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| Marco Buschmann, Minister of Justice **Federal Ministry of Justice**  Mohrenstraße 37  10117 Berlin |  | |
|  | | [Place], [\_\_] October 2024 |

Dear Sir,

Request for participation in Case C-211/2024

As the member of the German construction toy community, I would like to draw your attention to the preliminary ruling procedure no. C-211/2024 (the “**Preliminary Ruling Procedure**”) currently pending at the Court of Justice of the European Union (“**CJEU**”).

The Preliminary Ruling Procedure was initiated by the first-level Hungarian IP court in relation to the interpretation of certain provisions of the Community Design Regulation (the “**Regulation**”). The case is about the community design rights (“**CDR**”) of the LEGO Group. LEGO has approximately 250 CDRs registered at the European Intellectual Office (“**EUIPO**”).

Currently, one or two building blocks in the box of a toy building sets consisting of thousands of building bricks which are alleged to be infringing one of LEGO’s 250 CDRs may result in the ban of the importation, distribution or sale of the entire toy model and the entire distribution of competing products in Germany and the European Union (“**EU**”). This creates substantial issues for German and European small and medium enterprises (“**SMEs**”) and consumers who try to sell or buy competing products at lower prices.

Being an informed user of construction toys, I would like to express my view as to the queries raised in the Preliminary Ruling Procedure.

As to the first question, I confirm that, due to the highly technical nature of construction toys and modular systems, even the minor differences between CDRs and the building bricks of competing toys involved in the case are sufficient to create a different overall impression. In such cases, informed users can differentiate between the building bricks of LEGO and of competing toy makers.

As to the second question, I confirm that the ban on or the restriction of the distribution and the sale of complex construction toy models and the shipment of such models on the basis of the CDRs in relation to a handful of building blocks available in the boxes is highly disproportionate and damages fair competition and consumer welfare. This creates a barrier to the sale of construction toys using a modular system which is in the public domain and should be freely available to all.

The current legal environment requires urgent clarification. SMEs and consumers do not have sufficient resources to defend themselves against the CDR bullying/challenges raised on the basis of LEGO’s CDRs or to challenge the CDRs of LEGO in front of the EUIPO or the competent courts. Thus, there is a risk that LEGO will extend its expired, public domain patents thanks to the CDRs, and, this way, strengthens its market position in an unfair manner.

Therefore, I sincerely request the Federal Ministry of Justice to interfere in Minister of Justice to participate in the Preliminary Ruling Procedure and represent the views of German SMEs and consumers set out above on behalf of the Federal Republic of Germany.

Sincerely,

[Signature]