes of products to later becoming part of a social identity.
Now, he explained, brands are being shaped by consumers.
“Brands are today communicating with consumers through social media and letting consumers influence the branding to a certain extent,” Mr. Ferretti said.
“Today, the most successful brands empower consumer engagement,” he noted.
Mr. Ferretti suggested that companies should assume a broader role as brand stewards. If firms better understand where the brands are going they can better anticipate the challenges ahead and protect and serve the brands more holistically, he said.
“So today, I challenge all of you to evolve in your roles, too. Embrace the role of brand steward.”

Bias: There’s No Escaping It

An interactive panel discussion yesterday reminded attendees that we are all biased.

Bias can be harmful—it dominates our everyday lives,” said Leticia Provedel (Souto, Correa, Cosa, Luminetz & Amaral Advogados, Brazil) in an interactive panel discussion yesterday which prompted questions about equality and progress.

Jack Manhire (Texas A&M University School of Law, USA), had opened up the session, CSU52 Inclusive Leadership: Recognizing and Defeating Our Unconscious Biases.

In a discussion heavily focused on audience participation, Mr. Manhire said “bias” is a word that brings lots of baggage, but is something that applies to all of us. “It’s not a bad thing, just a cognitive reality.” He explained how the brain has essentially two systems: one which is very fast but is prone to error, and the other which is slower but more thoughtful, conscious and reliable. Because the two have to live together, the result is unconscious bias.

This is problematic because, Mr. Manhire said, diversity and inclusion equal engagement, which leads to better performance.

He pointed out that this seems “like a terrible way for humans to be designed,” but explained that because humans process just 40 out of 11 million “bits” of information in total every second, we synthesize nearly all information subconsciously.

One implicit but notable effect of bias is the small number of women working in science, said Mr. Manhire. “It’s not because they’re not smart or can’t do it,” but because the human brain can make implicit associations which then “spill out” and amplify over time and populaions into organizations.

There are many implicit biases, he added, including “similarity,” which is common and can be associated with the thought process that “those like me are better than those not like me”. He used the example of different national flags, which are “symbols of our tribes.”

Concluding the discussion, Ms. Provedel said that many different groups of people took many years to fight for equality and that diversity is positive.
Acting Out the Benefits of Mediation

Lawyers recreated an Italian family business conflict on stage at INTA to highlight the advantages that a mediation process can offer to solve a trademark dispute. Christian Wuestner reports.

The cast included Jami Gekas (Foley & Lardner LLP, USA) and Jill Easton (Darden Restaurants, USA) representing the interests of U.S. restaurant chain Pietro’s Restaurant Inc., which wants to expand to Europe. On the opposing side, Gonzalo Barboza (Arochi & Lindner, Spain) and Anne Gundelfinger (Swarovski AG, Liechtenstein) played the representatives of Italian ice cream chain Pietro Gelateria SpA, operating in Italy and Spain but planning to expand to the United States. To complicate matters, the ice cream shop founder, Alessandro Pietro, is the grandson of Sergio, the founder of the Pietro’s Restaurant. Both enterprises have new investors, which are fuelling the dispute.

“We don’t see any way that Pietro Gelateria can open in the United States under the Pietro’s name,” Ms. Gekas said. “There is no one in the United States who hasn’t eaten at a Pietro’s Restaurant. How can another shop open under the same name with the same color scheme?

“Tell them that we are ready to spend money on litigation,” Ms. Gekas said to the mediator, played by David Grace (Loeb & Loeb LLP, USA). Pietro Gelateria for its part sees no way to coexist with Pietro’s Restaurant in Europe. “Our client has the oldest mark in the European Union dating back to 2011 and that gives our client prior rights in the jurisdiction,” Mr. Barboza said.

In an impasse such as this, mediation can save money, David Friedland (Friedland Vining, P.A., USA) explained to the audience. The involved parties don’t have to spend money on litigation or on discovery, he noted. And “mediation allows you to control the outcome,” he added. “You may not get the best result you want but you get a result that you control.”

The mediation process can bring solutions to the table which may otherwise not have been evaluated. As part of the back-and-forth between the mediator and each of the parties, the parties can share confidential information with the mediator, which can then be taken into account in the process without being disclosed to the opposite party.

For example, Ms. Gekas told the mediator that an investor in Pietro’s Restaurant gave the money on condition of a European expansion. Ms. Gundelfinger, on the other hand, confided to the mediator that her client did not want to sue his grandfather.

Given that Pietro’s Restaurant is well funded and that Alessandro Pietro’s partners are taking the ice cream shop chain in a direction he was no longer comfortable with, the moderator suggested that Pietro Gelateria could be sold to Pietro’s Restaurant: a solution which the parties agreed to pursue.
Ambush Marketing: Striking the Right Balance

As the countdown to the 2018 World Cup finals in Russia begins, legal and brand specialists will be monitoring developments around ambush marketing. But as Naomi Jeffreys finds out, it is important for legislators to achieve the right balance between sponsors, trademark owners, and other groups.

“Pulling on your country’s shirt is the greatest honor a footballer can have. It’s what I always dreamed of as a kid and I get a buzz every time,” Manchester United and England Captain Wayne Rooney once told SkySports.

Players such as Rooney will don their country’s shirt to compete in the world’s ultimate football tournament—the World Cup, which will be hosted by Russia in 2018.

In February this year, soccer website ESPN FC reported that Russia had increased its 2018 World Cup budget by US $325 million. The total spend rose to 638.8 billion rubles (US $10.8 billion). The increase reportedly came from federal budget funds and represents 55 percent of the total spend.

However, like the hosts of other international sporting events, such as the 2012 London Olympic Games and 2014 Sochi Winter Olympic Games, Russia will have to be prepared for dealing with cases of ambush marketing during the tournament.

The Road to Russia

According to Igor Motsnyi, Partner and trademark attorney at Motsnyi Legal Services, there has not yet been any ambush marketing surrounding the World Cup in Russia.

“But there have been previous cases of ambush marketing in Russia, in respect of the 2014 Winter Olympic Games in Sochi.”

According to reports in October 2013, Zippo published on its Facebook page a photograph of a man in a black coat using a ZIPPO lighter to relight the flame of an Olympic Games torch, which was held by Shavarsh Karapetyan, a former Soviet Armenian finswimmer. Karapetyan was wearing a Sochi 2014 Winter Olympics jacket in the image.

Zippo then allegedly published the image across the Internet with the hashtag #ZippoSavesOlympics.

