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Malcolm Royal
*President of Fédération Internationale
des Conseils en Propriété Industrielle*

editorial

The election of me, an Australian, as President of Fédération Internationale des Conseils en Propriété Industrielle (FICPI) should not be taken as indicating in change of emphasis from Europe for the Federation. Since the Federation was established in 1906, it has progressively embraced the international intellectual property community. But involvement and interest in European affairs have not been reduced. In particular, the CET (Works & Studies) Commission has for many years had a sub-group dealing solely with European affairs and, some years ago, established the COMSEC Commission (Community Secretariat of FICPI) under the leadership of Terry Johnson, until then a member of the FICPI Bureau. On my election, the COMSEC Commission was renamed as the European Union Commission of FICPI (EUCOF) under the leadership of past-president, Helmut Sonn, a recognised expert in trade mark matters. An important role of EUCOF is to maintain links with the official bodies of the European Union including OHIM.

Throughout the world, there is a growing awareness of the importance of intellectual property in commercial and industrial affairs. Value is now placed on intellectual capital to an extent not envisaged even a decade ago. Businessmen ignorant of the IP systems will no longer survive. IP topics are now taught in business schools and elsewhere. It should not be surprising in retrospect that the filing of community trade mark applications has been in excess of initial expectations. Business does want to protect its intellectual property and trade marks are an essential part of this property. In many respects those outside of Europe see the community as a single trading block much more than those within Europe see it as such. Again it should not be surprising that the international community has embraced the community trade mark system with enthusiasm. The benefits to someone who wants to sell goods into Europe are obvious.

Intellectual property plays an important role in world trade negotiations as evidenced by the TRIPS

agreement and the WTO disputes involving IP that have arisen. I believe that intellectual property will continue to be important in world trade negotiations and international commerce even more so with the rapid advances in electronic commerce. And as world trade grows so will the importance of intellectual property.

Many of the national barriers to trade are being removed by the internet and those that remain are largely artificial. This has resulted in a dramatic increase in the need for enforceable trade mark protection in all major markets. Ultimately the national trade mark registration systems may be replaced by regional systems as in Europe or international systems to reflect the reality of the trading position. But in the meantime, the available systems must be used by business and used to an increasing extent.

It follows from this that professional advisors, including trade mark attorneys and agents, will play an even more important role in the future. The increased interest and the pressure and overload of work being experienced will encourage new and perhaps lowly qualified practitioners to enter the field. Great caution must be exercised to ensure that there are appropriate mechanisms both to maintain standards and to enable the public to distinguish the well qualified from the unqualified: the competent from the incompetent. The confidence that the public has in the community trade mark system will be harmed irreparably if rights are lost due to the incompetence of unqualified or inexperienced professional advisors.

The community trade mark system does depend on maintaining high standards within OHIM and high standards within the profession which provides the interface between those who want enforceable protection and OHIM.

FICPI supports measures directed towards the establishment of adequate and open standards.

OAMI

OFICINA DE
ARMONIZACIÓN DEL
MERCADO INTERIOR
(MARCAS, DIBUJOS
Y MODELOS)

HABM

HARMONISIERUNGSAMT
FÜR DEN BINNENMARKT
(MARKEN, MÜNSTER,
UND MODELLE)

OHIM

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

OHMI

OFFICE DE
L'HARMONISATION
DANS LE MARCHÉ
INTÉRIEUR
(MARQUES, DESSINS
ET MODÈLES)

UAMI

UFFICIO PER
L'ARMONIZZAZIONE
NEL MERCATO INTERNO
(MARCHI, DISEGNI
E MODELLI)

UNA ESCUELA EUROPEA PARA ALICANTE

El Consejo Superior de las Escuelas europeas, reunido en Bruselas los pasados 23 y 24 de octubre, aprobó la creación de dos nuevas Escuelas, una en Francfort, sede del Banco Central Europeo y la otra en Alicante, sede de la Oficina de Armonización del Mercado Interior.

Se trata de una excelente noticia para la Oficina que, desde 1995, venía solicitando esta Escuela, debido al creciente aumento del número de hijos del personal así como a la falta de establecimientos pedagógicos de tipo internacional en la ciudad de Alicante.

