

SUMMARIES

LAWSUITS ON BIOTECHNOLOGY PATENTS: WHAT CONSTITUTES EXHAUSTION AS OPPOSED TO INFRINGEMENT? THE SIGNIFICANCE OF THE FIRST RULING OF THE COURT OF JUSTICE IN THE BIOTECHNOLOGY FIELD

Csaba Seregélyes

For the first time, the Court of Justice of the European Union has interpreted an article (No. 9) of the Directive 98/44/EC (the so called Biotech Directive) in its recent decision. This decision is linked to one of the three court cases that were started by the biotech giant Monsanto in three different countries of the EU (The United Kingdom, The Netherlands and Spain) against three different companies. Monsanto has a European patent protection including the gene that serves as a basis of Monsanto's Roundup Ready transgenic plants resistant to the weed killer glyphosate. Because Monsanto has no patent protection of this invention in Argentina, Monsanto sued those companies that import to Europe the soymeal prepared from the transgenic Roundup Ready soybean for the alleged infringement of its European patent.

WHAT DID 2010 BRING TO THOSE SHARING FILES?

Péter Mezei

2010 was a busy year in the world of P2P filesharing. Judgement was passed in the case of The Pirate Bay, Mininova closed its doors, and private users were fined by – constitutionally questionable – thousands of dollars in the United States. Besides the court proceedings new strategies have been emerged. The three strikes system has been launched in France and Ireland, whilst in the United States domains are also seized in order to battle filesharing. The users flexibly react on these events. The use of P2PTV services is increasing, a new trackerless torrent client has been invented, and the popularity of online anonymity and direct download link services is constantly growing. The tension between the rightholders' and the users' side will probably grow in 2011; however, it is not unreal to expect the improvement of the situation. Besides the repressive effects of the legal provision it is to be hoped that the scope of legal services will expand, that may contribute to bringing back the "infringers" to the territory of lawfulness.

USE OF MARKS ON COMPARISON LISTS

Dr Sándor Vida

L'Oréal sued before the High Court of Justice for trademark infringement Bellure and others for use of comparison lists. In these the defendants advertised perfumes saying that those have identic characteristics (and in particular smell) as those sold under the plaintiff's marks. The High Court granted the action, the defendant filed appeal. The Court of Appeal referred to the ECJ for a preliminary ruling. The latter held (C-487/07) that the advertisers gained advantage unfairly taken of the reputation of the marks of the plaintiff within the meaning of Art. 3a (1)(g) of the Comparative Advertising Directive. Several comments were published on ECJ's ruling. Pro by Box, Morcom, Visser, Smith and Montagnon, contra by Björkenfeldt, Ohly, Burrell and Gangjéc. The judge of the British Court of Appeal was not happy with ECJ's ruling, his judgement can be considered as a "votum separatum". Though he applied the ECJ's ruling correctly.

SPACE-PRECES AND TRACES CD-ROM COLLECTIONS

Ágnes Vadász

Hungarian Intellectual Property Office played an important role in utilizing CD-ROM technology in information services from the beginnings. The publications mentioned in the title were realized with the aid of a PHARE project. As a model of effective international cooperation, they were important information tools on patents and trademarks in the Central European region.