Chair's summary of the Meeting of the Pilot Group of the Ad hoc Working Group of the Locarno Union - March 9 and 11, 2009

Location: Industrial Property Office of the Czech Republic

1. The following States and Organisations participated as members or observers:

> Canada, Czech Republic, United Kingdom, Russia, Benelux Organization for Intellectual Property, Office for Harmonisation in the Internal Market, European Communities Trade Mark Association (ECTA), Association of European Trade Mark Owners (MARQUES). The list of representatives appears as Annex 1 to this report.

2. The meeting was opened by Mr Karel Čada, President of the Industrial Property Office of the Czech Republic. Welcoming the Group, Mr Čada mentioned the Czech Republic's position as one of the offices leading the review of the International Classification of Industrial Designs and in calling for work to explore a new approach to its further development. Referring to the remit given to the Group by the Ad-hoc Working Group, Mr Čada stated that an improved structure should reflect the needs of users in advancing the convenience of searching designs, particularly by means of visual features.

3. Mr Čada acknowledged that the importance of industrial designs in protecting the endeavors of designers was underestimated and deserving of better attention. To this end, Mr Čada considered that the OHIM could play an important role by using its experience with projects that harmonized searching tools for trademarks to develop similar projects in the field of designs. Developing a user friendly searching facility should be a priority.

OVERVIEW

4. The Summary of the Chair of the Ad-Hoc Working Group, document **lo/wg/1/2 of the ad hoc Working Group, Geneva, June 30 to 2 July 2008**, stated that the Pilot Group would work to the maximum extent possible via electronic communication, but may nevertheless convene meetings should it be deemed appropriate. Bringing together the papers generated by Pilot Group members and the user groups, Marques, FICPI and ECTA and discussing them through e-communication had been proving difficult and slow.

5. The proposal for the Pilot Group to meet was an appropriate solution and practical way forward. I would like to repeat my thanks, and congratulate the Czech IPO for taking the initiative. I would add that the arrangements for the meeting were extremely well planned and efficient, enabling the group to focus and make excellent progress in its work. The welcome and hospitality was generous and very much appreciated.

6. Group members were also pleased to be able to make presentations on designs to the Czech IP profession and public. The day was both informative and enjoyable and the presentations well received by those attending.

7. I would also like to repeat my thanks to Ms Linda Skolková and Mr Peter Pálka of the Institute of Information Studies and Librarianship, Charles University for their excellent and thought provoking presentation to the Pilot Group.

SUMMARY OF THE MEETING

8. The meeting agreed the agenda. (**Document Io/pg/1/1-draft agenda**)

9. The Pilot Group was established by the Ad-hoc Working Group to develop a search system for industrial designs based on visual search features. The remit from the Ad Hoc Working Group as set out in the Chair's Summary, and the subsequently issued Terms of Reference set out the tasks of the Pilot Group as follows:

> Conduct an analysis of whether and if so how, the optical/visual features of industrial designs can be indexed, in particular, determining whether such a system may be applied to industrial designs regardless of their purpose of the object that they represent.

> Prepare recommendations for the ad hoc Working Group proposing a structure for an indexing system for the visual features of industrial designs.

10. The Group agreed that their objective is one of establishing and testing a search system for industrial designs based on visual features that would operate in conjunction with the Locarno classification. Such work may include proposals for amendment to the existing Classes or Sub-Classes where this is considered necessary for the introduction of such an indexing system, and may encompass an evaluation of any existing system where the classification is done specifically by reference to optical/visual features.

11. OHIM stated that the Group should keep focused on the issue in the context of furniture, and leave any improvements to Locarno for the Ad-hoc Working Group at some later stage. Canada agreed that these were two different issues but work on both would probably be necessary. The Russian Federation added that the main focus must be to make the system better which may involve modernizing the subclasses into a unified and consistent approach.

12. The Pilot Group made the following general observations:

> Any system should be easy and simple, especially for end-user, but how friendly the system is will also depend on the user interface of the IT system. The classification must, as far as is possible, meet the particular needs of users from outside of the registration offices.

> It is important to focus on the general impression, balancing description of details and the whole meaning. The issue is searching state of art. The scope of protection- what is claimed should be the consideration of the user and not the searching system.

> Parts of designs which contribute significantly to the appearance of the product and as such may be considered the relevant state of the art should be classified. For example – a picture of a car applied on a bottle. Both should be classified– bottle and car. Where the application is for part of a design (possibly with the remainder represented using broken lines or indicated by some other means such as highlighting or text) both the whole article and the part should be classified. This will enable a system to search for designs or visual feature elements across all classes.

2

A text search should also be possible, i.e. full text search in claims, word disclaimers as well as words incorporated in a design.

Ideally, a user should be able to find all identical and similar designs no matter if real, toy or just a graphical element, by means of a single search.

13. Group members elected to consider the proposals contained in the various papers in conjunction with the proposal sent out under the heading "Common Categories". These are aimed at objects having geometrical shapes, shapes of body parts, etc, features which cannot be found in the classes of products of Locarno classification. It should be noted that this proposed system is descriptive of feature elements which can be combined in the processes of indexing and searching within the same or several categories.