La apertura de la Escuela Europea de Alicante tendrá repercusiones muy positivas para el buen funcionamiento de la Oficina, sobre todo a nivel de contratación de personal altamente cualificado.

Hasta ahora, la falta de colegios capaces de garantizar la enseñanza en las diferentes lenguas de la Unión Europea ha sido un obstáculo para la Oficina y se corría el riesgo de ver partir a una parte de nuestro personal en el momento en que sus hijos alcanzasen la edad escolar.

Las Escuelas europeas están concebidas como centros oficiales controlados conjuntamente por los gobiernos de los quince Estados miembros y gozan del estatuto jurídico de colegio público en cada uno de estos países.

El sistema pedagógico de las Escuelas europeas se apoya en el principio fundamental de la educación en común de niños de diferentes lenguas y nacionalidades y con este objetivo las Escuelas se organizan en secciones lingüísticas. Todavía no se ha decidido el número de las que se abrirán en Alicante.

Dicha organización permite, simultáneamente, preservar la lengua materna y los valores culturales nacionales del alumno, y conseguir, mediante la armonización de programas y horarios, la implantación de "asignaturas comunes" y de "horas europeas", así como la enseñanza en "lengua vehicular" (la primera lengua del alumno después de su lengua materna), la confluencia de los diferentes sistemas educativos nacionales. El resultado es un único título de Bachillerato europeo al terminar los estudios y el reconocimiento del mismo en todos los países de la Unión.

En cuanto al alumnado de las Escuelas Europeas, aunque la admisión de los hijos del personal de las Instituciones es prioritaria, si hay plazas disponibles se permite la entrada de otros niños, cualquiera que sea su nacionalidad.

En este sentido hay que señalar que en estos momentos, en el conjunto de las 10 Escuelas existentes, los hijos del personal de las Instituciones y organismos comunitarios sólo suponen el 50% de los alumnos. El resto, cuyo número está limitado únicamente por razones de

espacio, proceden de todas las clases sociales sin distinción. En todas las Escuelas hay un baremo de exoneración total o parcial de los gastos escolares, precisamente para no excluir a los menos favorecidos.

La duración total de los estudios en las Escuelas Europeas es de dos años en pre-escolar (de los 4 a los 6 años), de cinco años en primaria (de los 6 a los 11) y de siete años en secundaria (de los 11 a los 18). Esta última parte se divide en tres ciclos: el de observación, de tres años, el de preorientación, de dos años, con seis asignaturas optativas, y el de orientación, de dos años con 15 optativas y diversas asignaturas complementarias, que pueden variar de una Escuela a otra.

Por lo que respecta a la puesta en funcionamiento de la Escuela de Alicante, queda aún por recorrer una última etapa hasta que veamos abrir sus puertas. El Estado miembro que acoge la Escuela, en este caso el Reino de España, tiene que facilitar los terrenos y el edificio necesario. Paralelamente, el Consejo Superior tiene que nombrar al Director de la Escuela y solicitar a las autoridades comunitarias los recursos necesarios para su financiación.

Por su parte, la OAMI desea y espera que este proceso se realice en el plazo más breve posible para que todos los hijos del personal de la Oficina puedan acceder a una enseñanza adecuada en un entorno multilingüe y con una perspectiva europea.

RESTRUCTURING OF THE IT FUNCTION OF THE OHIM

The strong, uninterrupted growth of the activity of the Office since its creation has led to a progressive re-evaluation of its IT function.

The IT function, charged with ensuring the effective deployment of the state-of-the-art in communication and data processing technology to enable the Office and its customers and partners to achieve their goals, saw its resources growing steadily.

The four services (new technologies - development - production and

telecommunications - communications, security and support) are henceforth regrouped under a new Information Technology Division, combining both internal and external resources, using products already widely-tested by the market and the highest standards available to ensure security and reliability.

Since the move to its permanent headquarters, the Office has seen its IT resources increase considerably both in terms of human and of technical

resources, which can currently be summarised as follows:

- Technical resources:
- > Servers: 57
 - > Total storage capacity: 328 Terabytes (335 872 Gigabytes)
 - > Personal computers: 753
 - > Network printers: 115
 - > Individual printers: 124

Financial resources: € 13 000 000 in the 2001 budget (50% for operational activities and central equipment, 25%

for help-desk and local equipment, and 25% for software development).

