INTA Comments on draft EUIPO Strategic Plan (SP) 2025 – comments to insert on each of the Strategic Drivers’ fields:

Strategic Driver 1: Interconnected, Effective and Reliable IP System

We commend the Office for its strategic goal of implementing an effective and reliable IP System. Such effectiveness and reliability are fundamental for users.

We believe that, in order to achieve such goals, the Office should focus on the quality of its services in priority. The journey of any company or individual willing to benefit from trademark and design protection starts with the ease of obtaining the design and trademark right itself. This should happen via easy, efficient, reliable, consistent, predictable and cost-efficient procedures and practices. Delivering quality services for trademark and designs users should be a priority.

In this regard, we believe that it should be clarified in this Strategic Driver that developing and fostering networks is a tool to achieve the above objective rather than an objective in itself. We support the Office’s efforts to network and develop ties with other institutions, authorities and associations dealing with IP. This should however be framed as a tool to ensure that quality, consistent, predictable and cost-efficient services are delivered.

Further, it is enquired how such enhanced coordination with different stakeholders can be achieved “for the benefit of IP offices and users”, without prioritization or distinction. As it is further developed in the comments to Strategic Driver 2, INTA is concerned by the lack of reassurance regarding users’ role in the Office’s SP 2025. Keeping users at the very heart of the Office’s priorities and strategy has been essential for EUIPO’s success story. In our opinion, EUIPO should clearly affirm that it will continue to be a user-driven organization and structure the SP accordingly.

Both the title and the text of this Strategic Driver speaks of Intellectual Property (“IP”) without any particular emphasis or even individualization of EU Trademarks (EUTMs) and Community Registered Designs (RCDs). In this respect, we recommend that EUIPO complies with the tasks as described in Article 151 EUTMR exhaustively; i.e., the administration and promotion of the EU trademark and Community Designs systems, the promotion of convergence of tools and practices in the fields of trademarks and designs, the handling of orphan works and the European Observatory for IPR infringements. Only the European Observatory for IPR infringements is meant in the legislation to cover all IPRs.

From an enforcement perspective, it is asked what more the Office should be doing to increase the efficiency of IP enforcement across Europe. In this respect, it should be clarified in the SP that, according to the relevant legal framework, it is the Observatory that is tasked with promoting and ensuring enforcement of IPRs. Moreover, where trademark infringements are concerned, only counterfeiting is mentioned (fourth paragraph of this Strategic Driver). The fight against counterfeiting remains a key priority for INTA’s membership. Nonetheless, we recommend that it be clarified that it is part of the Observatory’s strategy to address all kinds of trademark and design infringements and not only counterfeiting.

Regarding the question on how EUIPO can increase the understanding of IP by its citizens and policymakers, we refer to our comments on the Observatory that you can find in INTA’s general comments provided in attachment to this form.
In the questions section, it is asked how EUIPO can “make the IP system simpler and more accessible”. We believe that the answer to this question differs for each IPR as each has a particular scope and purpose. We believe that the Office’s focus and priority should be on providing an efficient and user-friendly trademark and designs’ registration system, taking into account its limited resources, legal framework and the reality that trademarks and design users represent the Office’s main contributors and prominent stakeholders.

Further, as far as the simplicity and accessibility of trademarks and designs are concerned, we recommend that the Office ensures the stability of the platform used (our members report that EUIPO’s website is down several times a week). There is also a tendency that more and more actions are managed by users and less by EUIPO (for instance, the download of the registration certificate, the opposition notice, some EUIPO communications, etc). EUIPO’s website is advanced but still lacks some user-friendly features. The system should be made more interactive and close contact with examiners should be facilitated.

Regarding the question on how the Office can make IP rights “more meaningful and competitive”, we question if this is the role of the Office. Again, we believe that if businesses are aware of the advantages of obtaining IP protection and can effectively obtain it through a seamless, predictable and user-friendly Office, they will be de facto more competitive.

In this Strategic Driver, the Office asks for suggestions and comments on how to “better address the needs of EU businesses”. INTA believes that such focus on fostering EU businesses does not take into account that the Office’s funds derive from its global community of trademark and design owners, not just EU businesses, and should therefore be dedicated to promoting the interests of all users independent of their geographical provenance.

