EUPO provides update on trademark reforms

Representatives from the EUPO provided registrants with a guide to the substantial changes to EU trademark law and practice that came into force in March in a Users Meeting on Sunday.

Speakers from the Office said that there have been price reductions across the spectrum of Office actions, including applications, renewals and oppositions. An extra benefit of Office actions, including applications (GIs).

There are also changes to some formalities and examination procedures. Absolute grounds of refusal have been expanded to cover, among other things, the sui generis rights such as geographical indications (GIs).

Another high-profile change is that the scope of goods and services in a trademark specification will be given its literal meaning, following the decision. Article 28(8) of the amended EU Trade Mark Regulation allows EU trademark owners who applied before June 22 2012 in respect of an entire class heading to file a declaration clarifying the goods and services they had intended to protect. Affected owners have until September 23, 2016 to make a declaration.

Further procedural changes and the removal of the graphical representation requirement will come into force in October 2017.

The EUPO is also conducting quality assurance reviews on various aspects of its work, particularly its decisions. There is now an ex-ante product quality audit by senior examiners and ex-post quality checks carried out by senior examiners on decisions. External stakeholders are invited to help with this. The Office also shared with the audience its Harmonized Database, a multilingual database of over 75,000 descriptions of goods and services in 23 languages.

The EUIPO provided five practical tips on how to work through the already implemented changes. They were: (a) With the new fee regime in mind, apply for the trademarks you need; (b) you now have the option to choose other procedures as an Article 28 declaration may not be the most appropriate for you; (c) beware of the sui generis rights such as GIs, check the database; (d) take note of the new requirement for proof of use; (e) be clear with your class headings and whether an Article 28 declaration is appropriate for you: the Office’s guidelines are available on its website.

In an interview with the INTA Daily News, Andrea Di Carlo encouraged EU trademark owners to try the Enforcement Database (EDB), a free database available to Customs, Europol and national police forces. "The number of companies using it has increased to over 300," he said. The Office is holding an EDB Forum from June 28 to 29, where brand owners can meet enforcement authorities.

Di Carlo also said he is pleased with the response so far to the launch of the DesignEuropa Awards, which recognizes those who use RCDs. The deadline for nominations is July 15. Finalists will be announced on October 15, and the ceremony will take place on November 30, 2016 in Milan.

Di Carlo also During the session, Di Carlo presented a snapshot of the Observatory’s latest sectoral research, which found that the cost of counterfeiting in the EU is €62.6 billion in lost sales, 670,000 jobs and €11.5 billion in lost government revenues. The Office will be conducting and presenting further socio-economic impact studies, including in the entertainment industry, in the coming months. EUIPO is also supporting Europol with its IPR Crime Centre, which is expected to be launched in July.

The Office is working on various cooperation projects under its Vision 2020 Strategic Plan. Di Carlo told the INTA Daily News that the plan is expected to be endorsed by the Management Board next week.

Otaola said the Office saw a rush of goods and services declarations in the first two weeks following entry into force of Article 28(8) but the total number received so far is in the hundreds. He added: “The challenge is that we are seeing deficiencies in some declarations. You may need to use other procedures as an Article 28 declaration may not be the most appropriate for you.” Otaola urged brand owners and their representatives to carefully study the Office’s guidelines and President’s Communication on making declarations.
How brands can make friends and influence people online

The opportunities and dangers of brands interacting on social media were discussed in yesterday's session “Beyond Native Advertising: The Line Between Social Media Posts and Advertising.”

“Seeing see interactions with brands online in a way we didn’t see before,” said moderator Stephen Coates of Twitter in the U.S.

Brands are also using social influencers much more than ever before. They are keen to reach the millions of followers of celebrities’ social media accounts (this includes pets – a cat called Nala has 2.8 million followers on Instagram, for example). “Brand managers are getting more sophisticated as well as the consumers,” said Ann Chen of Abbott Laboratories in the U.S.

Chen said it is vital to be upfront about what has been paid for: “Some people say: ‘I don’t want influencers to disclose, I want it to look natural.’ But you did give them something.”

The Federal Trade Commission in December issued a guide on native advertising, which it defined as “advertising and promotional messages integrated into and presented as non-commercial content.”

Under FTC rules, an influencer must disclose if they have received compensation to promote a brand on social media. “The advertiser has to make sure the influencer is doing that,” said Chen. “The burden is on the advertiser, not the influencer.” Brands must make sure a post is amended if it is not correct. Chen suggested payment should be withheld until the influencer has met the terms of their contract, which should clearly specify what the celebrity’s responsibilities are. Chen added that the rules also apply to agencies and vendors, so they should be closely monitored as well.

Barry Benjamin of Kilpatrick Townsend & Stockton in the U.S. said that it is tough to train young people within companies and agencies to understand what must be disclosed and why. He said there was previously “huge resistance” to including #ad in any post, but that this had recently changed.

“It was like the switch was flipped,” Benjamin said. “Pretty much all influencers now include #ad and nobody cares. So when you are talking to young people, just tell them nobody cares. It’s a new world.”

One recent example where disclosure was not given came in March when Lord & Taylor settled with the FCC for paying $50 online fashion influencers to post INSTAGRAM pictures of themselves wearing the same paisley dress, but failed to disclose they had given each influencer the dress, as well as thousands of dollars, in exchange for their endorsement. This is being used as a cautionary tale for brands in training for social media.

Chen noted that pharmaceutical companies have particular challenges, with regulations requiring they provide fair balance, adequate substantiation and effective disclosures, and also avoid off-label use and drug claims. This can be tricky given the lengthy disclaimers they normally need and the limited space on social media. Other questions are what the brand should do if a blogger mentions a non-authorized use of a product or whether to retract or like user-generated comments that do not conform to regulations.

One recent example came last year when the U.S. Food and Drug Administration found celebrity Kim Kardashian’s endorsement of a morning sickness drug on Instagram was “false and misleading,” did not include risk information, omitted material facts and suggested the drug was safer than had been demonstrated. She reposted a corrected post including the hashtag #CorrectiveAd.

During the session Leanne Stendell of YUM! Brands in the U.S. also discussed emojis and whether they are copyright protectable. Another issue is branded emoji. “Unicode will never approve a branded emoji,” she said. “One way to get around that is to use stickers, but what if users do something offensive with them or combine them with a competitor’s content? This is the kind of thing businesses get really upset about.”

Professors debate nontraditional marks

Companies are increasingly looking beyond word trademarks to distinguish their goods and services in the marketplace. Sound, shape and color are some of the nontraditional signs that are now accepted as trademarks in many jurisdictions. Does this still lawful competition and communication in the marketplace?

A panel of academics debated this subject at a session yesterday titled “Nontraditional Trademarks, Innovation, and Competition: Friends or Foes?” The session was moderated by Lisa Ramsey of University of San Diego School of Law.

“The doors to trademark protection are wide open in the EU,” said Martin R.F. Senftleben of VU University Amsterdam, who opened the debate. “EU law does not exclude any sign, provided they’re distinguishing in character,” he added. His view was that shape and color marks can deprive others from entering into meaningful competition. Senftleben offered three solutions to deal with this concern: exclude the marks from registrability, which he called “a radical solution;” accept them on a condition of acquired distinctiveness; or register them and review the scope of protection later.