All the Office workstations are connected by links performing up to 100 Mb/s to a state-of-the-art network of 622 Mb/s.

The Office Internet site (OAMI-ONLINE)* has proven a great success. For 2000, there have been over 530 000 visits generating more than 4 860 000 requests.

The OAMI-ONLINE Search facility has been available since November 2000, allowing full-text search across all

documents on the site. Its introduction is one of a number of ongoing actions aimed at enhancing navigation of the site, improving the presentation of the available information, and generally broadening accessibility to the contents of the site.

* Address: <http://oami.eu.int/>

STATISTICS (SITUATION AT THE BEGINNING OF JANUARY 2001)

COMMUNITY TRADE MARK APPLICATIONS

BREAKDOWN BY COUNTRY

	1996 - 1999	%	2000	%	Total	%
TOTAL WORLD	143.062	100	57.324	100	200.386	100
	1996 - 1999	%	2000	%	Total	%
TOTAL EUROPEAN UNION	87.715	61,31	36.119	63,01	123.834	61,80
BELGIQUE/BELGIË [BE]	2.197	1,54	767	1,34	2.964	1,48
DANMARK [DK]	2.326	1,63	813	1,42	3.139	1,57
DEUTSCHLAND [DE]	23.476	16,41	9.935	17,33	33.411	16,67
ELLAS/GREECE [GR]	339	0,24	163	0,28	502	0,25
ESPAÑA [ES]	8.836	6,18	3.466	6,05	12.302	6,14
FRANCE [FR]	8.367	5,85	3.402	5,93	11.769	5,87
IRELAND [IE]	1.224	0,86	640	1,12	1.864	0,93
ITALIA [IT]	9.922	6,94	4.227	7,37	14.149	7,06
LUXEMBOURG [LU]	624	0,44	281	0,49	905	0,45
NEDERLAND [NL]	3.848	2,69	1.518	2,65	5.366	2,68
ÖSTERREICH [AT]	2.223	1,55	739	1,29	2.962	1,48
PORTUGAL [PT]	850	0,59	350	0,61	1.200	0,60
SUOMI/FINLAND [FI]	1.357	0,95	513	0,89	1.870	0,93
SVERIGE [SE]	3.225	2,25	1.375	2,40	4.600	2,30
UNITED KINGDOM [GB]	18.901	13,21	7.930	13,83	26.831	13,39
	1996 - 1999	%	2000	%	Total	%
TOTAL OUTSIDE EUROPEAN UNION	55.347	38,69	21.205	36,99	76.552	38,20
Amongst which						
UNITED STATES OF AMERICA [US]	39.044	27,29	14.609	25,48	53.653	26,77
JAPAN [JP]	3.861	2,70	1.161	2,03	5.022	2,51
SWITZERLAND [CH]	2.663	1,86	1.001	1,75	3.664	1,83
CANADA [CA]	1.725	1,21	818	1,43	2.543	1,27
AUSTRALIA [AU]	1.241	0,87	627	1,09	1.868	0,93
TAIWAN [TW]	899	0,63	345	0,60	1.244	0,62

OTHER STATISTICS RELATING TO COMMUNITY TRADE MARKS

	2001 [26.01.01]	1996 - 2000	Total
Filing dates accorded	4.722	189.530	194.252
Number classifications checked	3.724	176.185	179.909
Applications published	3.998	140.107	144.105
Oppositions received	989	33.511	34.500
Contested applications	709	24.575	25.284
Appeals received	106	2.368	2.474
Registered Trade Marks	2.846	93.802	96.648
Published Registered Trade Marks	3.948	89.987	93.935
Requests for cancellation	14	192	206

OTHER OHIM FIGURES

	ON 10-02-01
Number of professional representatives	5.970
Number of current accounts	872
OHIM Personnel	624

OAMI-ONLINE SEARCH

The OAMI-ONLINE Search facility has recently been made available for searches of particular terms across the entire OAMI-ONLINE Web site, or

within specified sections. There is also the possibility to search just Opposition, Cancellation, or Boards of Appeal decisions, and advanced search options

are available to refine searches, i.e. using «AND», «OR», «NOT», etc. The on-line help pages may be consulted for further information.