Officials from the Sochi Games warned Zippo that it may be breaching rules on companies linking themselves to the Olympics Games unless they were official sponsors.

Zippo subsequently removed the image from its Facebook page.

Another high-profile case, Mr. Motsnyi explains, involved a “famous Russian wrestler who advertised a mobile phone operator just before the 2012 London Olympic Games.”

The mobile phone operator, MegaFon, the general partner of the Sochi Olympics and sponsor of the London Olympic Games, accused its rival MTS of parasitic marketing featuring wrestler Hassan Baroev, according to 15th Region, a Russia-based news site.

“The problem was that the sponsor of the Sochi Olympic Games was the competitor of that mobile phone operator, so the competitor was not very happy because there was a clear association between the Olympic Games and the other mobile company,” he says.

The Threat of Ambush

Despite the lack of ambush marketing so far, the organizers and sponsors of the 2018 World Cup must still be aware of the threat of ambush marketing potentially before and during the event.

Natalia Gulyaeva (Hogan Lovells, Moscow) adds that World Cup organizer FIFA is the owner of the Russian national trademarks VOLGOGRAD 2018 (in Latin and Cyrillic), a reference to one of the tournament’s host cities. Volgograd has a 45,000 seater-stadium and is situated at the foot of the city’s Motherland Calling monument in Mamayev Kurgan. The statue commemorates the Battle of Stalingrad, which took place during World War Two.

“In September—November 2016, the Volgograd antimonopoly authority heard a case on infringement of advertising law,” says Ms. Gulyaeva.

According to news website Seven Day News, the antimonopoly authority handed down the first decision on the unauthorized use of the FIFA trademark took place, and as a result, the actions by the company were recognized as an act of unfair competition.

INTA’s Position

In 2010, INTA’s Board passed a resolution, sponsored by the Emerging Issues Committee, on ambush marketing.

According to the Association, ambush marketing legislation often impedes trademark owners’ rights by ‘failing to appropriately balance the interests of official sponsors and event organizers with free commercial speech, fair use, and the legitimate commercial activities of others.”

In a bid to resolve this, the Association recommended a set of measures aimed at achieving a reasonable balance between the interests of organizers, sponsors, local businesses and property owners, the local community, and trademark owners.

“A balanced approach to ambush marketing legislation provides reasonable protection to all affected parties without allowing one group to hold a special status to the detriment of other groups,” said the resolution.

To develop a formal position for the Association and a set of guidelines, the Committee had conducted a survey of a representative sample of INTA’s members.

Social Media and Ambush Marketing

Social media have become an important part of how we view and interact with each other and sport.

The 2012 London Olympic Games were hailed as the “first social media Olympics.”

Athletes such as heptathllete Dame Jessica Ennis-Hill, long jumper Greg Rutherford and swimmer Michael Phelps are now prominent figures on social media.

A case of ambush marketing took place during the 2016 Rio Olympic Games.

BEATS BY DR DRE headphones were successfully distributed to U.K. athletes including tennis player Laura Robson and swimmer Tom Daley.

The music company successfully “skirted” the strict rules on ambush marketing by sending British team members “special versions” of the BEATS range by branding them in union flag colors.

The athletes tweeted that they had received them. Footballer Jack Butland said: “Love my GB Beats by Dre.”
During important sporting events, companies may use social media to ambush market—but will this be the case in the 2018 Russia World Cup? Social media are more popular now and will be even more popular next year, so I certainly expect we will have some cases of ambush marketing on social media. You will have to wait and see,” says Mr. Motsnyi.

Ms. Gulyaeva adds that “social media sites react fairly quickly if rights owners approach them—they can block or delete the content, depending on the demands filed by the rights holder.” On social media it is much easier to place advertisements or content which would potentially be ambush marketing, she notes, and this content would be available for “quite some time before it’s blocked, if it’s not caught immediately.”

Special Legislation
Russia has legislation on trademark protection that has been enforced for many years. Part IV of the Civil Code of Russia, chapter 76, paragraph 2 is specifically designed for trademark protection.

A law has been created specifically for the 2018 World Cup: the Law on Organization and Conduct of the Football World Cup 2018, says Mr. Motsnyi. “That law is designed to deal with the World Cup. What it does, among other things, is set up some standards of advertising during the event; it also sets up provisions and rules relating to IP rights.

“This law is an addition to all other pieces of legislation,” he adds. There are specific requirements for advertising before, during and after the World Cup. Ms. Gulyaeva says that trademark holders “should not be shy” and should be “very encouraged” to take action.

“It is important for Russia as a host of the World Cup that every company who feels that its IP rights are infringed may rely on the support of state authorities,” she adds. The FIFA Confederations Cup, which is taking place this year, will be “the first test of how the enforcement works—soon we will have first results,” Ms. Gulyaeva adds.

The tournament, which is staged every four years and is considered a rehearsal for the FIFA World Cup, will begin on Saturday, June 17 and end on Saturday, July 2.

Clear Definitions
In its Board Resolution, INTA recommended a set of principles and guidelines that countries planning to adopt ambush marketing legislation should follow.

Countries should consult with the potentially affected parties before the adoption of the legislation, according to INTA, and the effect of the legislation on trademark applications should be taken into account. Restricted ambush marketing activities should be clearly defined and limited in scope so that only commercial activities that create or are likely to create a false implication of sponsorship among the public are prohibited.

INTA also recommended that the special protections granted to organizers and sponsors be time-limited and that remedies in the legislation should minimize the risk of sponsors using “overreaching rights of action to the detriment of bona fide trademark owners.”

So while pulling on your country’s shirt may be the greatest honor a footballer can have, a different type of honor extends not only to the World Cup sponsors, but also to legislators—to ensure they strike the right balance when seeking to restrict advertising opportunities.

The FIFA World Cup takes place around Russia from June 14 to July 15, 2018

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The Gummy Bear Uprising: A Sticky Topic

Was the GOLDBÄREN decision in the dispute between Haribo and IGE made correctly by the Swiss Federal Administrative Court, and would the outcome be the same if it were decided in a different jurisdiction?

This case was considered by a panel of judges from several jurisdictions who shared their thoughts on the decision yesterday, at INTA’s International IP Court. Judges from International Jurisdictions Discuss Hot Topics in Trademark Law.

Dr. David Aschmann, Federal Administrative Court (Switzerland), outlined the case, which centered on a trademark for a packet of gummy bear sweets owned by Haribo.