Senftleben told registrants that EU courts are alive to the point that colors and shapes need to be kept free for the benefit of consumers and competition. This is why there are hurdles in place, such as the prohibition on functional signs. He argued that by allowing these signs to be registered the courts are giving industry an incentive to invest in obtaining more of them. Senftleben concluded that functionality exclusion is a better tool to deal with the anticompetitive concern than acquired distinctiveness.

“People’s eyes process colors differently,” argued the next speaker, Ann Bartow of University of New Hampshire School of Law, whose argument focused on color marks. “Getting judges to make the right decision on colors is quite difficult,” she said, noting that it may be tricky when dilution comes into play. She said it is hard to see a company using a color mark alone. “There is text or symbol on it with the color,” she explained. Bartow argued that colors are always functional even where this is unintended. She argued that there are only a handful of colors which are appealing to be used on a particular good or service and that these must be left free for all in commerce to use. “Aesthetic function and color exhaustion are both underappreciated,” she warned.

Michael Handler of University of New South Wales said nontraditional signs are easier to obtain in Australia than in the U.S. or EU. However, Australian courts are aware of the competition issues, especially regarding shapes. He said there is no ground of refusal in law for functional trademarks and functional shapes, and that you can get a mark registered if you can show future acquired distinctiveness. He suggested that there should be a functionality exclusion in law.

Panelists were of the view that shapes and colors raise more concerns than other nontraditional signs. “Sound marks don’t strike me as too far away from slogan; I’m less troubled by that,” said Handler. They also agreed that trademarks should not be used to protect cultural symbols where copyright protection has expired.
How should the Madrid System develop? That was the question posed by David Muls, Senior Director of WIPO’s Madrid Registry, Brands and Designs Sector, at Sunday’s Madrid System Users Meeting. On its 125th anniversary, WIPO is considering how the Madrid System will look in the future and the Secretariat will submit a paper to the next session of the Working Group on the Legal Development of the Madrid System, which takes place in June this year.

The Madrid System was founded in 1891 but has continued to develop since then, for example with the introduction of the Madrid Protocol in 1989. “We have to keep thinking about how the System should evolve,” Muls told the INTA Daily News. Asked how the System rated today, he said: “Our clients are pleased but we feel there is always room for improvement.”

Today, changes are partly being driven by the increasing number and range of jurisdictions covered by the system, as more members join including regional systems such as EUIPO and OAPI. The growing use of technology is also playing a part, says Muls, and so are users’ demands: “Users seek simplified processes to navigate the system. We have to consider how we can make it accessible while maintaining the quality of the output.”

During Sunday’s meeting, Muls also provided an update on filing trends and recent accessions to the Madrid System, as well as new electronic tools. Gregoire Bisson, Director of the Hague Registry, provided an update on design developments.

There was also a discussion on better use of the Madrid System, focusing on class headings in International Registrations. This was moderated by Asta Valdimarsdóttir, Director, Operations Division, Madrid Registry, Brands and Designs Sector, and included Yang Guoming, Deputy Director, International Registration Division, Trademark Office, the State Administration for Industry and Commerce of the People’s Republic of China (SAIC), Jennifer Chicoski, Administrator, Trademark Examination Policy and Procedure USPTO, and Julio Laporta, Deputy Director, Operations Department EUIPO.

WIPO yesterday released the new Madrid Monitor database, which will serve as the primary search tool for international registrations. The new search tool integrates in one application functionalities and information accessible through ROMARIN, the WIPO Gazette of International Marks, Madrid E-Alert and Real-Time Status. WIPO is demonstrating Madrid Monitor at its booth in the Exhibition Hall.

“We have to consider how we can make it accessible while maintaining the quality of the output.”
Copyright may come your way: beware

Digital technology has made it easy to infringe copyright. As a trademark practitioner, in-house or private practice, you are likely to come across a copyright matter at some point in your career. Panelists at yesterday’s session titled “What Do You Do When a Copyright Issue Lands On Your Desk?” warned registrants about the risks of using freely available content on the Internet, how to minimize the chance of getting into a copyright infringement situation and what to do if it comes your way. The session was moderated by Christopher Kenneally of the Copyright Clearance Center.

Maury Tepper of Tepper & Eyster provided an overview of copyright law, noting that there are several works and rights, such as the distribution right, which are protected under the law. “You need permission to use each,” he said. He also said copyright is territorial in nature, so the rules vary by jurisdiction. Failure to obtain permission exposes you to an infringement claim but there are defenses available. The defense often cited is fair use, applicable in the U.S., or fair dealing in common law jurisdictions where certain actions, such as referencing the work, are expected to be able to rely on it. Ultimately, only a court can decide if you qualify for any of the defenses or infringe.

In-house counsel should take care regarding what is included in the company’s marketing documents as it could be infringing, and it is difficult to claim fair use if the use is in commerce. “It is a subjective examination and some factors may be considered more important than others,” Tepper said. “That it is freely available online doesn’t mean it’s free to use,” warned Gretchen Klebasko of Legg Mason. This was in reference to legitimate sites which may display infringing content.

Public perception can also influence the outcome of a case, according to Tepper. Make sure you can genuinely argue fair use if you are going for it. “It’s best to get permission. That is the easy way to avoid problems,” he said. Panelists agreed that in-house counsel should educate employees to respect copyright in whatever they do. “Make it part of your corporate culture, include it in your policies,” Klebasko said.

If you are the copyright owner, you can take a soft or hard approach, depending on who is on the other side. Cease and desist letters should be drafted wisely as they could end up online and cause reputational damage. “You don’t want to be seen as a copyright bully. Word it in a way that you can defend it, and spell the names correctly,” Klebasko said. “Also make sure you don’t have a business relationship with the company you’re sending the letter to,” she added.

Randi Singer of Weil, Gotshal & Manges explained that copyright and brand owners can use the Digital Millennium Copyright Act (DMCA) to take down infringing material online. Singer said there are steps involved, including a deadline for responding to the alleged infringer, so you should be careful when submitting a notice. “You have to consider fair use before you send a DMCA notice,” Singer said. Copyright enforcement rules and processes are different in the EU, she added.

With the proliferation of both legitimate and infringing content online it can be difficult to trace the owner. Use common sense, said Singer. For example, a link to an image may lead you to a professional photographer’s website—which should get you thinking that you need permission from him or her. Creative Commons is a source for images, but there are terms and conditions depending on how you want to use them. There are different industry licensing bodies, such as the Motion Picture Licensing Corporation, to approach for licenses.

Using GIFs on social media could land you in trouble too. “You don’t know if someone will assert his or her copyright in it. Also there is a chance it is licensed and you’re more likely to be a target of a lawsuit than a 13-year old,” warned Tepper.
Professor Glynn S. Lunney Jr. and Antoine Gautier-Sauvagnac dueled over tarnishment law in INTA's Annual Professor vs. Practitioner Debate on Sunday. In a racy session, Professor Lunney of Texas A&M University School of Law argued for the premise—and title of the debate—that "tarnishment law is just a tool to suppress free speech," while his opponent, Gautier-Sauvagnac, of FTPA in Paris, France maintained that free speech and tarnishment law can coexist effectively.