CLOSURE OF THE BANK ACCOUNT OF THE OFFICE WITH BANCO ALICANTE / ARGENTARIA

Due to the completion of the merger between Banco Bilbao Vizcaya and Banco Alicante/Argentaria as far as the Office's accounts are concerned, the bank account that the Office held with ex-Banco Alicante/Argentaria has been closed on 1 January 2001.

As a consequence, from 1 January 2001, fees and charges should be paid by means of the bank account that the Office holds with Banco Bilbao Vizcaya Argentaria:

Banco Bilbao Vizcaya Argentaria
Rambla Méndez Núñez, 42
03002 Alicante

Bank code:	Branch:	DC:	Account number:	Swift code:
0182	5596	90	0092222222	BBVAESMM

LEGAL QUESTIONS

VERTRETUNG VOR DEM EUROPÄISCHEN GERICHTSHOF UND DEM RICHT ERSTER INSTANZ

Es ist bekannt, dass gemäß Artikel 17 EuGH-Satzung für Parteien in Verfahren vor dem Gerichtshof und dem Gericht erster Instanz Anwaltszwang besteht. In seiner Entscheidung vom 8. Dezember 1999 (Rechtssache T-79/99), in der eine Klage als unzulässig abgewiesen wurde, in der sich die Klägerin, eine GmbH, von einem Anwalt vertreten ließ, der zugleich einer ihrer beiden Geschäftsführer ist, präzisiert das Gericht erster Instanz die Anforderungen, die an eine solche Vertretung gestellt werden. Während sich die Klägerin auf das deutsche Recht stützte, das eine Selbstvertretung von Rechtsanwälten bzw. die Vertretung von Gesellschaften durch Rechtsanwälte, in denen letztere selbst Geschäftsführer sind, zulässt, entschied das Gericht, dass

sich die Vertretung vor dem EuGH allein nach der gemeinschaftsrechtlichen Bestimmung, nämlich Artikel 17 EuGH-Satzung bemisst. Diese Bestimmung ist autonom und ohne Bezugnahme auf das nationale Recht auszulegen. Nach dieser Auslegung, die sich am Wortlaut – insbesondere dem Begriff “Vertretung” – orientiert, und der auch die Vorstellung von der Funktion des Rechtsanwalts zu Grunde liegt, nach der dieser als “Mitarbeiter der Rechtspflege” in völliger Unabhängigkeit und im höheren Interesse der Rechtspflege die rechtliche Unterstützung zu gewähren hat, die sein Mandant benötigt, muss es sich bei dem Rechtsanwalt in Bezug auf die von ihm vertretene Klägerin um einen “unabhängigen Dritten” handeln.

USEFUL NUMBERS

Switchboard telephone number:
+ 34-965 139 100

General inquiries telephone number:
+ 34-965 139 243 and + 34-965 139 272

General inquiries fax number:
+ 34-965 139 173

The Office's Internet site: oami.eu.int

Requests for literature (leaflets, standard forms, official texts, places where to buy Office publications, etc.), questions concerning the filing of applications, questions concerning procedure (fees, priority, seniority, etc.).

Fax number for the filing of any correspondence relating to community trade marks, (applications, letters to examiners, oppositions, cancellations, appeals, Register matters, etc.):
+ 34 -965 131 344

CTM applicants and proprietors and their representatives are strongly urged to use exclusively the above fax number where faxes arrive at an automatic fax server which does not involve any printing and physical handling of documents, for all communications relating to proceedings before the Office. This will facilitate and accelerate the handling of incoming faxes, whereas the sending of such communications to other fax numbers in the Office will require additional operations and create substantial administrative burdens.

Telephone number for obtaining information concerning means of payment:
+ 34-965 139 340

Opening of current accounts, bank transfers, payments by cheques, etc.

Telephone number for obtaining information about professional representatives:
+ 34-965 139 117

List of professional representatives, new entries, allocation of ID numbers, authorisations, etc.

Obtaining information in relation to copies from the file and extracts from the register:
+ 34-965 139 633

Obtaining information in relation to transfers, licences, conversions:
+ 34-965 139 175

Telephone number for obtaining information concerning subscriptions to our publications:
+ 34-965 139 102

OHIM's Official Journal, the Bulletin of CTMS (paper and CD-ROM), EUROM, etc