Last year, the Swiss Federal Administrative Court allowed the registration of the trademark, GOLDBÄREN. Although the court considered the mark to be non-distinctive, it still allowed registration—based on the existing registration of 19 other similarly non-distinctive trademarks. “All 19 previously registered signs were considered similarly non-distinctive,” in that they consisted of the word ‘gold’ in a Swiss national language or English, and the name of an animal or object, explained Dr. Aschmann.

The Swiss Federal Institute of Intellectual Property had refused to register the trademark but, to the judges, registration of the trademark would “fit perfectly into long-standing practice”, he said, noting that the judges were unable to understand why the office considered it different. According to Dr. Aschmann, Haribo’s competitors had obtained the registrations unlawfully, and if Haribo hadn’t been treated in the same way as those competitors by the office, its only alternative action would have been to file a civil action against the other trademark owners.

Conflicting Rights

The Swiss court held that the mark could be protected under “equality in injustice,” a principle that isn’t common in Swiss law.
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**Patagonia:**
The Company That Recycles Counterfeits

As a company that values environmental protection as much as its profits, apparel brand Patagonia has adopted some innovative ways of dealing with trademark infringement. IP Counsel Robert Tadlock talks to Ed Conlon.

U.S.-based outdoor clothing company, Patagonia, is devoted to fighting issues such as climate change, and spent much of 2016 doing exactly what many have come to associate it with: promoting environmental protection.

The clothing company’s *Environmental & Social Initiatives 2016*, published in November last year, reported a busy 12 months.

In Washington, D.C., it hosted a surfboard-signing event in protest at offshore oil drilling; and stores in Chicago, Illinois, and Saint Paul, Minnesota, supported activists opposing Line 5, an oil pipeline running through the United States’s Great Lakes.

Further, various store managers spoke at an activist event encouraging environmental awareness and climate change sensitivity. In 2016, Patagonia donated US $7.1 million to more than 800 nonprofit groups.

Towards the end of last year the company announced it would be giving 100 percent of its global retail
Discussing what brand value means to him, Mr. Tadlock says that there are several considerations.

“When consumers see our name, product and logos, what are they thinking? Are they engaged in the quality of the product, the reasons they are buying the product, how it was made, and the fact it’s coming from a company that’s doing more than just turning out another product to make a profit?”

It may be a time of uncertainty for large parts of the world, but Patagonia is committed to continuing where it left off in 2016.

“Our mission is really central—it does differentiate us. We find that caring about these things is part of the DNA of the business. Our brand value is built on those beliefs, and also the follow-through. We have a voice on these issues and we try to use it effectively,” Mr. Tadlock says.

One way the company has been environmentally aware is through its IP enforcement strategy. Mr. Tadlock explains that Patagonia’s approach involves a “little more creativity” than simply seizing infringing items or sending cease-and-desist letters.

“When we reach out to those who we think are infringing our rights, we may have more options in what we ask them to do,” Mr. Tadlock adds. “Usually we try not to destroy products—we opt for more productive results that make use of products and don’t waste goods. For example, we ask people to donate products, or we will take the product and try to recycle it,” he says. “The company is aware of the harm that’s done when things are made and then destroyed.”

Product Design
This approach is not limited to enforcement: environmental concern also plays an important role when the company creates products.

“We have a large group of people who vet our supply chain partners in order to ensure they are doing whatever their job is in a way that minimizes harm to the environment and that they are treating workers well,” Mr. Tadlock explains.

Although influential from a social and moral standpoint, Patagonia is under no illusions about the business element of running a company.
The Gummy Bear Uprising: A Sticky Topic (continued)

Law and which has strict conditions.

Richard Arnold (High Court of London, United Kingdom), opposed the decision, stating that it wouldn’t have happened in the UK for three reasons: principle, practicality, and policy.

“As a matter of principle, no applicant has the legitimate expectation that he can rely on the unlawful act of a third party. He only has the legitimate expectation that the trademark application will be examined in accordance with the law and on its own merits,” he said.

He added going into a lengthy enquiry is a complete waste of time and that “allowing reliance on previous registrations is bad policy.”

Following an equality in injustice approach would mean that the unlawful practice can never be changed.

He argued that “once you have 19 registrations is bad policy.”

A Constitutional Question

The decision raises the constitutional question of equal treatment before the law.

In Ecuador, the right to be treated equally before the law is recognized equally before the law is recognized.

The same is true for Spain, according to Luis Rodriguez Vega (Appeal Court of Barcelona, Spain), who explained that the courts are bound only by the law, and not by the practice of the office.

“If the office hasn’t followed precedent, there could be discrimination against the applicant,” he added.

He agreed with Mr. Arnold: “If the office considers a mark must not be introduced because of lack of distinctiveness, the application should be rejected even though similar signs have been registered.”

He added that equal treatment is not equal if you don’t consider all the trademarks that have also been refused.

Ms. Ohm argued that the decision was in direct conflict with the Court of Justice of the European Union’s opinion that “the European Union Intellectual Property Office is under a duty to exercise the principle of equal treatment, but it must be consistent with respect to legality.”

Equality before the law is also in the Chinese Constitution, said Junli Xia, Presiding Judge of 3rd Civil Division of the Supreme People’s Court of China.

“The office may make a mistake, but this is the reason we established the Trademark Review and Adjudication Board,” she said.

Marianne Grabrucker, former Presiding Judge, German Federal Patent Court, and President of the Circle of European Trademark Judges (CET-J), explained that the CET-J is discussing the topic.

“Deeper academic evaluation is required,” she said. “There’s an obligation on the administration to balance different interests.”

Iris Gunther, External Relations Enforcement Advisor at INTA, chaired the session.
CIPO: Looking Ahead to 2019

With Canada preparing for changes to its Trademarks Act in 2019, Uldduz Larki talks to Mesmin Pierre, Director General of the Trademarks Branch for the Canadian Intellectual Property Office, about what to expect.

In 2014, the Canadian government passed legislation which will amend the country’s Trademarks Act in 2019. Mesmin Pierre, Director General of the Trademarks Branch for the Canadian Intellectual Property Office (CIPO), says Canada is seeking to accede to five World Intellectual Property Organization treaties: the Singapore Treaty; the Madrid Protocol; the Nice Agreement; the Patent Law Treaty; and the Hague Agreement on Industrial Designs.

Canada made changes to the current system based on some key principles, namely to reduce both costs and administrative burden for the client and to provide more marketplace certainty. Mr. Pierre says that the changes are going to affect the Office significantly, adding: “We’ll have a new legislative framework, which will transform our system. These changes have been made to ensure our users can have access to both our national and an international system.