Tarnishment law is a form of dilution in which a famous mark or one confusingly similar to it is used by another party in a way that could damage the reputation of the mark. Brand owners worry that "third parties' usage will somehow get tangled up and carry over in the consumer’s mind," as Lunney said, and usually the worrisome instances are related to illicit or politicized topics. So, as one might imagine, Lunney and Gautier-Sauvagnac drew on some rather colorful examples to illustrate their points.

Each debater was allotted 18 minutes to state his case, followed by a five-minute rebuttal. The first to take the podium, Lunney began by arguing that tarnishment—at least in the sense that it is meant by the Federal Trademark Dilution Act—doesn’t exist. “Now I realize there are lots of ways you can tarnish your trademark,” he conceded, listing examples of brands that have infamously brought defective products to the market, “but you have to do it to yourself.”

It’s furthermore problematic that judges hearing tarnishment cases, according to Lunney, essentially don’t have evidence to prove that consumers make these connections, or that those connections change their impressions of a brand. He cited social science studies conducted by lawyers that showed that consumers’ opinions of brands were not negatively affected by exposure to what would be considered tarnishing reappropriations.

Lunney cited one case involving “Debbie Does Dallas” (an adult film that incited a lawsuit from the Dallas Cowboy Cheerleaders) as evidence of a worrisome consideration of property rights over freedom of speech. He also argued that “the fact Debbie Does Dallas or some of these other uses are objectionable is the point. That’s what makes them speech worthy of protection.”

Lunney concluded by declaring that “criticizing the famous brands is important political speech in our society, because it reminds us that our political heroes, our sports heroes, our religious heroes may also have feet of clay,” and that the existence of tarnishment law discourages this kind of skepticism.

Not to be outdone, Gautier-Sauvagnac opened with the confident assertion that France is, above all, “a country of free speech,” and that its citizens are unfazed by much of what Americans consider lewd, immoral or inappropriate. He referenced examples like the huge boost in sales helmet maker Dexter received after French President Francois Hollande was seen wearing one of its helmets while visiting his mistress in 2014 to demonstrate the French attitude.

French law protects parody under freedom of expression, but judges will “not allow denigration of brands, when [the benefits of that denigration] goes to big money-makers,” Gautier-Sauvagnac said. He argued that, with a more liberal attitude toward what might tarnish a brand’s reputation, trademarks can be effectively protected by tarnishment law.

After rebuttals, the audience voted for the debate's winner, but a show of hands was too close to call, and Professor Lunney was declared the winner of the debate and was awarded a bottle of (French) wine.

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How to avoid being a trademark bully

Bullying is a “very buzzy term” in trademarks at the moment, revealed Bryce Coughlin of Fox Entertainment Group in the U.S. during yesterday’s session Taking it Too Far: When Pretexts and Bullying Create Ethical Dilemmas.

The USPTO defines a trademark bully as: “A trademark owner that uses its trademark rights to harass and intimidate another business beyond what the law might be reasonably interpreted to allow.”

Jyotin Hamid of Debevoise & Plimpton in the U.S. said options for responding to a trademark bully include declaratory judgment, consumer protections law and public shaming through a PR campaign. If the trademark bully actually sues then the options become Rule 11 sanctions, seeking attorneys’ fees under the Lanham Act, or counterclaims such as abuse of process. Hamid noted success under the Lanham Act was unlikely and that Rule 11 was a better bet.

From the trademark owner’s point of view, Coughlin outlined some practical concerns when a company is looking to protect its brand. “I am very careful to think about the long-term impact,” he said. For example, if a company is aggressive about its arguments that a company in a completely different industry could cause confusion this could be used against it by another company later trying to prove trademark infringement.

Another tip Coughlin gave was: “Think outside the box—non-legal remedies often work best.” This could be as simple as providing some free merchandise or providing some free tickets to a showing as a gesture of goodwill. “Being nice can help,” he said. “It shows that there is a human on the other end.” It can also be important how contact is made. “Think about first contact not coming from a lawyer or an outside firm,” said Coughlin. “Sending a letter from outside counsel is often read as a serious message about how you view the case. That may not help you get the outcome you want and you could end up in court sooner than you wanted or maybe you didn’t want to be in court at all.”

The session, moderated by Ken Taylor of Marksmen in the U.S., also discussed case law and best practice tips for pre-texting.

Regional Receptions were held yesterday evening for registrants from India, the Middle East and Asia-Pacific (left to right).
INTA’s representative office in Brussels opened on September 16 2006, and Christina Sleszynska, now Chief Representative Officer for Europe, joined one month later. Although a number of policy issues, such as the review of the EU Customs Regulation and ACTA, have kept the Europe team highly engaged, most of that time has been dominated by the debate over EU trademark reforms, which started in 2008 and culminated in December last year with the publication of a new EU Trade Marks Directive and EUTM Regulation. But that is not the end of the work.

“We don’t want to see any nasty surprises,” says Sleszynska. “We have been working with a number of European and national trade and IP associations to communicate our views in particular by way of a joint letter to the Commission.”

Another topic that is being closely followed is legislation on plain packaging. The United Kingdom, Ireland and France have adopted plain packaging legislation. Other countries, such as Hunagry, Slovenia, Norway, Sweden and Belgium are considering similar legislation. “We send comments stating INTA’s position wherever we can,” says Sleszynska. “Having volunteers in a range of countries, who can speak local languages, is a great help.”

She now leads a team of three in the Brussels office, who liaise with INTA committee members on policy issues both at an EU level and in member states. In addition, Sleszynska and her team have direct responsibility for three global committees: Design Rights, Geographical Indications (GIs) and Brands & Innovation. She says designs and GIs are now being looked at as “IP rights on their own footing” and INTA is monitoring the consultations underway on revising the EU Designs Directive and extending GI protection to non-agricultural products in Europe.

Aside from advocacy, the Europe office is looking at opportunities to submit amicus briefs in significant cases. It recently filed a brief before the EU General Court for the first time in DHL Express v EUIPO—Chronopost (WEBSHIPPING), arguing that “proper reasons” for lack of use of a trademark refer to circumstances unconnected with the proprietor rather than those associated with commercial difficulties or failure to challenge infringing acts.

The Europe office has been equally engaged internally, with a particular focus on enhancing communications and growing membership in the region. The Europe Global Advisory Council, tasked in part with advising the Association on expanding its corporate membership and better communicating throughout the region, has been particularly helpful in this respect.

Looking ahead, Sleszynska predicts that one topic likely to gain attention in the coming year is the EU Digital Single Market initiative, and in particular legislation on IP enforcement and the role of intermediaries. Proposals from the EU Commission are expected at the end of this year, and INTA is hosting a “Digital World Conference” in Brussels on December 1 and 2. Put the date in your diary: it will be a good opportunity to wish the office a happy 10th anniversary.

To keep up with Europe office activities follow @intabrussels on Twitter

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Interview Tricia Thompkins

Protecting the Penguin

Tricia Thompkins, intellectual property and licensing counsel at Perry Ellis International in Miami, Florida, talks to Michael Loney about the challenges of protecting the fashion company’s marks, such as the ORIGINAL PENGUIN line of clothing.

**What is your day-to-day role?**
I am the sole IP counsel. That means I work exclusively on managing the trademark portfolio as well as working closely with the licensing division to ensure that we have the requisite rights to commercialize the brand domestically and internationally. Probably more than 70% of my time is spent on licensing activities and agreements and then the remainder is spent on managing the portfolio, enforcement matters and also managing the marketing and advertising function.