Under this Strategic Driver it is asked what should the EUIPN priority areas be for collaboration and convergence of practices. Harmonization of tools and practices is important, and a goal that has always been supported by INTA. Businesses’ experience should be as similar as possible across jurisdictions. However, harmonization should not occur on the lowest common denominator and should continue to focus on subjects of key interest for users and for their benefit.

With the implementation of the EU Trademarks Directive, many national offices need a guidance for revocation and invalidity actions not existing before. In this respect, we believe that it would be useful to have a cooperation project to try to harmonize the practices of the national offices to the extent possible.

**Strategic Driver 2: Customer Centric IP Services**

First of all, we would like to emphasize that this should be the first Strategic Driver of the SP. The Office’s success will continue to derive from its capacity to stay close to the needs of users and to respond with corresponding services accordingly. “Improving quality, consistency and predictability” of the Office’s procedures, practices and services for trademarks and designs should be a priority objective.

Involving and consulting users as frequently and in as many instances as possible is essential to ensure that EUIPO excels at its tasks and “improve user experience”. We believe that the draft SP does not provide reassurance that users will keep on being at the center of the Office’s priorities. In our opinion, EUIPO should clearly affirm that it will continue to be a user-driven organization and structure the SP accordingly.
Further, in this second Strategic Driver, the term “user” seems to be mostly replaced by “customer”. We recommend that the word “user” be the one consistently used as it more accurately reflects that the Office provides a public service to the broad diversity of private stakeholders that contribute and therefore benefit and use the Office’s systems, tools and procedures to have their trademark and designs registered and administered.

We commend the Office for involving users in its activities and projects and hope that this continues to be the case. INTA continues to be a strong supporter and is actively participating and contributing to different initiatives. INTA highly values its role as a permanent observer at EUIPO’s Management Board and Budget Committee (MBBC), its participation in many European Cooperation Projects (ECP) working groups as well as in the Stakeholder Quality Assurance Panels (SQAP). For all such activities with an impact to users, timely and effective consultation, participation of user associations and feedback from the Office is essential.

In this respect, we have noted improvements regarding the opportunities to provide input to the Office as well as its responsiveness. We have verified this, particularly, as regards the distribution of presentations in advance of some meetings and communication of the Office’s feedback after we provide input on European Cooperation Projects. Nevertheless, we invite the Office to find new ways to increase and improve users’ involvement, and to be mindful of the very nature of the User Associations, which requires time to consult their members, before providing input and endorsing any project.

Interactive and constructive meetings, backed by prior consultation with members, and appropriate communication tools need to be encouraged. This means that documents/projects where users’ endorsement is requested at meetings should be shared with reasonable time in advance of the meeting, notably when projects are discussed for the first time at a meeting. In those cases, often the presentations do not provide enough information for User Associations to formulate a position that is truly reflective of their membership’s concerns. Time is needed to properly discuss the information provided by the Office at the meeting with the membership before forming a final position. It is important that the quality of the consultation prevails over the rush to proceed quickly with a project.

As concerns the different categories of the Office’s users, we note a strong focus on SMEs in this Strategic Driver, compared to other users. INTA fully agrees that SMEs are vital part of the European economy and should be supported. In this sense, we agree that the SP targets SMEs and includes tailored initiatives for such important stakeholders. Nevertheless, large companies and multinationals are equally important to the Office and are part of the Office’s users thus contributing to its funding. Therefore, we recommend that the SP explicitly clarifies that all businesses will continue benefitting fully of EUIPO’s projects and support, regardless of their size.

Further, as mentioned, considering its mission, framed by law, the Office should continue to be a user-driven organization, prioritizing its community of trademark and design users in the services, activities and support provided rather than EU citizens in general.

The Office asks if there are “any new tasks or services” that the Office could undertake to increase its added value to the EU and its citizens. Taking into account that the Office provides a public service, that its role and tasks are framed by law and its limited budget, we recommend that the Office considers any expansion of tasks cautiously.
Moreover, we note that EUIPO does not explain in the draft SP drivers how such “new tasks and services” would be funded. In this respect, we caution that EUTM and RCD generated funds should not be diverted to unrelated tasks. Fees paid by the Office’s trademark and design users should be dedicated to EUIPO’s core services of registering and administering these rights. An “equitable” funding by stakeholders dealing with other forms of IP rights and non-core services and projects needs to be considered, especially as EUIPO seems to intend on focusing on IP protection/all IPRs.

