

SUMMARIES

OUR NATIONAL SYMBOLS IN TRADE MARK LAW – PART I

Mihály Ficsor

Coming into force, the new Constitution of Hungary brought about changes also in the regulation of the utilization of our national symbols. On the basis of article I), Act No. CCII of 2011 on the application of the national colours and arms of Hungary was accepted, establishing the conditions of obtaining a trademark or design protection with them on. Taking into consideration these extremely important events of legislation, the regulation of the relationship of trademarks and our national symbols is surveyed, with an outlook to international, European and Hungarian rules and the history of regulatory enactments.

RHETORIC OF FILE SHARING – THOUGHTS ON THE MARGINS OF AN ARTIFICIAL DISPUTE

Péter Mezei

The phenomenon of filesharing puts pressure on the development of copyright law since 1999. The experiences of the previous decade show that the filesharing dilemma cannot be easily solved. The fact that this dilemma is kept before the public eye is partially due to that the copyright holders and the users alike use rhetoric that makes it impossible to settle the filesharing dispute by a compromise. The shoreless use of terms like “pirate” and “piracy” by rightholders – mainly in the United States but on the European continent as well – is capable to stigmatize users on the one hand, and it doesn’t help to let these people understand and accept the purposes of copyright law on the other one. At the same time users similarly refer to themselves with these expressions (see for example the pirate parties) in order to express their revolt against the standing regime. Similarly to this rightholders apply the terms “theft” and “property” in respect of filesharing without any justification. The use of all these expressions was not born by naivety; however, their willful inclusion into the rhetoric of both the rightholders and the users makes it difficult, if not impossible, to solve the legal uncertainties generated by filesharing.

LEGAL PRACTICE OF LIKELIHOOD OF CONFUSION REGARDING TRADE MARKS IN THE TRADE MARK LAW OF THE UNITED STATES, THE EUROPEAN UNION AND HUNGARY

Barna Arnold Keserű

The study aims to identify those factors which may substantiate the statement of likelihood of confusion of different marks. Apropos of this, the case law of the U.S. federal courts, the decisions of the European Court of Justice and the OHIM, and in respect of Hungary the practice of the Hungarian Intellectual Property Office and domestic courts will be subject of critical examination.

PSEUDOMARK AND DOMAIN NAME REGISTRATION IN BAD FAITH

Dr Sándor Vida

The object of the legal suit was whether a pseudomark filed for the purpose of subsequently registering as a domain name with using the favourable opportunities granted by the domain name Regulation No. 722/2002 ED can be subject of revocation, if bad faith is established. The Austrian Supreme Court made reference to the ECJ, which in his judgment (C-569/08) established the conditions that the national court must take in consideration relating to trademark law and to domain name law. Reported is on commentaries of Ernst, Viefhues and Puhr. The author of this report holds notable the use of analogy with the Lindt case (C-529/07), judgment rendered under trademark law; the parallel to abuse of law; the probability of increase of the argument “bad faith” in coming cases, considering expanding of competition.

EXPERIENCES OF ELECTRONIC GOVERNMENT DEVELOPMENTS AT HUNGARIAN INTELLECTUAL PROPERTY OFFICE

Dr Zsuzsanna Tószegi

From 1 March 2011, the official industrial property and copyright registers are available on the HIPO website. The newly established IP search database is available from the end of May 2011. Experiences of the first year of new or rebuilt e-business services of the HIPO are shown in the article.