**How big is the trademark portfolio?**
We have about 5,000 active files.

**How does IP fit into the company’s strategy?**
It is the center. Everything we do fits in with the brand. One of our more well-known brands is the ORIGINAL PENGUIN brand. So it is all about identifying what is the classic look of an ORIGINAL PENGUIN polo shirt and ensuring we have the requisite protection not only for the PENGUIN mark but also any other properties that might come with the apparel we are selling.

**What are the biggest challenges in your job?**
Just educating, not only the trademark offices globally but also domestically about our PENGUIN mark. We have a U.S. registration for PENGUIN by itself, but our brand is ORIGINAL PENGUIN BY MUNSINGWEAR and that trademark has been filed worldwide. There are certain territories where we don’t own it and it was sold before we acquired the brand.

That is one of our preeminent brands in addition to the PERRY ELLIS brand. But PERRY ELLIS in terms of enforcement is not as challenging. Everyone wants to do something with the penguin, being a cute little animal. They may be selling a beverage that has a logo with a penguin but ultimately they will want to sell T-shirts that include it. So it is an uphill battle for us in terms of enforcing and educating the consumers as well as the trademark offices that we own the rights to the penguin.

**What trademark issues concern you the most?**
It is more about what the various trademark offices are protecting the Penguin

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doing, whether it is new law, the length of time it takes them to decide on actions, and whether we are getting uniform treatment in various countries. Everything I do focuses on ensuring we have a uniform strategy in the various offices and if there is a particular region or country that seems to deviate from that then we are careful to catalogue and adjust our strategy to try to deal with the variances in those countries.

For example, in Brazil there may be just an extraordinary length of time for us to get a decision and there are multiple levels of appeal. We have had actions going on for nine years that are just now getting resolved. Even Chile, where we thought we would get a decision long ago and we have been successful, there seems an inordinate amount of appeals available to the various companies where we have a challenge. Those are things that are top of mind when we are working on our portfolio internally and developing our strategy.

What is the company’s strategy for domain names?

For a company like Perry Ellis we were more focused on ensuring we were part of the trademark clearance system and had registered all our registrations. We have been successful at getting any domain names back that have been registered but also getting notifications of those during the sunrise period that we believe are important. I work with our IP team as well as our e-commerce team to ensure we have the appropriate coverage, balancing being proactive versus our budgetary concerns. You can’t own every domain name which is why you end up enforcing. Someone will get something that perhaps we should have considered but for financial reasons we thought wouldn’t be so much of an issue. If ultimately they would register something that advertised apparel on it then it becomes a problem. That has been a big part of our activity in the past year.

You can’t own every domain name which is why you end up enforcing.
An opposition system for Mexico at last

Mexico’s Congress approved an amendment to the country’s industrial property law at the end of April to establish a trademark oppositions system. Attorneys from Basham Ringe y Correa explain how it will work.

Why is this opposition system being introduced now?

Eduardo Kleinberg: It had to happen eventually. Perhaps the issue of Mexico implementing the Madrid Protocol, and now the TPP [the Trans-Pacific Partnership agreement announced in October last year and signed in February this year], accelerated the process. It is something that had to happen eventually and maybe it is also because of this international treaty that Mexico has subscribed.

We are very happy that Mexico has finally decided to implement an opposition system. We have been asking for it for a very, very long time. We thought that implementing Madrid Protocol before having an opposition system was not very beneficial, because we would not be in the same position as other countries participating in the Madrid Protocol.

How will it work?

Juan Carlos Hernandez: It is a pre-registration opposition system as opposed to a post registration. Interestingly, applications will be published 10 days after they are received by the Mexican trademark office. This is prior to the formal exam that the trademark office conducts. This could have an impact on the way that trademarks are published because some applications are filed with errors as to the class number or the description of goods and services. This is going to be interesting because we are going to have to be very careful as to what is published. Maybe people could be distracted by errors in the class and certain trademarks could not be detected appropriately.

The trademark office will continue to conduct their own substantial exam. What is also interesting is that if the opposition is favourable for the opponent, the trademark office will issue a formal rejection, saying the reasons the registration was not granted. But if the opposition does not prevail, the trademark office will just issue the registration certificate. The opponent will not be given the reasoning of the trademark office for the granting of the registration.

What has been the reaction among IP practitioners in Mexico?

Eduardo Kleinberg: In general terms it has been received well because in our opinion it is something that was missing from our system: you did not previously have the opportunity as a trademark owner to raise your hand and object to the filing of another trademark. In any country where there is an opposition system it was well received by the practitioners.

But we do not believe that it went far enough. It is a mild system because, even when the trademark examiner will receive your objections and will take them into consideration, they will continue with their own substantial exam and they will grant a registration and you may not even know what their considerations are for granting the registration.

If the mark is denied they will issue their argument as to why it was denied. If it is granted you will not even know if they did or did not really consider your arguments. You will still have the possibility of proceeding to an annulment action but what is relevant about an opposition system is that you can file arguments and that they should be considered in a very strict manner. We do not know if that will happen or not.

When will it come into effect?

Juan Carlos Hernandez: It has to be approved by the executive power. After it is approved, it will be published in the federal gazette, then it will come into effect 90 days after this publication. We expect the executive powers approval to be granted in the following weeks. It shouldn’t be more than two months but this could vary.

How will this system compare to others around the world?

Juan Carlos Hernandez: It will be similar to most pre-registration opposition systems. I would say the main difference would be this element in which the opponent that loses will not know what the reasons of the trademark office for granting the registrations were. We do not have a mediation stage like in other countries. There will be results fast. Mexico has a very fast trademark procedure. You may have a registration granted in four months, sometimes even less, which is an advantage for trademark holders. So one of the main advantages and one of the way it differs from other systems is it is going to be a swift system.

Will the trademark office be able to cope?

Santiago Zubikarai: We believe the trademark office will be able to cope with this new system. The intention of the system is not to be like a trademark examination process. When the trademark office receives the application it will have 10 days to publish the application in the intellectual property gazette. You would then have one month to file the opposition. Then the proceeding will continue as usual. Therefore we do not expect it to put any excessive burden on the trademark office when this opposition system comes into effect.

On the other hand, we will potentially be giving the Mexican trademark office additional elements to protect trademarks that could possibly affect third party rights. In so doing, we also hope that we will reduce the number of annulment actions that are filed against trademark registrations.

Juan Carlos Hernandez: I would like to add that what Santiago said was very important because trademark hijacking was becoming an important problem in Mexico. For instance, a person would try to obtain the registration of a well-known trademark that was well known for restaurant services, and they would try to register in class 32 for beverages. Since the rightful owner sometimes didn’t have a registration on that the trademark, some of the let’s call them bad faith applications did go through. The Mexican trademark office was making notable efforts to try to stop this practice and continues to do so. We believe this opposition system will help the rightful trademark owners to avoid the situation and will also be a good complement for the efforts that the Mexican Institute of Industrial Property is pursuing.

Will these proceedings be popular?

Santiago Zubikarai: It’s so new here that it is going to take a while for trademark users to clearly understand the benefits that. We believe that it will be used as in any other country. I would expect that they will file an opposition in Mexico the same way that they oppose in any other country when they consider their trademark may be invaded by a similar mark. I would expect that trademark owners will use this important tool, which could be less costly than having to go to the annulment action.