The decisions of Group in relation to what is to be referred to as Common Categories are shown as Annex 2.

The Group went on to discuss how to search designs within the individual main classes of Locarno classification, continuing to focus on Class 6, (Furniture). The need of "class specific" indexing categories was considered, for instance, categories of special use or material.

The proposal is to allow searches in groups of products with similar visual features. In the first stage the product in which the design is incorporated is identified and classified. The second stage is the classification of the distinctive parts of the product. As mentioned earlier in the "bottle and car" example, all significant features of the design will be classified. The searches in product classes may thus be refined by adding or omitting these individual parts, and/or by selecting appearance features from the Common Categories.

THE NEXT STEPS

The Group did not have time to reach any conclusions on a "unified structure" for search categories in Class 6. To keep the work of the Group moving forward I have developed the discussions of the meeting and the proposals contained in the various papers into a possible system. This is attached as ANNEX 3. **The Group is requested to provide any comments or proposals for amendment by 4 May 2009**

Having finalized the Common Categories, the Pilot Group agreed that to understand where the system works and where further development may be required, testing should be undertaken.

Following (and assuming) that we can reach agreement on a structure for a furniture classification:

1. The Czech Republic will extract 100 (or so) designs from Class 6 (Furniture) of the Community Design Register.

2. Each Pilot Group member will arrange for these designs to be classified by a Designs Examiner (preferably with no prior knowledge of the indexing) according to the indexing system (Common categories and Furniture). The designs will also be classified by a Pilot Group member. If the trial can be widened to include an external user this would be a real benefit.

3. The OHIM agreed to work on developing a basic interface that will record the classifications and allow trial searches to be completed. This will need to be in place for presentation at the next meeting of the Pilot Group. This is provisionally set for 6/7 July 2009.

Mike Foley
Ad-hoc Working Group Chair
Pilot Group Chair

30 March 2009

Chair

Mr Mike Foley   Intellectual Property Office of the United Kingdom

Secretariat

Mr Marcus Höpperger   Acting Director, Law and International Classifications Division, World Intellectual Property Organization

Ms Belkis Fava   Head of International Trademark and Industrial Design Classifications Unit, World Intellectual Property Organization

The following participated as members or observers of the Pilot Group:

Mr Diter Wuytens   Benelux Office for Intellectual Property

Ms Francine Bouthillier   Manager, Business Operations, Canadian Intellectual Property Office

Ms Ludmila Čelišová   Head of Industrial Designs Section, Industrial Property Office of the Czech Republic

Ms Eva Pičmanová   Patent Information Department, Industrial Property Office of the Czech Republic

Mr Peter Rodinger   Director, Design Department, OHIM

Mr Dimitrios Andrianopoulos   Designs Department, OHIM

Mr Michal Havlík   Attorney, Designs Committee, ECTA

Mr David Stone   Attorney, Chair of the Designs team of MARQUES

Ms Lada Tsikunova   Head of Division, Federal Institute of Industrial Property of ROSPATENT,

Mr Andrey Shpikalov   Senior Researcher, Federal Institute of Industrial Property of ROSPATENT,
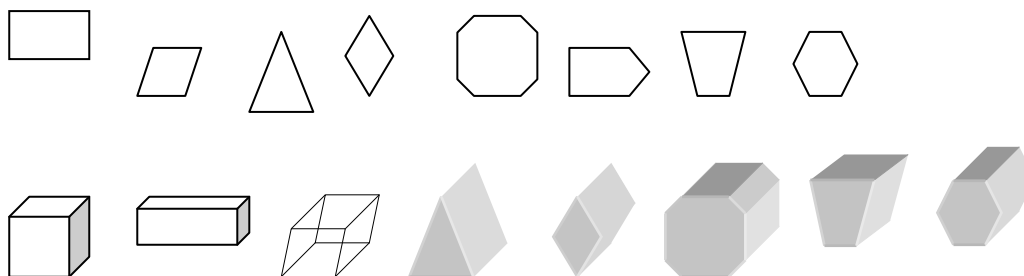
Ms Linda Skolková   Institute of Information Studies and Librarianship, Faculty of Arts, Charles University, Prague

Mr Peter Pálka   Institute of Information Studies and Librarianship, Faculty of Arts, Charles University, Prague
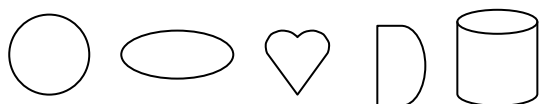
COMMON CATEGORIES

SHAPE AND/OR ORNAMENTATION

SURFACE

COLOUR

W   THE CATEGORY OF SHAPE AND/OR ORNAMENTATION

The categories should apply solely to shape, solely to ornamentation or both. The option is selected by ticking the proper window or windows   □   applied to shape
□   applied to ornamentation

WA   Rectilinear (*regular geometric shapes having straight lines and angles*)

