



Office for Harmonization in the Internal Market
(Trade Marks and Designs)
Trade Marks Department
4 Avenida de Europa, E-03008 Alicante, SPAIN

Fax: + 34 96 513 1344

FAX
Budapest, September 24, 2013

Re: submit an observation against IR application designating the EC

Trademark Application: IR 1152038 “figurative mark”

Observers: Federico Leva [20136 Milano, Via Carlo Vittadini, 9, Italy (IT)] and
Tomasz Kozłowski [ul. Jodłowa 6,59-170 Przemków Poland (PL)]

Applicant: Wikimedia Foundation, Inc.

Dear Sirs,

Undersigned Georg Pintz & Partners LLC (ID no. 28331) as the legal representatives of the Observers, we hereby submit our observations against the abovementioned trademark application on the basis of Article 40 (1) of CTMR.

Further to our opposition filed against the same mark, please find below our observation as well.

Pursuant to Article 7 (1) c) of the CTMR “*trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service*” shall not be registered.

Also, pursuant to Article 7 (1) (g) of the CTNR, *trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service* shall not be registered.

The goal of **Wikimedia** as a worldwide **non profit organisation** is to create and support free knowledge educative content. The core of the movement is realized by projects that collaborate with each other. These projects consist of group of people who form a community to manage the abovementioned aims.

Meta (Meta-Wiki) is an **independent and autonomous project** that function is to ensure a multilingual discussion forum used by **all members of the community** and to coordinate of all the projects. It is a community discussion surface that provides an important space for the community to organize and discuss movement issues. Meta serves several distinct roles as well. Such roles are to be the place to coordinate the development process, to organize and prepare content, to discuss “interlanguage” coordination issues, to help guide to using the MediaWiki software and to coordinate of anti-spam and small wiki anti-vandalism.

The same sign that is the subject of the application and this observation was designed by Artur Fijałkowski (PL) with the intention of unrestricted use as a **public domain logo** by the **community members**. It originated from a community effort to create logos to represent the **Wikimedia Community** and not the Wikimedia Foundation. The logo was intended to represent Wikimedia community projects which are **unaffiliated** with and not endorsed by the Wikimedia Foundation, so that the community could use a logo without having to request authorization from anyone (including the Wikimedia Foundation).

The community uses the sign to distinguish **Meta** from other projects since 2008. There was no ambiguity in the discussions in 2006 that it was to be a freely remixable, 'project neutral' community logo. Meta chose to use it as the meta-logo precisely because Meta **did not want to have a specially-trademarked logo** -- it is the place for remixing ideas from across all Wikimedia projects, and all parts of the movement.

See also:

<http://en.wikipedia.org/wiki/Wikipedia:Meta>

http://meta.wikimedia.org/wiki/Main_Page

https://meta.wikimedia.org/wiki/Talk:Community_Logo

<http://lists.wikimedia.org/pipermail/foundation-l/2008-September/045702.html>

The logo that was filed by the applicant is the same logo that is used in relation to services and content provided and activities carried out by the community members in connection with Meta.

As the sign **bears a clear meaning for the relevant public** to identify the community members' activity and services (and the related online content), the sign is merely an emblematic expression of the service that is in the list: "*an on-line community site for research, editing, publishing and other projects of Wikimedia*".

We also consider the sign to be **deceptive**: users (the relevant consumers) will associate the sign with the Meta community and the activity of the community members, and will expect the service under this sign to be **unaffiliated** with the Wikimedia Foundation (the applicant). Use and registration of this sign by the applicant will have the effect that the targeted audience will be confused as to the origin of the services and content available under this sign.

We ask therefore OHIM to please **reject the application**.

Very truly yours,



György PINTZ
patent attorney
GEORG PINTZ & PARTNERS LLC
OHIM ID: 28331