Juan Carlos Hernandez: What is also relevant here is that it is not only trademark application or registration owners that will be able to file oppositions. One element of this system is that you will be able to file an opposition based on any of the prohibitions for the registration of a trademark that are included in the law. This could include trademarks that are contrary to public order or to morality. It includes trademarks that should not be granted based on copyright. So the possibility of filing oppositions is not limited to trademark owners—it could also extend to groups or to copyright holders that could be considered affected by the granting of a registration.

What should clients be taking into account ahead of the system coming into effect and once it is live?

Juan Carlos Hernandez: They should take into account two main aspects. First, the Mexican Institute of Industrial Property makes important efforts to reduce the number of registrations that are unexpectedly obtained but trademark hijacking is something that is going on. The second thing they should consider is the procedure itself. They should be acquainted with how it works, and the advantages and disadvantages. We are constantly saying that one important thing is the annulment procedure is maintained but we should also take into account the annulment procedure entails litigation and it is a more considerable investment in time and money. So we would advise the general public—because it is not only trademark holders—to become acquainted with the system and to use it.

Madrid and the TPP were factors in the opposition system being set up. Are there other elements to the trademark system that will potentially be changed?

Eduardo Kleinberg: We do expect that besides this opposition system, in the near future there is going to be an important change to the law. That is what IMPI has been discussing for a long time. To implement TPP Mexico there is going to be a lot of changes that need to be added to the law, for example non-traditional trademarks that we do not have in Mexico that are going to be added to our system. There is a lot of new procedures that are going to be included. It cannot be just patches, it needs a completely new law. That’s what the trademark office is looking for. It is not going to be immediately but it is going to be in the future and not far away.

Separate from the opposition proceeding, how have trademark filings figures been trending in the past few years?

Santiago Zubikarai: Trademark filing in recent years has been consistently increasing. It is one of the largest trademark offices in Latin America, behind Brazil.

We have seen a considerable increase of filings that are coming from the Madrid System. A lot of foreign applicants are not using it for the protection of trademarks here in Mexico and I expect that the inclusion of an opposition system will only enhance the number of filings here in Mexico. Basically what we see is that the opposition system will ultimately make the trademark system of Mexico stronger and as such it will reassure people about protecting their intellectual property here in Mexico.

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Sponsored discussion: Mexico

The lower chamber of the Mexican Congress on April 28 approved an amendment to the country’s industrial property law that will implement a trademark opposition proceeding system. The new system will come into force within 90 days after it is published in the Federal Government Gazette, the date of which is not yet known. The tariff of Instituto Mexicano de la Propiedad Industrial (IMPI), the country's patent and trademark office, may need to be amended first to include the official fees for filing and for the response to an opposition.

Under the new system:
• All new trademark applications filed in Mexico will be published in the Industrial Property Gazette for opposition purposes within 10 working days of the filing date.
• Anyone wishing to oppose the application must do so within one month of the effective date of publication.
• IMPI will publish all oppositions filed within 10 working days of the expiration of the month period allowed for oppositions.
• The owners of the applications will have one month to raise arguments against the oppositions, although a response is not compulsory.
• IMPI may take the opposition and the arguments offered by the applicant in response into consideration when ruling on whether to allow the application but this is optional.
• An opposition will not cause the prosecution of an application to be suspended. IMPI will continue to conduct its examination of applications in parallel to an opposition proceeding.

How will Mexico’s opposition system work?

Juan Carlos Hernandez, Partner

Juan Carlos Hernandez is partner of the firm in the Intellectual Property area in the Mexico City office. His practice focuses on planning and consulting in the field of intellectual property, both nationally and internationally, including aspects related to trademarks and slogans, copyright, industrial secrets, domain names and new technologies. He also has wide experience in negotiating and drafting contracts. He is the author of various articles and publications and speaker in intellectual property forums.

Santiago Zubikarai, Senior Associate

Santiago Zubikarai is Associate of the firm in the Intellectual Property area in the Mexico City office. His practice focuses on trademark filing and prosecution, including international registrations provided by the Madrid System, designing strategies related to trademark and copyright protection, conducting trademark and copyright searches and drafting and reviewing license, franchise, assignment, advertising, copyright and software license agreements, as well as agreements with artists for their participation in several events. He also practices litigation in the field of intellectual property, including enforcement in all instances.

Has also prosecuted and obtained permits for reproducing monuments from the Mexican Institute of Fine Arts and the Mexican Institute of Anthropology and History.

Eduardo Kleinberg, Partner

Eduardo Kleinberg has been a Partner of the firm since 2003 in the Intellectual Property area and Managing Partner since 2014. He is President of the Intellectual Property Commission of the Confederation of Industrial Chambers of Mexico (Confederación de Cámaras Industriales de los Estados Unidos Mexicanos also known as CONCAMIN). He is designated by CONCAMIN as the permanent representative of the Mexican private sector with respect to the Intellectual Property chapter of the Trans-Pacific Partnership Agreement (TPP), Past-President of the Mexican Association for the Protection of Intellectual Property (AMPPI), Past-President of the Mexican chapter of the International Association for the Protection of Intellectual Property (AIPPI), Member of the Nominations Committee of AIPPI, Member of the Permanent Committee on Trademarks of AIPPI, Past-President of Licensing Executives Society-Mexico (LES-Mexico), Member of the Licensing Executives Society International (LESI), Member of the International Trademark Association (INTA), Member of the Inter-American Association for the Protection of Intellectual Property (ASIPPI), Past-President of the Copyright Committee of the International Chamber of Commerce Mexico, Member of the Association of European Trade Mark Owners (MARQUES), Member of the Mexican Franchise Association.

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Navigating Customs enforcement in China

Rights owners have two options available when using Customs enforcement in China. Michael Fu, Tracy Shen and Kevin Yang of Chang Tsi & Partners explain the pros and cons of each.

What are the measures to commence Customs enforcement proceedings?

According to the Customs Protection of Intellectual Property Rights in China, there are two options available to commence Customs enforcement proceedings. They are enforcement per application and ex-officio action.

What are the features of each measure and how does it proceed?

Enforcement per application is a measure actively pursued by an intellectual property right holder. When suspected infringing goods pending for importation or exportation are discovered, the right holder of an IP right may lodge an application with Customs at the port of entry or exit to detain such goods.

The main features of this measure are:
- The IP right holder can directly submit an application for detention to initiate the proceeding without recording its IP right with Customs in advance.
- Accordingly, Customs is not required to inspect and check whether the exported or imported goods may infringe upon the IP right which is not recorded with Customs.
- The holder of an IP right shall provide Customs with a bond which does not exceed or is equivalent to the value of the goods. This bond is designed to compensate for the losses suffered by the consignee or consignor due to an improper application for seizure. The payment of expenses for warehousing, maintenance and disposal of the goods will be made after the goods are detained by Customs.
- Customs is not authorised to investigate the case and make a decision. Instead, the holder of the IP right shall bring the case before a court. The detained goods will be released if no injunction or notification for asset preservation is issued by a court within 20 working days from the detention.

Where requesting Customs to detain suspected infringing goods, the holder of an IP right shall present a written application and relevant evidentiary documents, and provide evidence that can sufficiently prove the identified infringement.