WB   Curvilinear (*circles, ellipses, shapes having one or more curved lines*)

WC   Plants and plant like forms (*including parts of plants*)

WD   Animals and animal like forms (*including insects, fish and extinct*)

WE   Humans and human like forms

WF   Heads / Faces (*both human & animal*)

WG   Individual parts of heads / faces *(both human & animal)*

WH   Other body parts (*both human & animal*)

WI   Letters / Numbers / Typographic symbols

WJ   Celestial bodies / Natural phenomena / Landscapes

WK   Heraldry / Emblems

WL   Ergonomically shaped *(shaped to the body or body parts)*

X   THE CATEGORY OF SURFACE

XA   Smooth

XB   Nets / Holes / Grille / Perforations / Windowed

Note. Windowed includes articles with cut-out areas in their surface to facilitate a screen or display, such as in mobile telephones, MP3 players, etc.

XC   Buttons / Switches / Knobs / Keys / Illuminating indicators

XD   Textile / Leather / Hair / Unwoven

Y   THE CATEGORY OF COLOUR

YA   1 colour

YB   2 colours

YC   More than 2 colours

YD   Transparent

YE   Spots / Blots / Stripes / Chequered

NOTE: The examples of designs may apply to more than one category.
The scheme is not finite and it may be further modified or new categories may be created.

Explanatory note

This Annex is a proposal for a "search index" for furniture. It is a not a proposal to revise the structure of the Locarno classification.

The main categories and the sub-categories (as far as possible) are those of Class 6 of the Locarno classification

Each category contains furniture that is considered to possess similar appearance features.

Each category and sub-category is intended to be searchable individually or in combination, and in conjunction with all or any of the categories of Shape, Surface or Colour.

PROPOSED SEARCH INDEX CLASSIFICATION FOR FURNITURE

FURNITURE

SEATS AND CHAIRS

BEDS

TABLES AND SIMILAR FURNITURE

STORAGE FURNITURE

Note: Including cupboards, wardrobes, furniture with drawers, compartments or shelves. Does not include furniture to be used when seated such as dining or kitchen tables, desks, writing tables, dressing tables etc, or beds having drawers or storage capacity.

1. SEATS AND CHAIRS

1.1 Seats

Note: A seat for one person, whether un-upholstered or upholstered in part or whole, that can be temporarily or permanently fixed, either to a structure or another object. Includes: car seats for adults or children, stadium, arena and theatre seats, swinging seats.

1.2 Chairs.

Note: A chair for one person, whether un-upholstered or upholstered in part or whole, that is free-standing on its own legs or support. Includes: dining chairs, garden chairs, office chairs, armchairs.

1.3 Benches

Note: A seat for more than one person, whether un-upholstered or upholstered in part or whole, including those standing on legs or support, or suspended/swinging. Includes: pews, school benches, stadium benches, and those that suitable for laying upon such as, couches, divans [sofas], ottomans, sofas, benches for saunas. Does not include divans [ottomans].

1.4 Stools

Note: A seat for one person, whether un-upholstered or upholstered in part or whole, whether free-standing on its own legs or support or fixed to the floor. Includes: bar tools, kitchen stools, foot stools, pouffe, kneelers.

2. BEDS

Note: Including mattress supports. Does not include seats suitable for laying upon, such as benches, couches, divans [sofas], ottomans, chaise-lounge, benches for saunas, sofas, hammocks.

2.1 Beds

Note: Includes beds for sleeping, including divans [beds. Does not include sun loungers, camping beds. Etc.]

2.2 Cots and cribs

2.3 Sun loungers, camping beds, other beds

3. TABLES AND SIMILAR FURNITURE

3.1 Tables

Note: Including desks and tables with or without drawers, dressing tables, billiard tables, altars, etc.

3.2 Counters

Note: Including bar counters, lecterns, serving trolleys, etc.

4. OTHER FURNITURE

4.1 Mattresses and cushions

Note: Including cushions for seats, scatter cushions, bean-bags, etc.

4.2 Stands and supports

Note: Including coat stands, clothes stands, hat stands, book stands, flower stands, cask stands, wrist supports, etc). Does not include: prayer stools, footrests (in the form of stools) 1.4,

4.3 Booths and screens

Note: Including cashier's booths, confessional boxes, playpens, safety guards (fire, baby (safety) gates, etc,)

5. PARTS OF FURNITURE

5.1 Doors

5.2 Drawers and drawer rails

5.3 Legs

5.4 Feet and casters

5.5 Tops

5.6 Backs and backrests

5.7 Arms and armrests

5.8 Headrests

5.9 Bed surrounds

6. MIRRORS AND FRAMES

Note: Including mirrors and frames being part of composite furniture, eg., dressing table. Does not include rear-view or vanity mirrors for vehicles.

7. CURTAINS, BLINDS, CARPETS, MATS AND OTHER COVERING MATERIALS

Note; Includes rugs, tapestries, furniture covers, bedspreads, bed linen, blankets, table covers, table linen and napery.