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**STATUTES OF THE ‚AKTIONSKREIS GEGEN PRODUKT- UND MARKENPIRATERIE e.V.‘**

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## **Preamble**

The counterfeiting of products and trademarks increasingly causes excessive damage both to individual businesses and to the economic system in general. It seriously harms the consumer and raises noticeable problems in the area of social policy. Industrial competitiveness and the job situation are substantially impaired.

It was for these reasons, that the Federation of German Industry (BDI), the Association of German Chambers of Commerce and Industry (DIHK) and the German Brands Association (Markenverband e.V.) proposed founding the “Aktionskreis gegen Produkt- und Markenpiraterie e.V. (APM)”, the German Anti-Counterfeiting Association. Thus, Germany will have access to an institution for better combating this form of commercial fraud, similar to those already existing in other EU member countries.

## **Article 1                      Name, seat and legal form**

1. The name of the Association is „Aktionskreis gegen Produkt- und Markenpiraterie e.V. (APM)“.
2. Its seat is Berlin.

## **Article 2                      The Association’s objectives**

1. APM aims to promote the adherence to rules protecting intellectual property, to protect business from the violation of such rules, and to combat crime in that area.

The following are the main objectives in this respect:

- a) The supply of information, advice and support in combating the counterfeiting of products and trademarks as well as publications and lobbying in that field;
  - b) The promotion of cooperation and the exchange of experience throughout the business world, the organisation of seminars;
  - c) Improvement of the legal framework for enforcing industrial property rights and other legal means serving the protection of business performance;
  - d) The pursuance of infringements of industrial property rights, as well as of offences against competition law that are in connection with industrial property rights;
  - e) Cooperation with national and international organisations with respect to industrial property rights;
  - f) The provision of documentation;
  - g) Public relations activities.
2. The Association’s funds shall only be used for purposes which conform to the Statutes. Members shall not receive any rewards from the Association’s funds.

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**Article 3                    Membership**

1. Natural and legal persons, particularly owners or licensees of industrial property rights, who are willing and keen to further the aims of the Association as laid down in Article 2 may become members.
2. Applications for membership are to be submitted to the management of the Association. The latter shall inform its members of any applications. Objections to an application from a prospective member shall be submitted to the management of the Association in writing within 14 days of receipt of the letter of notice of the application. Acceptance of an application by the Board of Directors shall not occur until after expiry of this time-limit.
3. Membership commences upon payment of the first year’s dues.

**Article 4                    Members’ rights and obligations**

1. Every member has the right to use the Association’s facilities and to claim its support within the framework of the statutory activities of the Association.
2. Members shall inform the Association of experience gained at home and abroad regarding combating acts of counterfeiting. Knowledge received in this way shall be put at the disposal of all members.
3. The Association’s staff shall carry out their duties on a strictly objective, unbiased and confidential basis. This applies both towards the Board of Directors as well as towards the members of the Association.

**Article 5                    Resignations and termination of membership**

1. Membership will terminate:
  - a) Upon dissolution of a legal entity
  - b) Upon the death of a member
  - c) Upon resignation of membership
  - d) Upon withdrawal of recognition as a member
  - e) Upon loss of legal capacity.
2. Notice of resignation of membership must be given by registered letter to the executive secretary of the Association at least 6 months before the end of the business year.
3. Exclusion from membership shall only occur if the member:
  - a) fails to meet his financial obligations to the Association within 6 months after the due date in spite of a written reminder,
  - b) is permanently insolvent,
  - c) has lost the capacity to hold public office,

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- d) has acted contrary to the objectives of the Association, damaged its reputation or otherwise behaved in a manner which is unworthy of a member of the Association.
- 4. The Board of Directors decides on the withdrawal of recognition as a member.

**Article 6 Funding and the business year**

- 1. The Association is funded from:
  - a) Membership dues
  - b) Promotion amounts
  - c) Compensations for services rendered
- 2. The amounts and due date of membership dues will be proposed by the Board of Directors for approval by the general meeting of members.
- 3. The Association’s business year will correspond with the calendar year.

**Article 7 The Association’s bodies**

The Association’s bodies are:

- 1. The Members’ Convention
- 2. The Board of Directors
- 3. The executive secretary of the Association
- 4. The Board of Trustees

**Article 8 The Board of Directors**

- 1. The Board of Directors is composed of
  - the President
  - two Vice-Presidents
  - up to four other members.
- 2. The composition of the Board of Directors shall as far as possible fairly reflect the various sections of business among its members.
- 3. Each of the following organisations will nominate one member to the Board of Directors:
  - The Federation of German Industry (BDI)
  - The Association of German Chambers of Industry and Commerce (DIHK) and
  - The German Brands Association (Markenverband e.V.)
- 4. The Board of Directors in the sense of Section 26 of the German Civil Code (BGB) consists of the President and the two Vice-Presidents. Authorization to act for the Association in connection with both legal and non-legal

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matters according to section 26 of the German Civil Code (BGB) is given to the President and one of his Vice-Presidents jointly or with both Vice-Presidents.

