

SUMMARIES

THE EUROPEAN PATENT WITH UNITARY EFFECT AND THE ENVISAGED NEW PATENT COURT

Dr. Tivadar Palágyi

After the failures of various attempts to establish a community patent system in Europe, in August 2000 the European Commission proposed a regulation for a EU patent. Notwithstanding 10 years of negotiations, the conclusion appeared to be that agreement cannot be reached on a joint approach of all EU Member States. In view of an urgent need to create a less costly patent system in Europe and, taking into consideration that the costs for translations are by far the most significant cost factor, the failure to achieve unanimity on this important issue prompted the European Commission to present a proposal which opened the way for an „enhanced cooperation” to create unitary patent protection. This option would allow the participant Member States to agree upon and to establish a unitary patent which would be valid and recognised throughout the participating Member States.

The Commission proposed a regulation implementing enhanced cooperation in the area of the creation of unitary patent protection and an other regulation concerning the translation arrangements for the European patent with unitary effect. The establishment of a Unified Patent Court in the EU is also under consideration.

IP AWARENESS OF HUNGARIAN SMES: CONCLUSIONS OF A REPEATED QUESTIONNAIRE

Dr Loretta Huszák – Eleonóra Mészáros

The Hungarian Intellectual Property Office (called Hungarian Patent Office at the time) repeated a survey in 2009 to measure IP awareness and knowledge of the Hungarian small and medium-sized enterprises and to assess the effectiveness of IP information channels and tools. The survey examined not only the situation in 2009, but also assessed the changes that had taken place since 2005. The results show that although the SMEs became more aware of the value of IP, their IP protection activity did not increase significantly.

THE COMPARISON OF RULES RELATED TO THE ASSIGNMENT OF HUNGARIAN TRADEMARKS WITH THE RULES RELATED TO THE ASSIGNMENT OF COMMUNITY TRADEMARK PROTECTION, WITH SPECIAL REGARD TO THE THEORIES OF INTELLECTUAL PROPERTY

Barna Arnold Keserű

The cover of market function of trademarks depends on the legal regulations of their transfer. However, it is necessary to dogmatically define the legal nature of the trademarks. Are they things, a set of rights or rights like things? The study seeks to answer this question with the help of the past ages and today's theories of (intellectual) property, and to interpret the current law in the light of the answer, potentially exposing its weaknesses and inconsistencies. All of this is associated with the analysis of the relating EU law.

TRADEMARK INFRINGEMENT BY DOMAIN NAME REGISTRARS

Dr. Sándor Vida

Sec. 27/4/ of the Trademark Act, as amended in 2005, provides enforcement against intermediaries whose services are used by a third party (that is usually the infringer itself) for the infringement. In the HYUNDAI case the registrars of the domain names, trusted by the resalers of cars, who were formerly members of the HYUNDAI commercial chain in Hungary, were sued together with the resalers, because they did not cancel registration of the domain names when the commercial chain was ceased. The Hungarian courts of first and second instance built their judgements on ECJ's BMW judgement (C-63/97). Reported is also on a case relating to infringement by an operator of an internet home page, as the latter was condemned by the Hungarian court of first instance for not complying with the Act on Electronic commerce. Though the court of second instance condemned him not for that, but for tort in respect of the provisions of the Civil Code, e.g. for injury of reputation. The article is closed by an outlook an ideas on development of EC law relating to liability of intermediaries.

“SIMPLY COMPLICATED...” REFERRALS SUBMITTED TO CJEU CONCERNING SPCS FOR COMBINATION PRODUCTS

Zsuzsanna Buzás Nagy

The article summarises the hot issues raised by the latest references from the UK to the Court of Justice of the European Community in cases No. C-322/10, C422/10, C-518/10 and C-630/10. In the center of the legal dispute stands the question, are there further or

different criteria for determining whether or not “the product is protected by a basic patent” according to Article 3(a) of the EU Regulation 469/2009 in case of a combination product comprising more than one active ingredient, and, if so, what are those further or different criteria? Another important issue is, whether in case of multi-disease vaccines are there further or different criteria for determining this question?