“Canadian businesses will be able to take advantage of entering international markets using the Madrid System once Canada joins in 2019. This gives them more flexibility to explore the number of markets they want to enter and lower the cost of doing so,” according to Mr. Pierre.

CIPO is looking at how best to harmonize its system with existing international trademark systems by adopting international best practices, Mr. Pierre explains. Another key driver is the objective to give trademark applicants more flexibility through a choice to either file directly with national registration systems or use the Madrid System when filing an application with CIPO in order to gain international protection in international markets.

“The change has been a long process, but that’s not uncommon,” says Mr. Pierre.

CIPO has been working closely with elected officials in a constructive fashion to facilitate Canada’s accession to the treaties. The Office has received strong support from Parliament, as well as other federal government departments.

He adds: “We have been able to work closely with our colleagues from the Department of Justice to amend the Act as appropriate and we are currently working on drafting regulations.

“We will be engaging in extensive consultations and will continue to do so until the law comes into force in early 2019. The key is engagement and regular communication,” he says.

Trademark owners need to assess the potential impact of the Canadian legislative amendments on their IP strategy.

Getting Ready for Change

CIPO is working rigorously to inform trademark applicants and owners so that they are aware of the changes to the trademark law.

According to Mr. Pierre, CIPO is also preparing internally by updating IT systems and training staff on the amended legislation that the Office will implement.

One challenge that has been highlighted is that CIPO’s IT systems need to be upgraded.

“Our system is not as modern as we’d like it to be, and I understand other offices struggle with that too. Technology needs to be up to date.”

Aligning Canada’s trademark regime with accepted international standards and practices will not only help Canadian trademark owners to access foreign markets, but will be equally beneficial for the international community, as non-Canadian trademark owners will be able to access the Canadian trademark system more easily, Mr. Pierre explains.

Trademark owners need to assess the potential impact of the Canadian legislative amendments on their IP strategy, Mr. Pierre explains. The Office has to implement new and amended processes, including new online services, to meet the requirements of the legislative changes.

To prepare for the changes, he says, IP owners should familiarize themselves with how, and more importantly when, the treaties will be implemented in Canada. In addition to the legislative changes required to accede to the treaties, the Canadian parliament has also approved a revised fee structure.

Applicants are currently able to file a trademark application for a flat fee that does not take into account the number of Nice classes. Once the trademark is eligible for registration, the applicant must pay a separate registration fee. The revised fees will include merging the application and registration fees so that the applicant will only have to pay one application fee.

There will also be a new “fee per Nice class” which will provide an incentive for applicants to restrict their trademark applications and renewals to only cover the goods or services that they actually use. These changes are expected to decrease filing fees for two thirds of all trademark applicants.

“Stay informed through our website. We will be sending all communications electronically. We strongly encourage interested parties to subscribe to our newsletters, to receive email updates regarding new or updated information available on our website, and we also recommend following our Twitter feed,” Mr. Pierre concludes.

Have any comments?
Start the Conversation on Twitter #INTA17

Canada’s Trademarks Act will be amended in 2019.

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Tobacco Packaging: Smoke Signals From India

Plain tobacco packaging legislation has been implemented in countries including Australia and the United Kingdom, and while India has made moves to follow suit, there is as yet no sign of any such laws. Naomi Jeffreys reports ahead of a special session at the Annual Meeting.

O n Wednesday, May 24, INTA will tackle plain packaging in India in its session RW20 Regional Update: Limits on Trademark Rights in India—Focus on Plain Packaging and Surrogate Advertisement.

The speakers include Chander Lall (Senior Advocate, India), and Hemant Singh (Intel Advocate, India).

In 2012, a Bill was submitted to India’s Parliament which sought an amendment to The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. The aim was to reduce the consumption of tobacco and highlight the negative effects of tobacco on the country’s health.

However, as of this year, no more legislative changes have been aimed at introducing plain packaging in the country.

Plain Packaging Overseas
Since December 1, 2012, Australia has sold tobacco products in plain packaging. The measures include health warnings covering 75 percent of the front of most tobacco products and 90 percent of the back, according to the country’s Department of Health.

There are also stronger penalties for tobacco smuggling offenses.

Mr. Singh says that a study last year in Australia “revealed that the decrease in the consumption of tobacco between 2012 and 2015 had been merely 0.55 percent. That, to my mind, favors not plain packaging but statutory warnings.”

“We also need to look at the other factors which are compromised with plain packaging and they need to be factored in before it can be adopted,” he says.

“We can’t learn much from Australia yet—the reports don’t offer any positive or negative figures to suggest it has helped a reduction of smoking.”

“I’m not sure there are sufficient statistics for anyone to learn from. It is still early days to see the long-term benefits or any impact at all.”

India and Plain Packaging
In India, a lot has been happening on the legislative front, says Mr. Singh, with the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008 initially prescribing that 40 percent of the principal display area of cigarette packets should bear specific health warnings.

That was increased to 85 percent in April last year through a Health Ministry notification.

He adds that many non-governmental organizations in India have been trying to persuade the government to legislate for plain packaging.

However, according to Mr. Lall, “nothing has really happened” despite the proposed legislation.

The INTA Session
INTA’s session will focus on the limits on trademark rights imposed by lawmakers who have introduced plain packaging for tobacco products, and how the tobacco industry has mastered the art of surrogate advertisements and product placement in films and cinema.

It will also seek to explore the middle path that rights owners and lawmakers have to walk so that trademarks owners’ rights to market their products are not defeated by public health measures, but public health is not compromised.

“In India we have many restrictions in terms of the manner of branding and freedom in cigarettes. If there is plain packaging then any scope for branding against those of other undertakings;” and

Governments should use less drastic alternatives to address health and safety goals, such as public educational campaigns which do not violate international and national law and expropriate valuable trademark rights.

INTA’s Position
INTA Board Resolution of May 2, 2015: “Restrictions on Trademark Use through Plain and Standardized Product Packaging”

1) Plain and highly standardized packaging measures being considered or imposed by governments should be rejected or repealed since they violate various international treaties and national laws on trademark protection including provisions of the Paris Convention (e.g., Articles 6quiquies, 7 and 10bis), the Technical Barriers to Trade Agreement (e.g., Article 2.2), and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) (e.g., Articles 2, 8.1, 15.4, 17, 20 and 26), in particular Article 20 which states that “the use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements such as … use in a special form or use in a manner detrimental to its capacity to distinguish the goods or services of one undertaking from those of other undertakings;” and

2) Governments should use less drastic alternatives to address health and safety goals, such as public educational campaigns which do not violate international and national law and expropriate valuable trademark rights.

