



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

RESOURCES DEPARTMENT
The Director

The Office for Harmonization in the Internal Market (Trade Marks and Designs), ('the OHIM' or 'the Office'), represented by the Director of the Resources Department,

and

the Trade Unions and Professional Associations of European officials and agents of the OHIM ('TUPA') mentioned below:

- Union for Unity (U4U)

represented by the Chairpersons of their respective Executive Committees,

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, in particular Articles 112 and 119(2)(a) and (e) thereof, Having regard to the Staff Regulations of Officials of the European Communities, in particular Articles 10(b), 10(c) and 24(b) thereof,

Having regard to the Conditions of Employment of other servants of the European Communities, in particular Articles 1, 11, 81 and 124 thereof,

Having regard to the electoral rules on elections to the Staff Committee of the OHIM ('SC'), adopted at the General Meeting of 6 November 2002,

Whereas Article 24(b) of the Staff Regulations provides that officials shall be entitled to the right of association, and that they may in particular be members of the TUPAs,

Whereas it is appropriate to take suitable measures to enable relations to be established between the TUPAs and the OHIM, and that this be without prejudice to the powers of the SC,

HAVE DECIDED AS FOLLOWS:

CHAPTER 1

PRINCIPLES

Article 1 Freedom of association

The signatories to this agreement confirm their adherence to the freedom of association resulting from Article 24(b) of the Staff Regulations of Officials of the European Communities, by virtue of which officials and other agents of the OHIM may, in particular, be members of TUPAs of European officials.

Article 2 Membership, participation and holding of a trade union post

Membership of a TUPA, participation in trade union activities or the holding of a trade union post may not in any way be prejudicial to the professional standing or career of the persons concerned.

CHAPTER 2

DEFINITIONS RELATING TO TUPAS

Article 3 Recognised TUPAs

TUPAs shall be recognised officially where:

- they declare as an aim under their constitution the defence of the interests of all members of staff, without distinction, in particular, as to category or nationality;
- they attest that they are properly constituted organisations carrying out their activities on the basis of a constitution and guidelines laid down by a General Meeting of members and through the agency of elected executive organs.

Article 4 Representative TUPAs

Recognised TUPAs shall be accepted as representative where:

- they represent a minimum of 20% of OHIM staff. This criterion shall be measured on the basis of the results, in terms of the number of representatives (members and alternates) on the list of the TUPA in question, of the last elections held for the SC. The inclusion of a SC member on the TUPA list shall depend on the comments submitted by the Electoral Commission for each candidate on publication of the list of candidates;
- they have at least 35 members. TUPA members must be up to date with their contributions and they must be officials or other agents (within the meaning of Article 1 of the Conditions of Employment of other servants of the European Communities, excluding special advisers) at the OHIM or former officials or agents of the OHIM in receipt of a pension.

CHAPTER 3 PROCEDURES, COMPETENCIES AND RESOURCES OF THE TUPAs

Article 5 Recognition procedure for TUPAs

The Chairperson of a TUPA shall submit a reasoned request for recognition to the Appointing Authority ('AA'), providing documents certifying that it meets the conditions laid out in Article 3, and a list of its elected officials.

The AA shall inform the Chairperson of the TUPA, within 15 working days of receipt of the application, whether the organisation has been granted recognition.

Article 6 Competencies and resources of the recognised TUPAs

Recognised TUPAs shall carry out their activities with complete independence.

Recognised TUPAs may hold their meetings on the premises of the OHIM and in compliance with the rules for organising meetings. These meetings shall not be counted in the working hours.

Recognised TUPAs may, on request, be provided with an Insite address, one or more e-mail boxes and access, for one or more of the elected officials, to the list '*O.H.M.I. Personnel'. They may also be provided, on request, with space on a shared drive of one of the Office's servers.

Recognised TUPAs may, in accordance with the procedures in place, and free of charge, under the supervision (not of content) of the persons in charge of the resources, use the translation, photocopying and communications resources (telephone, fax and mail

distribution) of the Office for their operational activities and for keeping staff informed of such activities.

During the election campaign for elections to the SC, access to the translation, copying and communications resources (telephone, fax and mail distribution) of the Office available to the recognised TUPAs for drawing up and circulating their manifestos shall be restricted only for reasons of force majeure.

Article 7 Procedure for checking the requirements of representativeness

The level of representativeness referred to in the first clause under Article 4 implies, under the current conditions for composition of the SC, that the SC must have at least two representatives (members or alternates) who have stood for the elections on lists drawn up by the TUPA in question and whose inclusion on the lists has been established and published as such by the Electoral Commission, in accordance with the rules for SC elections.

The Chairperson of the TUPA shall notify the administration (Director of the Resources Department) on an annual basis of the number of TUPA members considered representative, by means of a sworn declaration. The administration shall proceed to verify annually the number of members, via an independent person or body chosen by common agreement by the TUPA in question and the administration. In the absence of an agreement, the data protection officer at the Office shall conduct the verification. This verification shall include the following: presentation of a copy of the TUPA constitution, proof that members are up to date with their contributions, and documentation relating to the regular meetings of the TUPA with its members.

Article 8 Competencies and resources of the representative TUPAs

Representative TUPAs shall have at least the same competencies and resources as recognised TUPAs.

The elected officials of representative TUPAs (up to a maximum of two per TUPA) may be granted, at the request of the TUPA to which they belong, special leave not exceeding four days per person per calendar year to enable them to participate in trade union activities outside the OHIM, in particular trade union assemblies or congresses. The granting of this leave shall, in particular, be communicated in good time to the person's superior and shall be granted only if it will not have a negative impact on the proper functioning of the service to which that person belongs.

The elected officials of representative TUPAs (up to a maximum of two per TUPA) may be granted, at the request of the TUPA to which they belong, special leave for external trade union training, not exceeding three days per person per year, in accordance with Decision No ADM-30/2002 (or any decision that replaces it) on the participation of officials and other agents of the Office in externally organised individual training.

General meetings of staff may be convened by representative TUPAs (always outside the core working hours of the OHIM, as set out in Articles 2 and 3 of Decision ADM-02/06 on the working hours of the Office or any decision that replaces it), provided that sufficient advance notice of at least three working days before the date of the meeting is given to the Director of the Resources Department.

Representative TUPAs may request and be granted information meetings with the various administration bodies at the Office, at which they may state their positions on various issues affecting the staff at the Office. Under no circumstances may these meetings be used to substitute for the usual meetings to discuss or negotiate between management and the SC. The participation of elected officials of representative TUPAs at these meetings (a maximum of two per TUPA) shall be considered as part of the services they are to provide at the OHIM and shall be approved only if communicated in good time to the person's superior and provided there will be no negative impact on the proper functioning of the service to which that person belongs.

CHAPTER 4 TRANSITIONAL ARRANGEMENTS, VALIDITY AND ENTRY INTO FORCE

Article 9 Validity, revision and cancellation

One year from its conclusion, this agreement may be subject to revision or cancellation by one of the parties, subject to one month's notice.

Article 10 Recognition and representativeness of existing TUPAs

As at the date of signing of this agreement the TUPA U4U has met the conditions for recognition and representativeness within the meaning of Articles 3, 4 and 7 of this agreement.

Article 11

Any recognised or representative TUPAs who wish to accede to this agreement may do so.

Article 12 Entry into force

This agreement shall enter into force on


10/09/2014

For the OHIM



Ralph Pothke
Director - Resources Department

For U4U

PP.

Georges Vlandas
President