In order to apply for this measure, the application should include the following particulars:
1) The name, place of registration or nationality of the holder of the IP right,
2) The name, particulars and any other relevant information relating to the IP right,
3) The names of the consignee and consignor of the suspected infringing goods,
4) The particulars of the suspected infringing goods, such as name, packaging and volume,
5) The possible ports, time, means of transport, etc. related to the importation or exportation of the suspected infringing goods.

Ex-officio action is a measure initiated by Customs officers. When there are goods suspected of infringing a recorded IP right, Customs shall immediately notify the holder of the IP right of such suspected infringement in writing.

The main features of this measure are:
- The IP right must have been previously recorded with Customs.
- The Customs can suspend the suspected infringing goods and issue written notification to the holder of the recorded IP right.
- The holder of the IP right is required to submit the seizure application to Customs within three working days from the written notification.
- The holder of the IP right shall provide Customs with a bond; a general guarantee is available for this procedure.
- Customs shall investigate the case and make a decision. If Customs cannot determine whether the suspected infringing goods have infringed the recorded IP right, Customs shall notify the holder to bring the case to court.
- Customs has the discretion to confiscate and dispose of the infringing goods, and to impose an administrative punishment if infringement is determined by Customs.

With this measure, the holder only needs to submit an application to confirm that the suspected goods are infringing goods and the holder has applied for seizure of the suspected infringing goods within the above mentioned three working days. The remaining actions are up to Customs.

Each year, we help our clients take hundreds of Customs enforcement actions by undertaking the ex-officio action. When the goods are seized, we would recommend our clients further pursue the matter either by lodging civil litigation or sending cease and desist letter to leverage the effectiveness of the enforcement action. We have helped one of our clients obtain written undertaking to refrain from any future infringement and obtained compensation over ¥50,000 ($7,700) from the infringing exporter.

Although it is not compulsory to record IP rights at the General Administration of Customs (GAC), what’s the benefit of doing so? Do you recommend to do so?

Recording IP rights with the GAC can achieve a certain deterrent effect for potential infringers because the GAC database is accessible to the public. In other words, a potential infringer can search the database for such records and understand the degree of risk depending on the presence or absence of IP recordals. On the other hand, if a prestigious brand has no valid IP recordals on the GAC database, it definitely captures the attention of numerous counterfeiters in China.

Making good use of cross-border protection can greatly reduce the incidence of unauthorized shipping activities in the supply chain and distribution channels. If IP rights are recorded with Customs, the details of a licensed vendor (shipping agents or factories) can be recorded under each particular IP rights owner.

Apart from registration, is there any other method to safeguard your IP rights at the border?

Apart from registration, Customs training can be another method to safeguard the rights of the IP right owner. Generally speaking, Customs training can allow Customs officials to better understand your recorded IP rights and to pay more attention to such rights in their inspection of

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Sponsored discussion China
As with the verification of seizure, it is very important that the IP rights owner has a procedure in place for its designated agents or local business unit to handle bond payments as soon as positive verification is made. For a product that is frequently counterfeited, such seizures can involve tens of thousands of units and multiple shipments from many different ports in China. In other words, if this procedure is followed, it can result in frequent and voluminous seizures.

It is always advisable to maintain IP recordal information up-to-date, especially the details of authorized suppliers, so that authorized shipments will not be seized. This therefore requires that the IP right owner is familiar with its suppliers and distributors and takes efforts to keep such information current.

On what ground will Customs authorities arrange for criminal proceedings to be brought against the infringing party?

Customs will communicate with and transfer the case to the public security authority for criminal investigation when the criminal threshold is satisfied. In practice, among the criminal cases transferred from the Customs to the public security authorities for criminal investigation, counterfeit trademark cases form a large percentage of such cases. When the requirements and thresholds are satisfied in trademark cases, Customs will communicate and refer the case to the competent public security authority for criminal investigation, as a start of the criminal proceeding.

Where the infringer, without authorization, uses a trademark identical to the registered trademark on identical goods, the threshold for criminal liability for trade-mark infringement is as follows:

1) The turnover of unlawful business operation is no less than ¥50,000 or the amount of illegal gains is no less than ¥30,000, or
2) Counterfeiting, no less than two kinds of registered trademarks with the turnover of unlawful business operation no less than ¥30,000, or the amount of illegal gains no less than ¥20,000, or
3) Other serious circumstances.

A seller shall be convicted of selling counterfeit goods when he knowingly sells counterfeit goods and the sales income is no less than ¥50,000 according to Article 214, PRC Criminal Law and its correspondent judicial interpretation.

Criminal liability shall be imposed when:

1) forging or producing, without authorization, the labels of two or more registered trademarks or selling the labels forged or produced without authorization with the number amounting to 20,000 pieces or more, or the turnover of unlawful business operation amounting to ¥50,000 or more, or the amount of illegal gains is no less than ¥30,000;
2) counterfeit trademark cases form a large percentage of such cases. When the requirements and thresholds are satisfied in trademark cases, Customs will communicate and refer the case to the competent public security authority for criminal investigation, as a start of the criminal proceeding.

Criminal liability shall be imposed when:

1) Counterfeiting, no less than two kinds of registered trademarks with the turnover of unlawful business operation no less than ¥30,000, or the amount of illegal gains no less than ¥20,000.

Michael Fu graduated from University of New Hampshire School of Law in 2013 with a Master in Intellectual Property. He focuses his practice on intellectual property law. He passed the Chinese bar in 2006 and is a member of Beijing Lawyer’s Association. He has served many Fortune 500 Companies and leading multinational companies on overall intellectual property strategy.

Tracy Shen

A graduate of Emory University School of Law in 2015 who passed the Chinese bar in 2006, Tracy Shen has been working as an attorney at law for over 10 years focusing her practice on IP protection, infringement investigation and various disputes resolution. She provides comprehensive legal service for international and domestic corporations on IP protection and enforcement. She also has abundant experience in IP portfolio management and trademark registration strategy.

Kevin Yang

A graduate from Hong Kong Baptist University, Kevin Yang is an expert in providing consultancy on China Customs IPR practice. Besides that, he has years of experience in assisting clients across industries on various IPR programs in China and the ASEAN regions. Mr Yang also acts as a liaison with Chinese authorities and conducts regular meetings in various formats on border protection.

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In a new initiative at this year’s Annual Meeting, INTA is hosting a series of panels for IP offices, all of which take place today. The workshop will provide representatives of many offices—both regional and national, big and small—with an opportunity to compare best practices, share challenges and learn from each other.

The day’s programming has been put together by representatives of the UK IP Office (UKIPO), the IP Office of Singapore and Chile’s INAPI. “National offices have long used the INTA Annual Meeting as an opportunity to meet each other informally, and we’re delighted that INTA has this year provided some space for a closed meeting,” Steve Rowan, Divisional Director Trademarks and Designs at the UKIPO, told the INTA Daily News.

The discussions, which will consist of a series of panels each comprising a moderator and three speakers from different offices, will address issues such as productivity, efficiency, quality, outreach and enforcement.

“There are quite a lot of opportunities for work sharing in patents, such as patent prosecution highways, but not so much at present in trademarks,” said Maximiliano Santa Cruz Scantlebury, Director of INAPI. “But in Chile we have an open policy and are very active in regional and worldwide cooperation.” As well as cooperating with other offices in Latin America, INAPI has worked on projects with the Canadian and Australian offices.