There will be several brands that become completely redundant, in effect it means the property and worth of the brand will lose value as it becomes unusable.

If you adopt plain packaging we are also compromising the ability of the brand to distinguish itself from others.”

Mr. Lall adds that plain packaging goes against the “very concept of trademark law” and will mean that rights owners can’t “brand how they wish to.”

“Branding is about source identification and such source identification compels brand owners to maintain quality. It is unclear why this category of producers (cigarette manufacturers) and consumers (smokers) should be deprived of this important function.”

Trademark Owners and Plain Packaging
Trademarks are the most valuable form of IP, argues Mr. Singh, and it takes time to build a valuable brand, which “needs to be protected against imitations.” Brand owners invest a lot of money into protecting their rights, he adds.

We can’t learn much from Australia yet—the reports don’t offer any positive or negative figures to suggest it has helped a reduction of smoking.”

“When you put a plain packaging regulation in place, a brand owner is restricted on how it can use the brand,” he adds.

Mr. Lall agrees. “There will be several brands that become completely redundant; in effect it means the property and worth of the brand will lose value as it becomes unusable.

“It could lead to a substantial loss and have an impact in countries where these brand owners reside. There is a strong argument to suggest that plain packaging for tobacco is a bad idea as there is no evidence to suggest that it actually reduces and discourages smoking.” he concludes.

The RW20 session will be held in Hall 8.0, A2, on Wednesday 24 May, from 11:45 am to 1:00 pm
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Gulf, Middle East, South & East Asia and African Offices
Exploring the Nightlife
Barcelona has a host of wonderful bars and clubs to visit. Uldduz Larki lists five of the best.

Dry Martini
Carrer d’Aribau, 162-166, 08036
Paying homage to the famous drink, Dry Martini is a place for great entertainment. Unsurprisingly, one of the most recommended drinks here is the dry martini, a cocktail made with gin and vermouth. Some reviews on TripAdvisor have referred to the Dry Martini bar as “the place to go” and “the best bar in Barcelona.” Make sure you try the James Bond Martini menu, which has more than 20 dry martinis.

Sidecar Factory Club
Plaça Reial, 7, 08002
If you need to let some steam off after the Annual Meeting, then Sidecar Factory Club is the ideal place to be. Located in the middle of Plaça Reial, the club is busiest on Thursdays, Fridays, and Saturdays. The music at this small venue includes rock, punk, and indie, as well as experimental music. There are DJ sessions six nights a week, exhibitions, and presentations.

VOXPOP!
What do you think of Barcelona as the location for this year’s INTA Annual Meeting?
It’s fabulous! It’s literally at my doorstep as I am based in Europe. I work at our French office, so I am able to pop on a flight and come down to Barcelona. It’s a unique privilege and it’s one of my favorite cities as well.
Caroline Chenique, RWS Group

La Terrrazza
Avenida Francesc Ferrer I Guardia, 0 S N, 08001
Experience Spain’s surroundings while having a good time at La Terrrazza, an open-air club overlooking Barcelona. Dubbed the “open air circus” with a capacity of 1,000 people in the outdoor terrace, you can come and join the Ibiza-style vibes with a glamorous clubbing crowd. The primary genre of music at this club is house.

Harlem Jazz Club
Career Comtessa de Sobradiel 8, 08002
If you’re looking for a more relaxed atmosphere with live music, then Harlem Jazz Club is the right spot for you. Located on a small street, this hidden club is an attraction for local and international jazz lovers. It has a friendly atmosphere, cheap drinks, and space for approximately 300 people.

La Vinya del Senyor
Plaza Santa Maria, 5, 08003
Situated in front of the famous Santa Maria del Mar church, La Vinya del Senyor has over 100 different wines, including a variety of Catalonian-sourced bottles. If you are a wine lover, then this is certainly the place to go, with outside seating allowing you to take in the iconic Santa Maria scenery. With the Picasso Museum (open until 21:30) just five minutes’ walk away, it’s perfectly based to fully take in your surroundings.

VOXPOP!
What is going to be the most important topic or focus area of this year’s INTA Annual Meeting?
I think it’s counterfeiting. There has been an INTA meeting in Africa on trademarks and counterfeiting. This will probably be the hot topic on the back of the rise of new companies producing counterfeit products.
Theodoros Angelides, P. Angelides & Co LLC, Cyprus

VOXPOP!
What is going to be the most important topic or focus area of this year’s INTA Annual Meeting?
I want to find out more about how we can handle issues related to counterfeit products and what each country is doing to address this problem. This is a big topic not only in Brazil but all over the world.
Cláudia Gimenez, Idea Marcas e Patentes Ltda, Brazil
Russia’s Anti-Piracy Law has been an effective tool for IP owners seeking to enforce their rights online, as Evgeny Alexandrov and Sergey Medvedev of Gorodissky & Partners report.

Russia’s Anti-Piracy Law entered into force on August 1, 2013 and regulates a unique copyright protection mechanism allowing blocking of online resources involved in distribution of illegal video content, music, literary works, software and databases, broadcasts, and other copyright and related rights (except photographs) located in various information and telecommunication networks (including on the Internet).

It defines a wide range of people (the so-called “information intermediaries”) who may be found liable for reproduction, use, and distribution of illegal content on the Internet. Such intermediaries have been grouped into three categories: telecoms operators; hosting providers; and website owners. The Law has also established the terms under which the aforementioned entities may be exempt from liability. In particular, the first category (telecoms operators) will not be liable for IP infringement if the following conditions are complied with:

1) A person does not initiate the transmission of materials and does not select the recipient of the said materials;
2) A person does not modify the said materials when providing communication services, except for modifications necessary to maintain the technology process for transmittal of materials; and
3) A person was not and should not have been aware that the use of IP by the persons who initiated the transmission of materials containing the corresponding IP was unlawful.

The second category (hosting providers) will not be liable for IP infringement if the following conditions are complied with:

1) A person was not and should not have been aware that the use of the corresponding IP contained in such materials was unlawful; and
2) Upon receipt of a written warning from the rights holder in which a webpage and/or IP address where such materials have been placed is specified, a person has undertaken necessary and sufficient measures to cease the IP infringement.

The above rules shall also be applicable to the third category of information intermediaries (website owners).

**Special Jurisdiction and Preliminary Injunction**

The Law has determined that this category of IP disputes should fall within the jurisdiction of the Moscow City Court. Therefore, having found unlawfully distributed content on the online information resource, or a web link for downloading it, the rights holder shall be entitled to file a motion for preliminary injunctive relief with the Moscow City Court (the lawsuit must be filed afterwards).

