



Council of the
European Union

Brussels, 13 December 2016
(OR. en)

15537/16

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NOTE

From: Management Board of the European Union Intellectual Property Office
signed by Ms Loredana GULINO, Deputy Chairperson

On: 1 December 2016

To: Mr. Jeppe TRANSHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

Subject: Appointment by the Council of the chairperson of the 2nd Board of Appeal
of the European Union Intellectual Property Office

Delegations will find in Annex I a letter addressed to the Council by the Management Board of the European Union Intellectual Property Office (EUIPO) concerning the appointment of the chairperson of the 2nd Board of Appeal of the EUIPO.

Copies of the curricula vitae of the three candidates selected by the Management Board are being sent in sealed envelopes to the Deputy Permanent Representatives.

Delegations will also find in Annex II the letter by which the Council inquires the European Parliament whether the latter intends to invite the candidates selected by the EUIPO's Management Board to make a statement before any competent European Parliament committee and to answer questions put by its members.



MANAGEMENT BOARD
The Deputy Chairperson

Alicante, 23 November 2016
ICLAD/JN/KB/mp/046-16-en

Mr Jeppe Tranholm-Mikkelsen
Secretary-General
Council of the European Union
Rue de la Loi 175
B - 1048 Brussels

Dear Secretary-General

At its 2nd meeting on 15 November 2016, the Management Board of the EUIPO drew up, in accordance with the provisions of Article 136 (1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the European Union trade mark, as amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015, a list of candidates for the following post, ref. vacancy notice VEXT/16/120/AD13/BoA Chairperson as published in the Official Journal of the European Union on 8 June 2016:

- Chairperson of the 2nd Board of Appeal of the EUIPO (3 candidates);

I should therefore be grateful if you would include as soon as possible on the agenda of the Council an item concerning the appointment of a Chairperson of the Boards of Appeal of the EUIPO.

Please find enclosed a copy of the summary of decisions taken during the 2nd meeting of the Management Board, the list containing the name of the candidates for the post and the number of votes obtained, together with a copy of the *curriculum vitae* of each candidate.

Yours sincerely

Loredana Gulino
Deputy Chairperson of the Management Board

Enc.: 1. Summary of decisions
2. List for the post of a Chairperson
3. *Curricula vitae*

Copy: L. KARAMOUNTZOS, Council of the European Union

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MANAGEMENT BOARD

Alicante, 15 November 2016
MB/16/INF/4/EN(O)

**2nd Meeting of the Management Board
of the European Union Intellectual Property Office**

Alicante, 15 November 2016

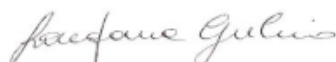
Summary of the Decisions taken by the Management Board

- MB-16-26 Adoption of the agenda of the 2nd meeting of the Management Board.
- MB-16-27 Approval of the minutes of the 1st meeting of the Management Board held on 31 May 2016.
- MB-16-28 Decision to elect the Chairperson of the Management Board, Ms Patricia García-Escudero Márquez, whose term of office will be for four years, renewable once, commencing on 1 January 2017 until 31 December 2020, taken by a majority of two-thirds of the Members with 23 votes in favour.
- MB-16-29 Unanimous decision to agree on the maximum number of candidates (3) to be put on the list to be proposed to the Council for the appointment of a Chairperson of a Board of Appeal. (Reference VEXT/16/120/AD 13/BOA Chairperson).
- MB-16-30 Unanimous decision to adopt the draft list of non-valid applications proposed by the Preparatory Subcommittee in the procedure (Reference VEXT/16/120/AD 13/BOA Chairperson), for the appointment of a Chairperson of a Board of Appeal.
- MB-16-31 Unanimous decision to adopt the draft list of admissible candidates proposed by the Preparatory Subcommittee in the procedure (Reference VEXT/16/120/AD 13/BOA Chairperson), for the appointment of a Chairperson of a Board of Appeal.
- MB-16-32 Decision to agree on the draft list of candidates proposed by the Preparatory Subcommittee and subsequent adoption of the list of three candidates for the post of Chairperson of a Board of Appeal to be proposed to the Council, for the procedure with reference VEXT/16/120/AD 13/BOA Chairperson. The decision was taken by a majority of two thirds of the Members with 30 votes in favour and 1 abstention.
- MB-16-33 Unanimous decision on the reclassification from grade AD11 to AD12 of the member of the Boards of Appeal of the Office, Mr Cornelis Johannes Govers.