One area for cooperation in electronic filing and management tools: INAPI now receives 80% of trademark applications online and Santa Cruz says he wants to extend this to renewals, so that they can be done in “three minutes rather than three months.”

Rowan pointed out that there is already a degree of cooperation between national offices in Europe, with some common IT systems and harmonization of some formality requirements. The UKIPO, like others, also hosts visits and exchanges with other offices: it recently welcomed representatives from 15 Caribbean countries.

Officials have an opportunity to discuss substantive issues at meetings such as WIPO’s Standing Committee on Trademarks, today is expected to provide an opportunity to liaise on more practical issues, from software tools to HR management to tips when joining the Madrid System. “We’re working with a very long list of issues, so there will be plenty to talk about—and hopefully this will become an annual event,” said Rowan.

While officials have an opportunity to discuss substantive issues at meetings such as WIPO’s Standing Committee on Trademarks, today is expected to provide an opportunity to liaise on more practical issues, from software tools to HR management to tips when joining the Madrid System. “We’re working with a very long list of issues, so there will be plenty to talk about—and hopefully this will become an annual event,” said Rowan.

Heidi Tandy of the Organization for Transformative Works and Barbara Quinn of Disney Corporation spoke about fan fiction and trademark law at yesterday’s Professors Luncheon. In a panel moderated by Signe Naeve of the University of Washington, the speakers discussed issues raised by fans’ use of film and TV characters in literary and artistic works, and the difficulties of defining what is non-commercial use.
Mediation in practice

A formidable panel of trademark experts took the stage for Sunday’s mock mediation session. On one side were Miles J. Alexander of Kilpatrick Townsend & Stockton in the U.S. and Daniel R. Bereskin of Bereskin & Parr in Canada. Opposing them were Louis T. Pirkey of Pirkey Barber and Lori A. Ball of Molson Coors. Driving the parties towards an agreement was moderator Leslie J. Lott of Lott & Fischer in the U.S.

The lawyers were reenacting a real case concerning the HOMEAWAY and HOMESAWAY marks in a realistic portrayal of a mediation that featured opening statements, joint sessions between the parties, private caucuses and the occasional sarcastic comment (such as “They say it’s not extortion. We know better”).

The session was introduced by James M. Amend, who also provided a commentary on some of the action and decisions. He noted how moderator Lott “focused on the driving forces behind a potential settlement” by getting the parties to set out terms first, before deciding on a dollar figure. In the end, the moderator provided a suggested figure confidentially to each party, which they both accepted.

Lott emphasized that focusing on what is “fair” in a mediation may not always be helpful, and it is important to remind the parties of that: “Peace may be more important to the parties than fairness.” Following the mock mediation, the speakers revealed that the real case that inspired the session had been resolved in voluntary mediation to the satisfaction of both parties in 2007, and that both companies had gone on to be successful.
D printing might just change everything. At least John Hornick, who leads Finnegan’s 3D printing working group and wrote 3D Printing Will Rock the World, certainly thinks so.

Introduced by Bracewell Giuliani’s Erin Hennessy, Hornick spoke to INTA registrants yesterday morning about the dramatic consequences he believes the proliferation of 3D printing could have for intellectual property.

“My prediction is that IP laws are actually going to get weaker and narrower over time, not stronger,” cautioned Hornick. He explained that 3D printing’s alarmingly fast march toward ubiquity has great potential to disrupt traditional business models, and therefore the value of intellectual property, as customization becomes commonplace.

Hornick believes that “3D printing has the ability to take us back to being makers not buyers.” This possibility is worrisome to brand owners, and stands to disrupt traditional business models. Companies such as Boeing—which also registered a patent for a 3D printer that uses multiple printers to print an object while it levitates at their center—are already using 3D printing to print every part of a product, which poses a threat to the existence of parts manufacturers. This is an example of 3D printing “within control,” which can be more easily regulated, and the products of which can be more easily protected by IP rights, says Hornick.

The real risk for IP owners is that people who were once consumers will become producers “away from control,” printing products at home, where brand owners have no chance of catching infringements. The best protection for brands will be customization itself, as even designs protected by trademarks and patents can be copied relatively easily. Even trademarks themselves will be easy to copy, print and affix to generic copycat designs.

“The principles of intellectual property apply to 3D printing just like they do to anything else,” Hornick says, “but the number of potential targets and the scale of potential infringement is much larger because companies and individuals will be able to make anything they want away from control.” He cited a prediction made by the Gartner Consultancy Group that by 2018, companies will lose $100 billion worth of intellectual property due to 3D printing, but said that the danger to intellectual property will depend on how much 3D printing grows proportionally “away from control,” compared to within the space of democratized manufacturing, which can be more easily monitored.

Hornick speculated that brand owners will react in five different ways: “Lawyer up, increased litigation, try to license the technology, demand legislation, or lock it up.” But before 3D printing can become a truly serious threat to intellectual property, it has to be completely outside of control, “and we’re not there yet,” he says.

Speakers discussed the ways in which IP attachés can help brand owners and influence policy in a session yesterday morning moderated by Aisha Salem, USPTO IP Attaché for the Middle East and North Africa. Riki Kishimoto of the Ministry of Foreign Affairs in Japan outlined a number of case studies from the Middle East, while Gerardo Munoz de Cote of Televisa in Mexico gave a brand owner’s perspective, saying: “The word ‘attaché’ brought concerns and confusion when they first arrived. But it has been very positive in Mexico and the Caribbean.” Attachés, along with IP office representatives, also took part in an Open House yesterday evening.
In an uncertain legal environment, we are one law firm that is not content simply to accept the status quo. We work constantly to influence the evolving body of Mexico’s intellectual property laws, with the goal of ultimately bringing them in line with international standards. While we continue to make great strides in this regard, clients from all over the world rely on us to prosecute, manage, and defend their IP portfolios under the laws that exist today. In other words, we work effectively within the system, even as we seek to change it.

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We help shape it.
What is your favorite thing about Orlando?

Carla J. Vransky, Buchanan Ingersoll & Rooney, Pittsburgh, PA, U.S.
I’m very much looking forward to the Harry Potter World Finale!

Kelly M. Horein, Drinker Biddle & Reath, Washington, D.C., U.S.
I’m enjoying the sunshine, but for me the best part is getting to see people face to face that I’ve been emailing with for so long. For me, being here is more about that than the location.

Giuliano De Rubertis, Lexalia, Milano, Italy
Orlando is quite good for kids, but I want to go on a tour of the Kennedy Space Center.

Kerry R. Thompson, Barnes & Thornburg, Minneapolis, MN, U.S.
It’s warm, and very kid and tourist-friendly. There’s a great variety of restaurants and things to see.

Jamal Abu Ghaida, Aramarks, Manama, Bahrain
Orlando is great because INTA is here! It’s also a cool city, with family attractions.

Farzana Rustem, Bharucha & Co, Karachi, Pakistan
I like that this city is very calm; there’s no rush and little traffic. It’s very nice and beautiful here, and there’s easy access to everything.

Feroza Kartick, O’Neal Webster, Road Town, Tortola, British Virgin Islands
Orlando is cheerful and exciting; I don’t want to leave! The atmosphere just makes me want to go out.

