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Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Deputy Director-General

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Alain Galaski
Director General
AIM - European Brands Association
Avenue des Gaulois / Galliërslaan 9
B-1040 Brussels

Dear Mr. Galaski,

I am writing to you in response to your letter to President Juncker dated 31 January 2016, for which we thank you. The Commission appreciates the views of representatives of Europe's leading industries on how best to meet our commitment to boosting jobs, growth and investment in the EU, which touches necessarily on the legal framework for the effective protection of intellectual property (IP).

The Commission recognises the importance of IP for the competitiveness of small and medium size enterprises (SMEs). We have launched the work on the implementation of policies to support the use of IP by SMEs announced in the Single Market Strategy in September 2015 and detailed in the staff working document in November 2016, in close cooperation with the Executive Agency for SMEs (EASME) and the European Union Intellectual Property Office (EUIPO). These policy measures will help SMEs protect and manage their IP. Specifically on enforcement they can reduce the pressure on limited resources through EU-level IP litigation insurance schemes and accessible IP mediation and arbitration.

In addition, and as foreseen in both the Single Market Strategy and the Digital Single Market Strategy, the Commission is analysing the legal framework for the enforcement of IPR with the intention of coming forward with an evaluation as well as a revision of this framework. The issue of the role of intermediaries in protecting IPR, as you state, was raised in the context of the public consultation and will be dealt with in the upcoming review of the IPR Enforcement Directive (IPRED). Here, the responsibility of intermediaries can be enhanced by providing for effective injunctions against intermediaries if their services are used for IPR infringements. Such injunctions would aim at ensuring that intermediaries take effective action when they are best placed to bring specific infringing activities to an end. In that context, it is important that any review not only responds to right holders' demands but also maintains a fair balance between the interests of all stakeholders.

In addition, the Commission is developing the "follow the money" approach to IPR enforcement, which consists of designing policy measures that identify and disrupt the money trail for commercial scale IP-infringing activities, thereby curtailing the profit-making potential of IP-infringing activity. In practice, this approach translates into voluntary agreements or MoUs between industry players. The Commission acts as facilitator of said agreements and our Commissioner's Declaration in June last year expressly endorsed them. Many of the representatives who signed your letter are key players in this approach, as indeed is the AIM association, and we thank you for your support and involvement in the different initiatives.

There are currently five ongoing self-regulatory initiatives under the "follow the money" approach to IPR enforcement. The MoU on the online sale of counterfeit goods was signed last year and is currently being implemented. The MoU on online advertising and IPR infringement is being negotiated and should be signed in the first half of next year, and we are also developing similar initiatives with payment service providers and transport companies.

Last but not least, the Commission seeks to promote tools and best practices aimed at ensuring supply chain protection from any form of counterfeiting risks. As you rightly stressed in your letter, counterfeiting constitutes a considerable threat to safety and health as well as a highly profitable activity for criminal networks. Several recent studies and reports show that such networks manage to infiltrate and exploit supply chains.

The Commission plans to adopt in 2017 a paper dedicated to supply chain protection, which will provide guidelines on this issue to both the industry and public authorities with a view to enhancing inter-institutional cooperation in this matter.

I trust that I have reassured you that the Commission and I have given full attention to the need for a balanced and effective enforcement of IPR and I am looking forward to further cooperating with you and the other signatories of the letter.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

Antti Peltomäki

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