

## EMECA POSITION PAPER

Brussels, 27 May 2015

### **EMECA AND THE REVIEW OF THE EU COUNCIL REGULATION No 6/2002 ON COMMUNITY DESIGNS (hereinafter referred to as “EU Regulation 06/2002”**

1.- EMECA - as an association that represents Europe’s leading Trade Fair Companies - would like to draw attention to the revision of the European Regulation on industrial property 06/2002.

2.- Trade Fairs and Exhibitions (hereinafter referred to as “Trade Fairs”), especially international B2B events, serve as platforms for innovation and trends and as a showcase for all offers in a determined industry. Thus they are also affected by counterfeiting; a problem that very often only becomes obvious during a Trade Fair when the whole range of products of one sector is shown at one place. Nonetheless, disclosure is an unavoidable and essential part of the process of selling goods and services.

3.- EMECA Members are aware of the problem of counterfeiting. They are working actively in this field and are interested in finding effective ways to help Exhibitors of Trade Fairs (hereinafter referred to as “Exhibitors”) to prevent and fight brand and product piracy.

One effective tool, especially for Small and Medium Sized Enterprises (hereinafter referred to as “SMEs”), to protect their products and prevent counterfeits at Trade Fairs is the Priority Certificate.

4.- Priority Certificates are issued by the Trade Fair Organisers and handed out to Exhibitors to prove that a certain item was shown during the respective Trade Fair. The date of issuing the Certificate is accepted as

registration date by the respective national Patent and Trademarks Offices of EU Member States when the Exhibitor applies to register a national design within the next six months that follow the Trade Fair.

5.- Unfortunately, Priority Certificates are not accepted by the European Union (EU) to register designs. According to Art. 44 of EU Regulation 6/2002 only such Priority Certificates will be accepted that fall under the Convention on International Exhibitions signed in Paris in 1928 (hereinafter referred to as “Convention”) - revised in 1972. However, these events (EXPOs such as currently running in Milan) nowadays serve as platforms where individual countries present themselves, but do not play any role as a business platform – in contrary to modern B2B Trade Fairs. This Convention was signed by 157 countries and is very unlikely to be changed and adapted to our needs in a reasonable timeframe.

6.- As the EU Regulation 6/2002 is being revised, EMECA proposes that Priority Certificates be accepted by the Office for Harmonization for the Internal Market (hereinafter referred to as “OHIM”) in the same way the national authorities do.

This would lead to a considerable facilitation for European companies insofar that they would find the same conditions for designs registration on both the national and European level.

7.- EMECA herewith submits to the Commission its position on the notion of International Trade Fairs to replace the reference to the Paris Convention. The EMECA proposal is simple and transparent: the text of the Regulation should adopt the common definition for International Trade Fairs used by UFI, the Global Association of the Exhibition Industry (hereinafter referred to as “UFI”), other trade fairs associations and numerous national legislations and government actions in Europe and worldwide.

According to the UFI standards (cf. UFI Internal Rules in the Annex hereafter) an International Trade Fair must fulfil one of these conditions:

- a) foreign exhibitors representing at least 10% of the total number of direct exhibitors;
- or b) foreign visitors representing at least 5% of the total number of visitors.

Other organisations using this or a variation of this definition are listed in the Annex.

National legislations, going further than this definition or entitling more Trade Fair Organizers to issue Priority Certificates recognised by national authorities, would remain unchanged by the adoption of this definition for the recognition of Priority Certificates according to Art. 44 of EU Regulation 6/2002.

8.- EMECA considers that the review of the EU Regulation 6/2002 is an opportunity for the recognition of Priority Certificates, and also that their recognition would work as an armour of Trade Fair Organizers against piracy. Counterfeiters would be discouraged to operate in Trade Fairs since the Exhibitors would be much more protected and entitled to apply for prior registration for six months after the end of the respective Trade Fair.

It would also officially attest the quality of the Trade Fair Sector in Europe, the value of Trade Fairs for European industries and their contribution to the European economy in general.

9.- If Trade Fairs become a safe place to disclose novelties, SMEs in particular will be encouraged to invest in innovation and trade. All that will give a boost to commercial exchanges and consequently to accelerate European growth.

