

SUMMARIES

CONFLICT WITH PUBLIC ORDER AND PUBLIC MORALS IN TRADE MARK LAW

Dr István Gödölle

The paper deals with basic concepts of public policy and morality according to the Hungarian Trademark Act and case law. Trademarks contrary to public policy and to accepted principles of morality are excluded from trademark protection. According to the case law signs contrary to public policy are symbols of despotism, signs offending national symbols, signs supporting or benefitting crimes or terrorism, and signs against human dignity and offending a significant section of the community. Signs contrary to accepted principles of morality include immoral, aggressive, vulgar, pornographic signs, those insulting persons or communities, and being detrimental to known personalities. The paper also deals with the matter of regulations for the use of collective marks and certification marks which regulations contain provisions contrary to public policy, morality or any provision of law other than trademark law.

THE MYRIAD DECISION OF THE U.S. SUPREME COURT

Dr Tivadar Palágyi

The Court of Appeals for the Federal Circuit decided on August 2012 that the separated gene sequences and their mutations used in diagnostic methods are patentable. This decision was attacked by several firms. On this basis the U. S. Supreme Court announced its decision on June 13, 2013. According to this decision a DNA segment is a product of nature and not patent eligible merely because it has been isolated, but cDNA is patentable because it is synthetically created.

As a practical matter, the decision of the Supreme Court will probably result in the heightened sensitivity of the USPTO Examiners to patent eligibility criteria with regard to DNA sequences. At the same time, the Myriad decision promises to spawn an avalanche of attempts to invalidate US patents on gene sequences.

CONFLICT OF A MARK AND A DESIGN – JUDGEMENT OF THE EU COURT OF JUSTICE

Dr Sándor Vida

The owner of a Community figurative mark registered in Classes 25, 28 and 30, which represents a silhouette of a sitting, angry little boy requested invalidation of a Community design representing a silhouette of a serious little boy registered for T shirts, hats, etc. OHIM and its Board of Appeal ordered declaration of invalidity of the contested design. The owner of the design brought an action for annulment of OHIM's decision. The EU General Court annulled the attacked decision. The appeal filed by the owner of the mark and by OHIM were dismissed by the EU Court of Justice (C-101/11 and C-102/11). The latter hold that the General Court did not exceed the limits of his competence when reviewing OHIM's statements of facts, namely assessing the general impression. Moreover it hold, that the notion of "informed user" is not necessary identical in trademark law and in design law. Reported is on some comments: Hartwig criticised the judgement, Becker, Ebert-Weidenfelder and Hing are satisfied with it. The author of this report said, that different appreciation of the notion "informed user" in trade mark law and in design law can be found already in the PepsiCo judgement (C-281/10) of the EU Court of Justice and the idea is convincing.

THE FIRST JUDGEMENT OF THE EUROPEAN COURT OF JUSTICE IN RELATION TO COMMUNITY DESIGN – EXAMINING THE INFORMED USER AND THE DIFFERENT OVERALL IMPRESSION

Dr Barna Arnold Keserű

The study outlines the first decision of the European Court of Justice related to the Community Design. In the No. C-281/10. P. case the European Court of Justice had the opportunity for the first time to analyse substantially the Council Regulation (EC) 6/2002 of 12 December 2001 on Community Designs, and to estimate the limitations of Community Designs. In the paper the previous case history, the proposals of parties and legal arguments are briefly reviewed. Special attention is paid to the Advocate General's opinion and the Court's legal arguments. The greatest achievement of the decision is the explanation of the term „informed user” and the establishment of the further case law.

COMMENTS TO BARNA ARNOLD KESERŰ'S STUDY "THE FIRST JUDGEMENT OF THE EUROPEAN COURT OF JUSTICE IN RELATION TO COMMUNITY DESIGN"

Gusztáv Szöllősi

With reference to the study in question, the author considers the provisions of Act XLVIII of 2001 on the legal protection of designs, which interpreted 98/71/EC even before the member states within the frames of national regulation.

BIRDS OF A FEATHER FLOCK TOGETHER – ON THE MARGINS OF AN EXHIBITION

Rita Tóth

As from May 201, the library of the Hungarian Intellectual Property Office carries on offering its services under the name 'János Frecskay Special Library' with an unchanged collection interest. The new name is an homage to János Frecskay, late general director of the Auxiliary Services of the Royal Hungarian Patent Office established in 1896, who was also the first managing editor of the Patent Gazette.