In this context of expansion of tasks, in Strategic Driver 2, the Office seems to suggest “including dispute resolution services” within its tasks. While INTA strongly supports the promotion of mediation, it has some reservations concerning the creation of a EUIPO Mediation Center, as foreseen by Article 170 of the EU Trade Mark Regulation. The potential creation of such a center should be carefully considered to avoid any bureaucratic and complex layer, which would take away the flexibility that mediation attempts to offer. In that sense, we recommend that the list of mediators referred to in Article 170 (12) expressly includes independent mediators that are not EUIPO employees. We further recommend that the EUIPO Mediation Center is presented as an alternative, and not the only route for mediation on EUTM and RCD cases. The SP should foresee further exchanges on the expansion of the tasks of the Office to include mediation services, not only on its necessity but also on its pragmatic and user-friendly implementation.

It is asked how the Office can use technological developments to improve user experience, efficiency and the quality services. We believe that accurately and effectively assessing quality is essential. For this purpose, INTA encourages the use of “real-time’ surveys as user satisfaction indicators, prior-testing by stakeholders and additional ways to encourage feedback from users. It should also be kept in mind that the human element should be preserved: while time and cost efficiency are important they must not jeopardize the quality and fairness of decisions. The use of technologies should not compromise the achievement of efficient, timely and high quality services to users.

In Strategic Driver 2, reference is made to the Office’s goal to offer “intuitive guidance throughout the full lifecycle of the IP rights, including before, during and after registration”. In this regard, we would like to refer to one of the questions (n.º 4) that INTA’s EUIPO Subcommittee of the Trademark Office Practices Committee shared with the Office on the occasion of our 2018 Annual Meeting. There we noted that EUIPO website features a section stating the following: “Our Information Centre staff can guide you both before and during the application process. From the trade mark type to the right goods and services, we can help you make the right choices” (still available at https://euipo.europa.eu/ohimportal/en/contact-us).

We then noted that that several national offices in the EU explicitly state that they do not provide legal advice in their websites and asked if EUIPO would consider adding a similar disclaimer on its website, namely that it does not provide legal advice, which can only be provided by IP professionals.

As the above text can still be found at the “Contact us” section of EUIPO website, we take the opportunity to restate that we believe this webpage section would benefit from a clarification that EUIPO does not render legal advice to its customers. We were very happy to see that, in its replies to the EUIPO Subcommittee’s questions, the Office noted that the contact us page and also the FAQ were being reviewed and that, in that context, it took good note of INTA’s suggestion and would analyze the best way to implement it. We hope that the Office is still willing to consider our recommendation and that, accordingly, it be clarified that EUIPO does not provide legal advice to its users.
Strategic Driver 3: Dynamic Organisational Skillsets and Effective Support to Services

INTA commends the Office for embracing technologies “while holding firmly to the principles of accountability, transparency, ethical behaviour, responsibility, team work and collaboration”. It is INTA’s strong wish that, in the coming years, EUIPO continues to become a more modern, forward-thinking, and transparent office, delivering a high-quality service to its trademark and design users, and thriving to remain close to their needs.

In addition, we are happy to read that the Office intends to manage the technology transition carefully with the intention of delivering “a better, higher quality service to users” and “supporting an organization that is agile and responsive”. As mentioned in our comments to Strategic Drivers 1 and 2, delivering quality services for trademark and design users should be a central priority in the Office’s 2025 Strategy Plan. The Office should focus on consistent, predictable and cost efficient registration of trademarks and designs and ensuring quality of its decisions and the services provided to users.

Nevertheless, we urge the Office to carefully approach the “increased automation” which the draft SP mentions the future is likely to bring. While INTA welcomes a modern, technology-savvy Office, able to provide cutting-edge services to its users, this should be balanced with a human element that ensures that decisions are taken by individuals able to judge on a case-by-case basis and taking into account all the relevant circumstances. Indeed, machines cannot replace examiners and while time and cost efficiency are important they must not jeopardize the quality and fairness of decisions. EUIPO must ensure efficient, timely and high quality services to users. The use of technologies should not compromise the achievement of these goals. It is also important that the Office tests any new features and tools before implementing them.

It is asked in what areas technological or organization changes can help EUIPO staff to ‘work smarter’. In this regard, we suggest that the Office continues to privilege more collegial decisions, with at least 2 examiners per case. Whenever a decision needs to be taken, the Guidelines should be used as a document providing direction rather than a rule to follow automatically and discussion among Examiners should be further encouraged.