After the issue of a preliminary injunctive relief, the Court will issue a writ of execution and pass it on to the claimant or, upon the claimant’s petition, forward it to the national IT and communications regulator (Roskomnadzor) for the purposes of initiating a blocking procedure.

**Blocking Procedure**

The blocking procedure works as follows:

- Having obtained the writ of execution, the rights holder or the exclusive licensee may approach Roskomnadzor with a request for measures to restrict access to the information (online) resource distributing the illegal content;
- Roskomnadzor shall within three business days determine a corresponding information intermediary (e.g., a hosting provider) and send it an electronic notice of infringement of the corresponding exclusive rights. The notice shall be in Russian and English, and shall contain all necessary details and the appropriate demand to take necessary steps to remove the illegal content;
- Within one business day from receipt of the notice, the hosting provider (or another information intermediary) shall inform the owner of the online information resource that it services of this particular notice. It must also notify the owner of the need to immediately remove the illegal content from the web and/or make certain arrangements to restrict the access; and
- Within one business day from the receipt of such notice the owner of the online information resource is obliged to remove the corresponding illegal content from the web.

In the event of the owner’s refusal to remove the infringing content from the web, or the owner’s omission to do so, the information intermediary shall restrict access to the online information resource within three business days. In case of failure to fulfill the demands, access to the information can be restricted within 24 hours by Roskomnadzor.

**Permanent Blocking**

Rights holders as well as exclusive licensees are allowed to block Internet resources permanently. The Anti-Piracy Law provides sanctions for the repeated infringement of copyright or related rights. Infringement will be deemed “repeated” if an effective earlier decision of the Moscow City Court has been issued and received at the request of the same claimant. Currently, 223 websites have been blocked permanently.

**Comment**

Over the last couple of years, the Anti-Piracy Law has proved to be one of the most effective and useful enforcement tools helping different copyright owners combat pirated or illegal content on the Internet.

According to Roskomnadzor’s official statistics, approximately 27,000 IP rights have already been enforced, while around 1,500 web resources have been involved in proceedings due to application of the Anti-Piracy Law.

This article has been independently researched and authored and does not necessarily reflect the views of INTA.
Logo Protection: Trademark v. Copyright

While logos are often protected by trademarks, copyright can be a useful protection tool as well, panelists suggested on Saturday. Christian Wuestner reports.

Protecting logos with copyright can be an option, but the intricacies of each jurisdiction require very different approaches, a panel session titled Using Copyright to Protect and Enforce Rights in Logos found on Saturday.

While logos act as source identifiers and are therefore protected by trademark law, they can also be seen as works of visual art and be protected by copyright law.

But there are significant differences among jurisdictions, Noel M. Cook (Owen, Wickersham & Erickson, USA) noted.

To register a logo as copyright in the United States it needs to be “sufficiently creative,” for example in the use of coloring, fonts and shapes, said Catherine Rowland, Senior Advisor at the U.S. Copyright Office. To register for protection, the logo needs to be described as precisely as possible, she added.

Copyright law provides advantages to supplement logo protection when trademark law provides no relief, Vivien Tsang (The Sherwin-Williams Company, USA) noted. The advantage is that copyright protection is “universal” and independent of any products and services, Ms. Tsang added.

Copyright law can be a good tool for logo owners who have not registered their trademark, or have not registered it in connection with all potential products and services. Logo owners may also rely on copyright law to stop the use or registration of logos by third parties in countries where they do not own trademark rights, according to Ms. Tsang’s presentation.

For the registration of a logo in China, the responsible body does not consider originality as much as is the case in the United States, Joseph Simone (Simone Intellectual Property Services Asia Ltd, Hong Kong SAR, China) said. But registering copyright in China is costly because it requires a lot of paperwork, he noted.

Best practice is to submit full documentation including a declaration, an agreement with the original creator, evidence of prior use, as well as all notarized and legalized documents.

In Europe, copyright is complicated because there is only marginal harmonization of the rules, said Richard Gilbey (Gilbey Legal, France). Furthermore, there are authors’ rights laws in addition to copyright laws, and these rights prevent, even in a business environment, huge amounts of money changing hands in France, Mr. Gilbey said. It is essential that the authors’ rights are assigned in writing to avoid disappointments at a later stage, he suggested.

Because of the lack of harmonization of the copyright laws in Europe, Mr. Gilbey suggested that registering for trademark protection might be the better option in some cases. If a logo is destined to be a commercial source-identifying sign and thus a key market identity tool, a trademark will remain the better route, he said.

Copyright law can be a good tool for logo owners who have not registered their trademark, or have not registered it in connection with all potential products and services.

“Copyright law can be a good tool for logo owners who have not registered their trademark, or have not registered it in connection with all potential products and services.”
Brand Restrictions: Changing the Conversation

The tobacco industry may have lost battles against plain packaging, but the war is not over, say the Co-Chairs of INTA’s 2017 Brands Restrictions Presidential Task Force, Kathryn Park and Burkhard Goebel, and INTA Chief Policy Officer Bruce MacPherson, in an interview with Sarah Morgan.

Bruce MacPherson, INTA’s Chief Policy Officer and staff liaison for the Association’s 2017 Brand Restrictions Presidential Task Force, has been working on the topic of “brand restrictions” in its various forms as part of the advocacy group for over a decade.

The term “brand restrictions” encompasses a number of types of legislation and policies, such as plain packaging, standardized packaging, and laws introduced to ban or reduce the use of characteristics (which are trademarks) on packaging.

The Task Force was established to tackle this high-priority issue by exploring how INTA can weigh in most effectively.

Burkhart Goebel (Hogan Lovells International, Spain), Task Force Co-Chair, says: "Based on our discussions, the Task Force hopes to provide guidance to INTA on ways to better work with policymakers to strike a balance between public health policy and government-sanctioned IP rights.”

This is exactly what the Task Force has done—all its members have thrown themselves into this initiative “with energy and enthusiasm,” says Kathryn Park (General Electric Company, USA), the other Co-Chair of the Task Force.

International Outlook

Since Australia’s implementation of plain packaging for tobacco products in 2012, more countries, particularly those with advanced economies, are hopping on the bandwagon.

These other countries are encouraged by the World Health Organization (WHO), which has been the main driver of the issue for more than ten years, Mr. MacPherson explains.

The United Kingdom is one example where, in April this year, the UK Supreme Court refused to allow an appeal from the tobacco industry, in a final domestic decision on the recently implemented plain packaging requirements.