5. The members of the Board of Directors are elected by the members' convention for a term of 4 years. The Board currently in office remains so until election of its successor is finalized.
6. The Board of Directors elects the President and the Vice-Presidents from among its members.
7. Should a Member of the Board of Directors leave office before the end of his term, then the Board of Directors may co-opt further members to serve on the Board until the next regular members' convention.

**Article 9 Rights and duties of the Board of Directors**

1. The Board of Directors is responsible for all the Association's affairs in so far as the Statutes do not mention these as being the responsibility of another of the Association's bodies. It must conduct the Association's business in such a way as to best serve the aims of the Association. It is authorized to utilize the funds. Its tasks are in particular:
  - a) To order the drawing up and presentation of the budget and the annual accounts;
  - b) To decide on applications for membership and the exclusion of members from the membership list;
  - c) The appointment, withdrawal and supervision of the management of the Association. The appointment and withdrawal of the management of the Association need to be carried out by unanimous vote of the Board of Directors.
2. In matters of special significance, the Board of Directors shall give the Board of Trustees the opportunity to voice its opinion.
3. The Board of Directors is authorized to – deviant from paragraph 13, lit. 5 – revise the statutes in the course of the enrolment proceedings which the registration court or the financial authority considers to be appropriate.

**Article 10 Decisions of the Board of Directors**

1. A quorum shall be constituted when all members of the Board were invited to the members' convention and at least three members are present in addition to the executive secretary of the Association or one of the vice-presidents.
2. Decisions of the Board of Directors are binding when approved by a simple majority. Decisions may be reached by circulating them to the members by letter or, in urgent cases, by telephone consultation; in the latter case, written confirmation is necessary.

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3. Minutes shall be kept of meetings of the Board of Directors. The minutes shall be signed by the Secretary of the meeting and circulated to all members of the Board of Directors.

**Article 11                    The Board of Trustees**

1. The Board of Trustees shall be compiled of organisations and professional groups as well as administrative bodies which are highly committed to combating product- and trademark counterfeiting.
2. Members of the Board of Trustees are elected at the initiative of the Board of Directors by the member’s convention of the association for a term of 5 years. The Board of Trustees currently in office remains so until election of the succeeding Board is finalized.
3. The Board of Trustees elects a Chairman and his deputy from among its members.

**Article 12                    Rights and duties of the Board of Trustees**

1. The Board of Trustees advises the Board of Directors on all matters of outstanding importance. It may submit suggestions for discussion by the Board of Directors or at the members’ conventions.
2. The Board of Trustees shall meet once a year or as required. A meeting shall be called, if 5 of its members request so. The rules for the members’ conventions will apply accordingly to deadlines for calling meetings and to voting procedures.

**Article 13                    Members’ Conventions**

1. The Members’ Convention
  - a) Elects the Board of Directors;
  - b) Elects two auditors to audit the annual accounts;
  - c) Approves of the actions of the Board of Directors and the Management of the Association;
  - d) Approves of the budget and the annual accounts;
  - e) Lays down the rules for membership dues and
  - f) Decides on amendments to the Statutes.
2. A general meeting shall be called at least once during the business year. It shall be chaired by the President or one of the Vice-Presidents.
3. Extraordinary members’ conventions shall be called when necessitated by the interests of the Association, or at the written request of the Board of Directors or at least one third of all members giving the reasons for and purpose of doing so.
4. The Board of Directors draws up the agenda of members’ conventions and calls them by means of individual written invitations to members enclosing

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the agenda. The invitation shall be issued 3 weeks before the date of the meeting.

5. A resolution is considered passed upon receiving the vote of the majority of members present. In the event of a tie, the vote of the President of the meeting shall be decisive. Amendments to the Statutes require a majority of  $\frac{3}{4}$  of the votes cast. This also applies, in modification of Section 33, para. 1, 2<sup>nd</sup> sentence of the German Civil Code (BGB) as well in regards of changes in the Association's objectives. Members in the sense of Article 3 of these Statutes may vote by proxy when providing written authorization.
6. Resolutions passed by the members' convention shall be noted in the minutes signed by the President as well as the Secretary of the meeting and shall be circulated to the members.

**Article 14                      Rights and duties of the management of the association**

1. The executive secretary of the Association administers the day-to-day affairs and the Association's funds.  
In the course of day-to-day affairs, the executive secretary of the Association is a special representative in the sense of para. 30 of the German Civil Code (BGB) and is solely authorised to represent the Association.
2. The executive secretary of the Association is in coordination with the Board of Directors as well responsible for the preparation and call of the members' convention and for the compilation of the agenda.
3. The management of the Association is responsible for the completion of resolutions by the members' convention.
4. The management of the Association shall keep records of income and expenditure. The annual accounts, drawn up by the management of the Association and approved by the Board of Directors, shall be audited by two auditors authorized by the members' convention and shall be presented to the members' convention.
5. The executive secretary of the Association shall prepare the annual budget plan.

**Article 15                      Dissolution of the Association**

1. Dissolution or suspension of the Association shall take place according to the applicable law.