## ANNEX

### UFI

#### Definition:

(...) They must be "international" according to one of the following requirements:

- the number of direct foreign exhibitors must be at least 10% of the total number of exhibitors;
- the number of foreign visits or visitors must represent at least 5% of the total number of visits or visitors, respectively. For public fairs, this percentage is to be counted on the basis of professional visits or visitors, if they are identified.

[http://www.ufi.org/Medias/pdf/whatisufi/auditing/auditing\\_rules\\_for\\_ufi.pdf](http://www.ufi.org/Medias/pdf/whatisufi/auditing/auditing_rules_for_ufi.pdf)

### THREE EXAMPLES OF THE CONCEPT "INTERNATIONAL TRADE FAIRS" ACROSS EUROPE

#### 1. IN FRANCE

#### Definitions:

##### Manifestations commerciales Internationales:

Elle doivent remplir les conditions suivantes, avoir réuni au cours de sa session précédente, au moins 10% d'exposants étrangers ou au moins 5% de visites étrangères (Arrêté du Ministère de l'Économie, de l'Industrie et de l'Emploi du 24 avril 2009).

[http://www.unimev.fr/medias/fichiers/arrete\\_reconnaissance\\_internationale\\_24\\_avril\\_2009.pdf](http://www.unimev.fr/medias/fichiers/arrete_reconnaissance_internationale_24_avril_2009.pdf)

## 2. IN SPAIN

Definitions:

Ferias comerciales internacionales:

El reconocimiento del carácter internacional de una manifestación ferial por parte de la Secretaría de Estado de Comercio se hace depender del cumplimiento de los siguientes datos estadísticos: que se certifique por parte de la Asociación de Ferias Españolas que la manifestación concernida ha reunido en su última edición a un 10% de expositores extranjeros o bien que ha contado con un 5% de visitantes extranjeros sobre el total de asistentes.

[www.comercio.gob.es/es-ES/comercio-exterior/instrumentos-apoyo/ferias-internacionales/Paginas/introduccion.aspx](http://www.comercio.gob.es/es-ES/comercio-exterior/instrumentos-apoyo/ferias-internacionales/Paginas/introduccion.aspx)

## 3. IN GERMANY

Definitions:

AUMA – Klassifizierung von Messen und Ausstellungen in Deutschland:

Überregionale/internationale Messen und Ausstellungen zeigen das wesentliche Angebot eines oder mehrerer Wirtschaftszweige. Sie haben über 4000 m<sup>2</sup> Nettogröße und mehr als 2000 Besucher. Sie weisen auf der Besucherseite ein über die Region deutlich hinausgehendes Einzugsgebiet auf; in der Regel müssen mindestens 50 % der Besucher aus mindestens 100 km Entfernung und mindestens 20 % aus mindestens 300 km Entfernung kommen. Bei Veranstaltungen, die sich auch oder überwiegend an das allgemeine Publikum richten, reicht es aus, wenn diese Kriterien für die Fachbesucher erfüllt sind.

In der Regel sind diese Messen auch international, das heißt, sie haben mindestens 10 % ausländische Aussteller und 5 % ausländische Besucher, wenigstens aber 5 % ausländische Fachbesucher. Die Erfüllung der Internationalitätskriterien ist aber keine Voraussetzung für die Aufnahme von Veranstaltungen in diese Kategorie. Maßgeblich ist die Erfüllung der Kriterien für die Überregionalität auf der Besucherseite.

[http://www.auma.de/\\_pages/d/16\\_Download/download/Rechtsinformationen/AUMA-Klassifizierung-von-Messen-und-Ausstellungen-in-Deutschland.pdf](http://www.auma.de/_pages/d/16_Download/download/Rechtsinformationen/AUMA-Klassifizierung-von-Messen-und-Ausstellungen-in-Deutschland.pdf)

Gabler Wirtschaftslexikon, Stichwort: internationale Messen, Gabler Verlag (Herausgeber):

Internationale Messen: Messen, die dem zuständigen internationalen Verband (Union des Foires Internationales, UFI, Paris) angeschlossen und von ihm genehmigt worden sind und von zahlreichen Ländern beschickt werden.

<http://wirtschaftslexikon.gabler.de/Archiv/1797/internationale-messen-v7.html>