Since May 21, all cigarettes sold in the United Kingdom must have standardized packaging—colored olive green, with large images of health warnings covering 65 percent of the front and back of every packet.

One Task Force finding so far reveals that legislation to date is often based on emotions and faulty data. For example, the Task Force has found that data in the Australian situation was not sufficiently vetted for control purposes, explains Mr. Goebel.

Studies undertaken some three years after the plain packaging law came into effect showed little impact on the behavior of smokers (a reduction of about 0.5 percent), he adds.

Although the tobacco industry immediately comes to mind when plain packaging is brought up, it's not the only industry that is being targeted: the food and drinks sector is also now in the sights of public health groups.

"Today, brand owners whose products are targeted by well-intentioned but sometimes misguided health activists are facing an increasingly ominous threat to the use of their distinctive trademarks, logos, and other distinguishing indicia," explains Mr. Goebel.

Standing up for Brand Owners

INTA stepped up its advocacy against plain packaging when the Australian legislation was introduced in 2011, says Ms. Park.

Volunteer committees, especially those dealing with legislation and regulation, devoted hundreds of hours to analyzing proposed legislation, and preparing statements for the Association to submit in more than 15 countries.

INTA also submitted an amicus brief to the World Trade Organization’s Dispute Resolution Panel dealing with the Australian legislation. The panel’s decision is expected soon and leaks of the draft decision indicate that it favors Australia.

Mr. MacPherson explains that those advocating plain packaging have turned their gaze to dealing with obesity, suggesting brand and labeling restrictions for sugary drinks and highly salted foods.

People on the health side of this debate seem to have a stronger voice politically and are getting a better reception from policymakers, he observes.

Mr. MacPherson hastens to add that although these are noble objectives, a more balanced approach to the issue is necessary.

The key issue is how to get policymakers to consider all aspects of an issue, not just the emotional arguments, explains Ms. Park.

Mr. MacPherson adds: “There should be serious consideration of what it means to do something that will restrict or even take away basic IP rights and consumer choice.

What’s Next?

The Brand Restrictions Presidential Task Force will be making an interim report to the Association’s Board at the 2017 Annual Meeting.

Once the Task Force has feedback from the Board, it plans to focus on some key recommendations dealing with messaging and data development to be made in a final report in September 2017.

The objective of the Task Force is to make these recommendations to INTA, which the Association—working with bodies such as the Impact Studies Committee or the Communications and External Relations staff—will then consider whether and how to implement.
It depends in large part on the ability of brand owners to make their voices heard without seeming insensitive to health concerns.

“‘It’s important to focus on the benefits that IP brings to the economy, such as employment and innovation, and how this improves the wellbeing of consumers and citizens.”

Historically, INTA’s primary approach to the issue has been to make formal submissions and to reach out to other IP organizations.

But in 2015, INTA’s Board of Directors adopted a resolution on the issue which raised the Association’s visibility and strengthened the Board’s resolve in taking direct action. The question is what level of response is needed by INTA and brand owners that is commensurate to the growing threat of brand restrictions.

Economic Impact

Ms. Park says that the Task Force is considering whether it would be beneficial for a study to be conducted on the economic impact that these restrictions have and, more importantly, on jobs and the economic wellbeing of a country’s citizens.

“In the past our message has been more legal, focusing on national and international law. But the issue has to be discussed using a different approach,” says Mr. MacPherson, adding that, ultimately, it probably needs to be addressed from a holistic economic perspective.

One way of doing this is working with chambers of commerce and other trade associations so they can engage with policymakers and stakeholders.

Finding the Right Message

As for the future of brand restrictions, it’s not so clear, explains Mr. Goebel.

“It depends in large part on the ability of brand owners to make their voices heard without seeming insensitive to health concerns that policymakers are trying to address,” he says.

“Brands enable free choice of informed consumers. They are the backbone of any economy based on competition and choice. They should not be interfered with lightheartedly.”

Ms. Park concludes: “It will take a lot of coordination among the IP and trade groups and even those who support consumer choice, to slow down, let alone stop, the juggernaut that was set in motion by WHO some 12 years ago.”

“Have any questions? Reach out to Bruce MacPherson, Chief Policy Officer, External Relations, bmacpherson@inta.org

TRADEMARK, PATENT, DESIGN, and COPYRIGHT ATTORNEYS & AGENTS

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Al-Otaishan Intellectual Property & Technology Law Firm (AIP&T) is an IP law firm in Riyadh, Saudi Arabia, with an active presence in GCC, Middle East, Africa and Asia.

AIP&T is managed by Aty Mohammad Al-Otaishan, who holds an LLM degree in intellectual property from the University of Washington, USA.

Atty. Mohammad was previously a legal advisor for Saudi Basic Industries Corporation (SABIC).

During his career at SABIC, he made a very remarkable contribution to the case EXXON vs SABIC which is the largest case ever in the region with respect to volume of damages and one of the most complex cases in the Middle East.

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ASIA : Pakistan, Afghanistan, Bangladesh, Sri Lanka, Nepal, Malaysia, Indonesia

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AFFILIATE RECEPTIONS

1. Potter Clarkson, Esfèric Barcelona
2. Ferraiuoli, Condes Hotel
3. Boult Wade Tennant, El Principal del Eixample
4. INTA, Fira Gran Via
5. CITMA, Hotel Espana
6. Fieldfisher, Hotel Arts Barcelona
7. SS Rana, Jivamukti Yoga
8. IPR Group Patent & Trademarks Attorneys, Oleum Restaurant, National Art Museum of Barcelona

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SEPTEMBER 17–19, 2017 | NEW ORLEANS, LOUISIANA

TRADEMARK ADMINISTRATORS AND PRACTITIONERS MEETING

Join us in New Orleans for three days of education, networking, and inspiration! Take advantage of all this meeting has to offer trademark administrators, young practitioners, and those new to trademark practice!

