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### **BUSINESSEUROPE COMMENTS TO OHIM STRATEGIC PLAN 2020**

The Community Trade Mark (CTM) and registered Community Design (RCD) granted by the Office for Harmonisation in the Internal Market (OHIM) are beyond doubt success stories for Europe.

The most significant trends BUSINESSEUROPE sees over the coming years are a shift to the digital world linked to a growing importance of social media and increasing importance of designs for the IP strategies of companies.

Moving to the digital world requires IP offices to offer user-friendly, streamlined and effective e-services. The new trend of 3D-printing should also be taken into account when looking at trade marks and designs. The growing importance of social media and the speed associated to them requires a reasonably short registration procedure with high quality standards. Often social media operate on a first come/first serve principle. If one does not have a registered IP right – trade mark, it is quite difficult to operate against use of trade marks on internet and social media. Streamlining of internal processes at the level of IP Offices without unreasonably reducing the terms given to users (for example, opposition term) is key.

In addition, we already see e.g. trade marks playing an increasingly important role in the development of cloud computing services, as they offer the necessary trust and build the reputation of the cloud services.

Designs will continue to grow as part of the IP strategies of European businesses. Consequently a reasonably short but with high quality standards registration process as the one required will continue to be necessary. To be able to create new designs, innovative businesses will have a growing need for all-encompassing e-tools and databases (e.g. DesignView) making available a flow of data from both the national and European level. Flexibility in the formal requirements to grant designs to reflect a constantly evolving area should also be made possible. In addition, the legal certainty about the strength and width of protection will become increasingly important. Industry needs good quality decisions within the shortest time to avoid legal uncertainty.

Companies need common rules throughout the EU. Harmonisation would ensure coherence and predictability of decisions to the benefit of businesses as well as consumers. It would also remove the remaining obstacles that are incompatible with the EU Single Market.

Furthermore, harmonisation of procedures and practices throughout the respective IP Offices both at EU as well as national level is essential. Procedural requirements relating to e.g. filing, examination, renewal, changes, opposition etc. are still quite different with respect to the CTM and national trade marks.



BUSINESSEUROPE sees OHIM as the integral motor of the overall harmonisation of the trademark and design systems in Europe together with national IP Offices.

Besides harmonisation of rules, reinforced cooperation between national IP offices themselves and also between them and OHIM as well as convergence of procedures are key. This should extend for all intents and purposes also in the area of e-business activities. TMView, a single database providing comprehensive trademark information free of charge, and TMClass are remarkable examples of such cooperation.

The European Trade Mark and Design Network and its activities through the Cooperation Fund and the Convergence Programme have been a success.

BUSINESSEUROPE is satisfied with the overall cooperation approach developed in this framework, which is also recognised in the Strategic Plan 2020. It is equally important that the new Strategic Plan formally recognizes the driving force of user-involvement in the success of the network-approach.

Cooperation also needs to go global. BUSINESSEUROPE considers the current trademark cooperation framework between the five IP offices of Japan, Korea, Europe, China and U.S. as the way forward. Its focus on common projects aiming at the harmonisation of trade mark procedures should deliver tangible results to benefit European businesses. This is reflected in the new Strategic Plan. Unquestionably, the main focus of the OHIM in this engagement has to be on European companies. This has to be made clear in the Strategic Plan. The inclusion of design issues in this framework will also expand the benefits of this cooperation process.

We also welcome the focus through the Key Performance Indicators and Line Actions on the core tasks of OHIM of registering CTMs and RCDs. Quality and user engagement are key principles that need to be fully integrated in the Strategic Plan. Any ancillary lines of action proposed need to be complementary and supportive to the core tasks of OHIM.

European business will need in the future more and more up-to-date e-services, easy access to information and data and converging practices with regard to how IP offices examine and evaluate trade marks and designs. BUSINESSEUROPE is committed to work together with OHIM towards an EU trade mark system for the 21<sup>st</sup> century.

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