

SUMMARIES

CRIMINAL PROTECTION OF INTELLECTUAL PROPERTIES – PART II.

Dr Andrea Kardos – dr Dorottya Szilágyi

The study examines the practical issues relating to IP crimes, reflects the learnt problems and seeks the solutions. In the second part of the article the authors analyze the sentence practice established in the IP crimes, including the sanctions concerning the criminal liability of legal persons. From the field of procedural law the study gives a brief introduction of the experts' opinion, the rights of the injured party, and the mediation as the most important instrument of restorative justice.

COMPARISON OF THE OPPOSITION PROCEDURE UNDER THE EUROPEAN PATENT CONVENTION AND THE HUNGARIAN REVOCATION PROCEDURE

Zsófia Kacsuk

In the present paper the author gives an overview and comparison of the revocation of a patent granted under the Hungarian patent law and of a patent granted under the European Patent Convention. In the last chapter the author examines legal questions of the Hungarian patent law which are considered to be insufficiently regulated and provides suggestions for eliminating legal inadequacy and uncertainty.

LIKELIHOOD OF CONFUSION? POSITIVE LAW AND PSYCHOLOGICAL BACKGROUND OF THE LIKELIHOOD OF CONFUSION REGARDING TRADE MARKS IN THE USA, THE EU AND HUNGARY

Barna Arnold Keserű

This study aims to present and compare the rules of substantive law of the likelihood of confusion of the marks in the USA, the EU and Hungary, and to define critical comments upon it. The paper pans out about the historical development and current state of the average consumer and the newer psychological explanations of the risks of confusion.

THE RIGHT OF COMMUNICATION TO THE PUBLIC IN THE CASE LAW OF THE EUROPEAN COURT OF JUSTICE

Gábor Faludi – Anikó Grad-Gyenge

The study analyses the recent case law of the European Court of Justice related to the right of communication to the public. The ECJ's practice can be qualified as an active interpretative work because it writes out the frame rule of the Information Society Directive on right of communication to the public. According to these decisions the neighbouring right of communication to the public includes the making available to the public which is present at the place where the communication originates, but the authors' right of communication to the public doesn't cover these acts. Because of this difference the unified interpretation of the ECJ shall cover only the cases where the communication is realized by wire or wireless means and the public is not present at the place where the communication originates. Publicity can be simultaneous (pub) and successive (hotel room, dentist's waiting room). So the unified interpretation does not cover the acts which are qualified in some Member States as communication to the public, but in others as public performance, where the non-successive public is present at the place where the communication originates.

COMPETENCE OF CTM COURTS: WEBSHIPPING

Dr Sándor Vida

The proprietor of the CTM WEBSHIPPING, registered for mail delivery sued for infringement the owner of the sign "Web Shipping" which was used for an internet-based mail management service. Injunction was ordered by French courts of first and second instance, but limited to France alone and not EU-wide as requested by the plaintiff. The latter requested revision and the French Supreme Court referred to the ECJ. In his judgment the ECJ /C-235/09/ held that the territorial scope of injunctions and coercive measures to enforcement should extend to the entire area of the European Union. Reported is on commentaries of Smith and Gould, Brazell and Hilary, Batteson, Georges and Ziegenhaus. The author of this report states that ECJ's judgment is well founded considering the unity character of CTMs. Though considering multiple languages and multiple phonetics, current in the European Union, he believes that CTM courts will order injunctions for the entire area of the European Union mainly in favour of reputed marks.