

Dr. John Alty

IPO Chief Executive and Comptroller General

Dear Dr. Alty,

I would appreciate if you could refer to the enclosed email, sent to TOBACCO PACKS CONSULTATION DEPARTMENT OF HEALTH in London, regarding the ASIPI's position in connection with the U.K. Public Consultation on Tobacco Plain Packaging Bill 2011.

Sincerely,

[REDACTED]

[REDACTED] ASIPI



Asociación Interamericana de la Propiedad Intelectual
Interamerican Association of Intellectual Property
Associação Interamericana de Propriedade Intelectual

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July 5, 2012

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ALLAN PILSON

Tobacco Packs Consultation
Department of Health
7th Floor Wellington House
133-155 Waterloo Road
London SE1 8UG
United Kingdom

Re: **Consultation on standardised
packaging of tobacco products**

COMITE EJECUTIVO

PRESIDENTE

FERNANDO TRIANA
Calle 93B No. 12-48 P. 4
Bogotá D.C., Colombia
presidente@asipi.org

VICE-PRESIDENTES

ILEANA MARTINELLI
Edif. Plaza 2000, Calle 50,
Apartado 0816-01098
Panamá, Rep. de Panamá
vicepresidentel@asipi.org

MA. DEL PILAR TRONCOSO

Socorro Sánchez No. 253
Santo Domingo, Rep. Dominicana
vicepresidentel2@asipi.org

SECRETARIO

JUAN VANRELL
25 de Mayo No. 576,
Cod. Postal 11000
Montevideo, Uruguay
secretario@asipi.org

TESORERO

RAFAEL COVARRUBIAS
Avenida El Golf No. 40, Piso 13
Las Condes, Santiago, Chile
tesorero@asipi.org

VOCALES

ELISABETH SIEMSEN

Rua Marquês de Olinda 70, Botafogo
Rio de Janeiro 22251-040, Brasil
esiemsenvocal@asipi.org

JUAN BERTON MORENO

Rivadavia 611-5° Piso,
Buenos Aires, Argentina
jbortonmorenovocal@asipi.org

JUSTIN R. YOUNG

160 North Wacker Drive,
Chicago Illinois 60634
U.S.A.
jyoungvocal@asipi.org

EX - PRESIDENTE

MARTIN MICHAUS

Paseo de los Tamarindos 400-A, Piso 9
Col. Bosques de las Lomas
05120 México D.F., México
presidentesaliente@asipi.org

Dear Sirs:

ASIPI is a non-profit organization, established in 1964, with the purpose of bringing together professionals interested in studying, disseminating and developing intellectual property laws in America.

ASIPI's objectives are advising the governments and intergovernmental entities on matters related to the unification of the intellectual property laws, as well as encouraging relationships with related entities, such as the World Intellectual Property Organization (WIPO).

It recognizes the efforts of the United Kingdom Government for the permanent hard work to improve the public health policy and the welfare of the population, which is a worldwide problem that requires the attention of the authorities, as well as the conscious of the society.

Although ASIPI takes no position in the public health policy, it was aware on the *Consultation on Standardised Packaging of Tobacco Products* and express its concern if it is adopted because as it seems, it would affect the rights of the trademark owners and restrict their ability to legitimate use of their trademarks.

Furthermore, if the *Standardised Packaging of Tobacco Products* is implemented in the ASIPI perspective, this could weak the trademark system and could have indirect and unintended consequences that go beyond the public health priorities.

ASIPI on June 5, 2011, concerned of this issue, sent the document attached to the Australian Government to submit our concerns regarding the "Draft Bill" open to public consultation on proposals to introduce legislation requiring plain packaging on all tobacco products.

ASIPI considers that the IP system specially trademarks, can be seen as a mean to guide the consumer and strengthen the public policy related to public health, rather than restrict their rights to the title owner and their ability to properly use as could happen with the implementation of *Standardised Packaging of Tobacco Products*.



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The approach set in paragraph 4.6 and 4.7 of the *Consultation on Standardised Packaging of Tobacco Products* as the information to be included in the Standardised Packaging of Tobacco Products could violate articles 7 of the Paris Convention, as well as article 8, 15(4) and 20 of TRIPs whereby it is provided that the use of trademarks shall not be unjustifiably encumbered by special requirements that could affect its capability to distinguish goods or services.

There should be taken into account medical, psychological and social considerations that the public health experts should seriously consider to prevent young people become smokers and smokers reduce or quit it, rather than the *Standardised Packaging of Tobacco Products*.

For the above considerations ASIPI position is that the *Standardised Packaging of Tobacco Products* should not be adopted, its introduction would create an illicit market and increase counterfeit products and would not prevent young people to consume or smokers quite to do it.

Likewise, ASIPI does not consider convenient to adopt the *Standardised Packaging of Tobacco Products* because it constitutes a restriction of rights but also the weakness of the IP system of the UK which has traditionally been a protector of the IP rights and respected worldwide.

Sincerely,

c.c. Executive Committee of ASIPI