- Ten educational sessions
- Inspiring keynote speakers
- Bikes for Kids (Team Building Event—New in 2017!)
- Table topic discussions
- Welcome reception, networking breaks and receptions, luncheons, “Dine-Arounds”
- And much more

For more information, visit www.inta.org/2017TMAP

TMAP Meeting
TRADEMARK ADMINISTRATORS AND PRACTITIONERS MEETING
SEPTEMBER 17–19, 2017 | NEW ORLEANS, LOUISIANA

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Published by: WIPR
## Daily News

**Monday May 22**

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### Schedule

<table>
<thead>
<tr>
<th>NAME</th>
<th>START</th>
<th>END</th>
<th>LOCATION</th>
<th>ROOM</th>
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<tr>
<td>Speed Networking</td>
<td>12:00 PM</td>
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<td>Fira Gran Via Hall 8.1</td>
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<tr>
<td>Unreal Campaign Committee – Leadership Meeting</td>
<td>12:45 PM</td>
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<tr>
<td>Luncheon Table Topics</td>
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<td>3:15 PM</td>
<td>Fira Gran Via Hall 8.0 - D2</td>
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<tr>
<td>Past Presidents and President Counsel Luncheon (By invitation only)</td>
<td>1:15 PM</td>
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<td>Professors Luncheon (For full-time professors)</td>
<td>1:15 PM</td>
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<td>Anticounterfeiting Committee - Middle East and Africa Subcommittee</td>
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<td>Anticounterfeiting Committee - United States Subcommittee</td>
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<td>Legislation &amp; Regulation Committee - Europe and Central Asia Subcommittee</td>
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<td>Panel of Trademark Mediators</td>
<td>1:15 PM</td>
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<td>Programming Advisory Council</td>
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<td>Publications Committee</td>
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<td>Saul Lefkowitz Moot Court Competition Committee</td>
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<td>Trademark Office Practices Committee - China Trademark Office Subcommittee</td>
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<td>NEW! Lunch and Learn</td>
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<td>Internet Committee - Trademarks and the Internet Subcommittee</td>
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<td>CM50 A Passage out of China—Is It Any Easier? (Intermediate Level)</td>
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<td>CMS1 New EU Trademark Law: The Reform Is Not Over! (Advanced Level)</td>
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<td>CMS2 The Trademark Attorney’s Second Job: Spotting Key (Non-IP) Issues in Social Media (Beginner to Intermediate Level)</td>
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<td>RMS5 Regional Update: Protection and Enforcement Strategies in Africa (Intermediate Level)</td>
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<td>Country Guides Project Team (Legal Resources)</td>
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<td>Global Membership Meeting</td>
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<td>Government Officials Training Committee</td>
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<td>Leadership Development Committee</td>
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<td>Latin America Impact Study Project Team Meeting</td>
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<td>China Trademark Association Panel</td>
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<td>Young Practitioners Committee</td>
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<tr>
<td>IP Office and Attaché Open House Open to all registrants</td>
<td>4:00 PM</td>
<td>6:00 PM</td>
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<tr>
<td>India Reception (By invitation only)</td>
<td>5:00 PM</td>
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<td>Africa Reception (By invitation only)</td>
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<td>Asia-Pacific Reception (By invitation only)</td>
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<td>Latin America Reception (By invitation only)</td>
<td>6:00 PM</td>
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<td>Fira Gran Via Hall 8.0 - B8</td>
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<td>China Reception (By invitation only)</td>
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<td>7:00 PM</td>
<td>Fira Gran Via Hall 8.0 - B10</td>
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<td>Middle East Reception (By invitation only)</td>
<td>6:00 PM</td>
<td>7:00 PM</td>
<td>Fira Gran Via Hall 8.0 - E6</td>
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<tr>
<td>President’s Dessert Reception (By invitation only)</td>
<td>9:00 PM</td>
<td>12:00 AM</td>
<td>Hotel Arts Barcelona</td>
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</tbody>
</table>

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We protect the work of those who are creating a new world

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### Daily News Schedule

<table>
<thead>
<tr>
<th>Name</th>
<th>Start</th>
<th>End</th>
<th>Location</th>
<th>Room</th>
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<tbody>
<tr>
<td>Registration and Hospitality</td>
<td>7:30 AM</td>
<td>5:00 PM</td>
<td>Fira Gran Via Hall 8.0 - Lobby</td>
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<tr>
<td>Breakfast Table Topics</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
<td>Fira Gran Via Hall 8.0 - D2</td>
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<td>Continental Breakfast</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
<td>Fira Gran Via Hall 8.1 - Hospitality Area</td>
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<td>Internet Committee - Leadership Only</td>
<td>8:00 AM</td>
<td>9:00 AM</td>
<td>Fira Gran Via Hall 8.0 - C1</td>
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<td>2017 Leadership Meeting Project Team</td>
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<td>Anticounterfeiting Committee - Eastern Europe and Central Asia Subcommittee</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
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<td>Legislation &amp; Regulation Committee - Africa, Asia &amp; Pacific, Middle East Subcommittee</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
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<td>Trademark Basics and Trademark Litigation Webcast Project Team</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
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<td>Trademark Office Practices Committee - Africa Trademark Office Relations Subcommittee</td>
<td>8:00 AM</td>
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<td>Trademark Office Practices Committee - European National Trademark Office Subcommittee</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
<td>Fira Gran Via CC8 - 8.19-8.20</td>
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<td>Trademark Office Practices Committee - Madrid System Subcommittee</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
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<td>Legislation &amp; Regulation Committee - Model Law Guidelines Subcommittee</td>
<td>8:00 AM</td>
<td>10:00 AM</td>
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<td>International Amicus Committee - Leadership Only</td>
<td>9:00 AM</td>
<td>10:00 AM</td>
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<tr>
<td>Internet Committee - Full Committee</td>
<td>9:00 AM</td>
<td>10:00 AM</td>
<td>Fira Gran Via Hall 8.0 - B6</td>
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<td>Unfair Competition Committee - Education Subcommittee</td>
<td>9:00 AM</td>
<td>10:00 AM</td>
<td>Fira Gran Via Hall 8.0 - E10</td>
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<td>Unfair Competition Committee - Model Law Guidelines Subcommittee</td>
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<td>Exhibition Hall</td>
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<td>CM01 Exploring the Boundaries of Functionality: Aesthetic and Acquired Functionality in the United States and Europe (Intermediate Level)</td>
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<td>CM02 Anti-Bribery: The Foreign Corrupt Practices Act (FCPA), the UK Bribery Act, and Beyond (Intermediate Level)</td>
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<td>Indigenous Rights Committee - Full Committee</td>
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<td>Alternative Dispute Resolution Committee</td>
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<td>Public and Media Relations Committee</td>
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<td>The Trademark Reporter Committee</td>
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<td>Indigenous Rights Committee - Brand Owners IR Awareness Subcommittee</td>
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<td>INTA PAC Board of Governors</td>
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</table>

...means something entirely different

You are the backbone of the IP industry. You care more, worry more, are insanely diligent and relentlessly passionate. Not everyone has what it takes. We get you.

We speak the same language.