Sunil B. Krishna, Krishna & Saurastri, Mumbai, India
Mickey Mouse! I went to Disney 12 years ago, but this time I’m just busy with meetings. But this is a nice venue for them.

Aaron Boyajian, Goetz Fitzpatrick, New York, NY, U.S.
The theme parks are the best part of Orlando. I’m glad to be getting some sun—that good vitamin D—while I’m here.

Jennifer L. Dean, Drinker Biddle & Reath, Washington, D.C., U.S.
I’m enjoying checking out some of the great restaurants in Orlando!

Tao Zhang, Haihong Jiacheng, Beijing, China
Disney! I’m also looking forward to going to Universal Studios on Wednesday night.

Lawyers show off their silky soccer skills
Sporty trademark practitioners battled the heat and each other in INTA’s first soccer tournament on Sunday morning. Five teams of five-a-side played round robin matches, followed by elimination games. The winning team was a multinational mix of players from the Americas, featuring Jack Penny of the U.S., Leonardo Cordeiro of Brazil, Daniel Rodriguez of Mexico, Marco Colmenares of Venezuela, Pat Concannon of the U.S., Greg Luna of the U.S., and Gonzalo Menendez of Guatemala.
## Today’s Schedule | Tuesday, May 24, 2016

All events take place at the Orange County Convention Center (OCCC) unless otherwise indicated.

<table>
<thead>
<tr>
<th>Time</th>
<th>Event Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:30 am - 5:00 pm</td>
<td>Information Desk</td>
<td>West D Lobby</td>
</tr>
<tr>
<td>7:30 am - 5:00 pm</td>
<td>Housing Desk</td>
<td>West D Lobby</td>
</tr>
<tr>
<td>7:30 am - 5:00 pm</td>
<td>Exhibitor/Press Registration Desk</td>
<td>Hamlin Boardroom - W333</td>
</tr>
<tr>
<td>7:30 am - 5:00 pm</td>
<td>Registration</td>
<td>West Hall E</td>
</tr>
<tr>
<td>7:30 am - 5:00 pm</td>
<td>Hospitality</td>
<td>West Hall D</td>
</tr>
<tr>
<td>8:00 am - 10:00 am</td>
<td>Continental Breakfast</td>
<td>West Hall D</td>
</tr>
<tr>
<td>8:00 am - 10:00 am</td>
<td>BREAKFAST TABLE TOPICS</td>
<td>West Hall D</td>
</tr>
<tr>
<td>8:30 am - 5:00 pm</td>
<td>Networking Excursion Desk</td>
<td>West Hall E Lobby</td>
</tr>
<tr>
<td>10:00 am - 4:00 pm</td>
<td>Exhibition Hall</td>
<td>West Hall D</td>
</tr>
<tr>
<td>8:30 am - 5:45 pm</td>
<td>Working Towards the 21st Century IP Office Workshop</td>
<td>W414 - A</td>
</tr>
<tr>
<td>10:15 am - 11:30 am</td>
<td>Trademark Scholarship Symposium - Session I (Academic Series)</td>
<td>Hamlin Boardroom - W333</td>
</tr>
<tr>
<td>10:15 am - 11:30 am</td>
<td>Trademark Scholarship Symposium - Session II (Academic Series)</td>
<td>Hamlin Boardroom - W334</td>
</tr>
<tr>
<td>10:15 am - 11:30 am</td>
<td>Trademark Scholarship Symposium - Session II (Intermediate Level)</td>
<td>Hamlin Boardroom - W333</td>
</tr>
<tr>
<td>10:30 am - 11:30 am</td>
<td>Trademark Scholarship Symposium - Session I (Intermediate Level)</td>
<td>Hamlin Boardroom - W334</td>
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<tr>
<td>10:15 am - 11:30 am</td>
<td>Trademark Scholarship Symposium - Session II (Intermediate Level)</td>
<td>Hamlin Boardroom - W334</td>
</tr>
<tr>
<td>11:45 am - 1:00 pm</td>
<td>CT20 Transportation/Hospitality Industry Breakout: Yours, Mine and Ours—IP Issues in the New Sharing Economy (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 1</td>
</tr>
<tr>
<td>11:45 am - 1:00 pm</td>
<td>CT20 When Is the Mediation Successful? Intermediate to Advanced Level</td>
<td>West Hall 3-4</td>
</tr>
<tr>
<td>11:45 am - 1:00 pm</td>
<td>CT21 Online Enforcement: Counterfeit Products, Contraband but Genuine Products, Parallel Imports (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 2</td>
</tr>
<tr>
<td>11:45 am - 1:00 pm</td>
<td>CT20 Africa and Middle East Regional Update: Opportunity and Growth Amidst the Turmoil of the Middle East and a Rising Africa (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 3-4</td>
</tr>
<tr>
<td>12:00 pm - 1:00 pm</td>
<td>SPEED NETWORKING</td>
<td>West Hall D</td>
</tr>
<tr>
<td>1:15 pm - 3:15 pm</td>
<td>LUNCHEON TABLE TOPICS</td>
<td>W240</td>
</tr>
<tr>
<td>1:30 pm - 2:30 pm</td>
<td>SPEED NETWORKING</td>
<td>West Hall D</td>
</tr>
<tr>
<td>3:00 pm - 4:00 pm</td>
<td>SPEED NETWORKING</td>
<td>West Hall D</td>
</tr>
<tr>
<td>3:30 pm - 4:45 pm</td>
<td>CT50 Plain Packaging: Tobacco Today, Tacos and Tequilas Tomorrow (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 3-4</td>
</tr>
<tr>
<td>3:30 pm - 4:45 pm</td>
<td>CT51 Ambush Marketing and Social Media. Lessons Learned before the 2016 Rio Olympic and Paralympics Games (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 2</td>
</tr>
<tr>
<td>3:30 pm - 4:45 pm</td>
<td>CT52 How Far Can You Bend a Mark Before it Breaks? (Intermediate Level)</td>
<td>Tangerine Ballroom West Hall F - 1</td>
</tr>
<tr>
<td>3:30 pm - 4:45 pm</td>
<td>IT50 Entertainment Industry Breakout: Brands and the Changing Face of Entertainment Content (Experimental Level)</td>
<td>W240</td>
</tr>
<tr>
<td>3:30 pm - 5:00 pm</td>
<td>In-House Practitioners Industry Exchanges (Exclusive to in-house practitioners only)</td>
<td>W240</td>
</tr>
<tr>
<td>4:45 pm - 5:45 pm</td>
<td>Working Towards the 21st Century IP Office Workshop Government Officials Training Information Session (By invitation only to IP Offices and Government Officials)</td>
<td>W414 - A</td>
</tr>
<tr>
<td>5:30 pm - 7:00 pm</td>
<td>Political Action Committee (PAC) Reception</td>
<td>Hyatt Regency Orlando President’s Suite Sunburst Room and Terrace</td>
</tr>
<tr>
<td>6:00 pm - 7:00 pm</td>
<td>In-House Practitioners Reception (Exclusive to in-house practitioners only)</td>
<td>Harmin Boardroom - W333</td>
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<td>Government Officials Reception</td>
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Since 1976, BSKB has been providing a full range of intellectual property law services to clients in the areas of trademark and patent prosecution, post-grant review, litigation, ITC litigation, opinions and counseling, design patents and licensing.