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MB/16/INF/4/EN(O)

- MB-16-34 Approval of the draft decision, as amended, delegating the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority authorised to conclude contracts of employment to the Executive Director of the European Union Intellectual Property Office, and decision to empower the Executive Director to submit this draft decision for the Commission's agreement in accordance with the procedure laid down in Article 110 Staff Regulations. The decision was taken by a majority of two-thirds of the Members with 23 votes in favour.
- MB-16-35 Unanimous decision to approve the launch of a written procedure once the Office has received the agreement of the Commission under Article 110 of the Staff Regulations regarding the draft decision delegating the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority authorised to conclude contracts of employment to the Executive Director of the European Union Intellectual Property Office.
- MB-16-36 Decision taken to determine the distribution key to be applied to the offsetting of costs within the meaning of Article 139(5) EUTMR, starting by distributing an initial 2 % of the total amount to each of the Member States and then distributing the remaining by giving the same weighting to each of the four indicators (25 % each). The decision was taken by an absolute majority of two thirds of the Members with 23 votes in favour.
- MB-16-37 Unanimous decision to revisit the distribution key after **three years of effective application.**
- MB-16-38 Favourable opinion on the Office's trade mark and design practice as reflected in the draft Guidelines, so that the Executive Director of the Office can formally adopt the Guidelines as required by Article 124(1)(l) EUTMR and Article 101(b) CDR.
- MB-16-39 Decision taken to invite representatives of the EUIPO Staff Committee to attend the meeting of the Management Board during discussions on matters not considered to be confidential.
- cc.: Members of the Management Board





MANAGEMENT BOARD

ANNEX 2

**2nd Meeting of the Management Board
of the European Union Intellectual Property Office**

Alicante, 15 November 2016

**List for the post of a Chairperson of the Boards of Appeal - Reference VEXT
16120AD 13BoA Chairperson**

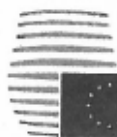
List of three candidates:

- Mr Arnaud Hervé FOLLIARD-MONGUIRAL (6 votes)
- Ms María Virginia MELGAR (9 votes)
- Mr Sven STÜRMANN (12 votes)

The decision was taken by a majority of two thirds of the Members with 30 votes in favour and 1 abstention (Decision MB 16-32)¹.

¹ According to Article 127(5) of the Council Regulation (EC) No 207/2009 of 26 February 2009 on the European Union trade mark, as amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015, a majority of two-thirds of the representatives of the Member States shall be required for the decisions which the Management Board is empowered to take under Article 124(1)(a) and (b), Article 126(1) and Article 129(2) and (4).

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Council of the European Union
General Secretariat
General and Institutional Policy
Deputy Director-General

S&S16/10515

Mr Martin SCHULZ
President of the European Parliament
c/o Mr Markus WINKLER
Deputy Secretary-General
Plateau du Kirchberg
L-2929 LUXEMBOURG

Brussels, 13 -12- 2016

Sir,

According to the EU trade mark Regulation, as last-amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015, the Council appoints the Executive Director of the EU Intellectual Property Office (EUIPO), his/her Deputy(ies), the President of the Boards of Appeal and the chairpersons of the Boards of EUIPO in accordance with the procedure set out in Art. 129(2) of the said Regulation.

The latter provides inter alia that the Council decides from a list of candidates proposed by the Management Board of the EUIPO and that before being appointed, the candidate selected by the Management Board "may be invited to make a statement before any competent European Parliament committee and to answer questions put by its members."

The Council has recently received from the Management Board of the EUIPO a list of three candidates proposed for the post of the chairperson of the 2nd Board of Appeal (see letter attached).

Taking into account that the European Parliament participates in the deliberations of the Management Board of the EUIPO we consider that the European Parliament is aware of the launching of the procedure and has access to the candidates' curricula vitae.

With a view to launching the internal deliberations leading to the appointment of the successful candidate, the Council would be grateful if the European Parliament could kindly inform the Council whether it wishes to hear the three candidates proposed by the EUIPO Management Board as soon as possible.

Yours faithfully,

For the Secretary General


Jim CLOOS

Annex



MANAGEMENT BOARD
The Deputy Chairperson

Alicante, 23 November 2016
KCLADJ.NWGBtmp046-16-en

Mr Jeppe Tranholm-Mikkelsen
Secretary-General
Council of the European Union
Rue de la Loi 175
B - 1048 Brussels

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Yours sincerely

Loredana Gulino
Deputy Chairperson of the Management Board

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