

SUMMARIES

LEGAL PROTECTION OF KNOW-HOW ON THE BASIS OF THE NEW CIVIL CODE AND THE ANALYSIS OF THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN UNION ON THE PROTECTION OF UNDISCLOSED KNOW-HOW AND BUSINESS INFORMATION – PART II.

Dr Gábor Jenei

After the first part on theoretical questions and the Hungarian regulation of know-how this part presents the international rules of know-how and trade secret protection, firstly turning to the TRIPS Agreement which is notably the reference point for the unique national regulations, thus for the Hungarian regulations as well. The study is concluded with the analysis, review and evaluation of the directive proposal of the Council of the European Union.

PROTECTION OF THREE-DIMENSIONAL FORMS

Bogárka Lehoczki

This article is about the conditions of the protection of 3D shapes. Besides the traditional way of designs to obtain an exclusive right on an extensional shape, now the emerging generation of trade marks provides us a new alternative. Since the product and its shape do not diverge acutely, this change has caused a structural turn related to trade marks and IP law. To define the bourne between designs and trade marks raises lots of issues in the field of concurence and consumer protection.

THE PRESENT AND FUTURE OF HYPERLINKING, BASED ON THE LEGAL PRACTICE OF THE UNITED STATES AND THE EUROPEAN UNION

Dr Andrea Tóth

While the use of hyperlinks is a global phenomenon on account of their relevance in the functioning of the internet, the legal assessment of links is far from being uniform. Besides the presentation of the current U.S. jurisprudence on hyperlinking, the main focus of this paper is the critical analysis of the CJEU's decisions. In order to find the right legal assessment of the relationship between hyperlinking and the exclusive right of communication to the public that is also conform with international law, the European legislator ought ot look

into the option of introducing an exception to copyright with regard to the differences of various types of links, instead of the „new public” factor and besides express and implied licences.

EFFECTS IN HUNGARY OF THE REPUTATION OF A CTM ACQUIRED IN OTHER MEMBER STATES – IMPULSE

Dr Sándor Vida

The application for BE IMPULSIVE was opposed by the owner of the CTM IMPULSE. The application was rejected by the Hungarian Intellectual Property Office. The applicant requested review. As the CTM was reputed in the United Kingdom and Italy, but not known in Hungary, the Metropolitan Tribunal referred the case to the EU Court of Justice requesting preliminary ruling in respect of the application of Article 4(3) of the TM Directive. In its judgement the EU Court of Justice (C-125/14) replied that if the CTM had acquired a reputation in a substantial part of the European Union the national tribunal had to take account of all relevant factors of the case. Reported is on comments of Grabrucker, Knaak, Pósa, Hekker and Nadarjah. The author of this article believes that the General Attorney’s idea is convincing, namely “in case of identical or similar goods the transfer of advantage would appear almost self evident” (opinion para 48). Moreover he observes that the proposal of the Hungarian Government was substantially identical with the conclusions of the General Attorney and with those of the EU Court of Justice.