

SUMMARIES

A NEW SET OF COMMENTS ON THE LEGAL PRACTICE IN INDUSTRIAL PROPERTY CASES

Mihály Ficsor

This article addresses two current issues of Hungarian jurisprudence in trade mark law cases. Firstly, it points out that the Hungarian Patent Office, under a proper interpretation of the relevant provisions of the Trade Mark Act, cannot proceed to the publication of the trade mark application (and thus to the opposition phase of the registration procedure) if it finds that an absolute ground exists for refusing that application. Secondly, it deals with the relationship between press law and trade mark law, stressing that the mere registration of newspapers and periodicals under press law does not give rise to any IP-like exclusive rights concerning the titles of those publications.

THE EXAMPLE OF THE DUTCH COLLECTIVE MANAGEMENT SYSTEM

Dr. Anett Pogácsás

There are lots of interesting questions on the field of collective management of copyright and related rights which have to be solved, but these kinds of problems require serious work of experts not only in Hungary. The harmonization in the European Union, the digital environment and the new technical opportunities and challenges give a similar task for copyright experts Europe-wide. The Dutch system of collective management can give us a very useful example, because collective management organizations in the Netherlands apply a lot of new solutions, they face similar problems in their system like ours, and they stress not only innovation and development but also harmonization making beneficial suggestions and taking special care of quality, cultural diversity and the different interests.

THE NEW RULES GOVERNING MEDICAL INDICATIONS IN EPC2000 AND IN THE REVISED HUNGARIAN PATENT ACT

Zsuzsanna Buzás-Nagy

Under the previous legal framework the patent protection of inventions relating to second medical indication in Europe was limited to use claims (in the Swiss-type form). The new Article 54 (5) of the revised EPC 2000 permits purpose related product protection for

each further new medical use of a substance or composition already known as a medicine. The other important change is that the exclusion of methods of treatments and diagnostic methods from patentability according to the former Article 52 (4) of EPC has been moved into Article 53 as new paragraph (c), since these methods are excluded in the interest of public health and not for their lack of industrial applicability.

The same rules were introduced into the Hungarian Patent Act (Act XXXIII of 1995 On the protection of inventions by patents). The changes according to EPC 2000 took effect from December 2007, however the provisions concerning the entry into force of the Act enable the applicants to modify the existing Swiss- type claims for purpose related product claims in pending applications as well.

In the article some practical borderline cases are dealt from the field of second medical indication. The importance of the appropriate wording of the patent claims and the proper assessment of novelty and inventiveness of the new medical use is highlighted.

EXAMINATION OF THE PARTICULARLY DISTINCTIVE CHARACTER

Dr. Sándor Vida

The applicant filed application for a CTM, namely a design of a fir tree of humorous character with the wording Aire Limpio. The owner of a prior CTM, registered for identical goods with the figure of a fir tree filed opposition.

OHIM's Board of Appeal, as well the Court of First Instance (T-168/04) rejected the application holding that opponents mark has a particularly distinctive character, moreover it is well known in Italy.

Knaak in a study on particularly distinctive character (Kennzeichnungskraft) of a CTM agrees with the opinion of the Court of First Instance that the requirements of particularly distinctive character and reputation of CTMs ought to correspond to the same criteria, but disagrees that the fact that a CTM is well known in one country should be sufficient for the whole Community.

The author of this paper approves *Knaak's* first conclusion, but discusses with the second one. He believes that the Court used the new terminology „particularly distinctive character” just with the aim to avoid a definition of the territorial requirements of reputation.

THE BEGINNING OF THE HUNGARIAN PHARMACEUTICAL INDUSTRY

Anikó Fehérvári

The article presents the most important milestones of the Hungarian pharmaceutical industry, demonstrates the development manifested in the patents. Although the establishment of pharmaceutical companies was a risky enterprise in an underdeveloped country like Hungary, still they could develop successfully, as a result of their own research and the recognition of the importance of license purchasing. The Hungarian pharmaceutical industry exhibited spectacular progress after the First World War, and there were over 40 pharmaceutical plants and larger laboratories operating by 1939.