

SUMMARIES

THE ECONOMIC ROLE OF DESIGN VS. INDUSTRIAL DESIGN PROTECTION

Dorottya Simon

The significance of design shows an explicit upward trend in all fields of industry and services. The characteristics of new solutions, products and services, input statistics and legal disputes in high-tech industries clearly reflect this tendency, which is also indicated in the growing number of intellectual products under protection. The aim of the author is to examine if statistical data concerning design applications draw a comprehensive, empirically supported picture on the role of design in market competition. The conclusion is that there is some contradiction between the up-to-date, broad interpretation of design and the traditional legal notion of industrial design protection.

CERTAIN INTERPRETATION QUESTIONS OF FEES PAID WITH REGARD TO PRIVATE COPYING IN THE PRACTICE OF THE EUROPEAN COURT OF JUSTICE

Dóra Hajdú

The paper aims to discuss the delicate question of private copying levies in the case law of the Court of Justice of the European Union. The starting point of the analysis is the principles elaborated in the Padawan case, précised by later preliminary rulings. The purpose of the study is twofold: on the one hand to discover the ambiguity of the reasoning of the Court of Justice and on the other hand to demonstrate the possible angles of reconsideration of private copying in the European copyright law.

BAYER'S COMPULSORY LICENCE CASE IN INDIA

Dr Tivadar Palágyi

This contribution treats at first the compulsory licence in general, thereafter the regulation of the compulsory licence in India. The next chapter outlines the compulsory licence granted to Bayer's sorafenib-tosylate patent in India. Here the timeline of the case examines the evidence submitted by both parties and the substantive issues forming the basis of the decision of the Indian Patent Office. Thereafter, the author describes, after Bayer's appeal, the decisions of the Intellectual Property Appellate Board and finally of the Bombay High Court (BHC). In the end the author draws a lesson from the case and summarizes the questions raised by the decision of the BHC.

TRADE MARK, DOMAIN NAME, METATAG

Dr Sándor Vida

Defendants in the main proceedings registered and used in their domain name and in their metatag the trade name and the mark of the claimant: BEST. The Antwerp Commercial Court condemned the defendants for misleading advertising. The Antwerp Court of Appeal dismissed the claim, ordered to stay proceedings and referred the case to the Court of Justice of the EU requesting clarification of the term “advertising” in context of the case. The latter (C-657/11) held that the use of a domain name and that of metatags in a website’s metadata in a situation such as in the main proceedings must be interpreted as advertising. By contrast, the registration of a domain name is not encompassed by that term. Reported is on comments of Knaak, Wenn, Köhler, Rauer and Pfahl. The author of this report underlines the diverse terminology in the directives on advertising and that on electronic commerce. He observes that Köhler goes even further, he requires that the EU Commission should use in the future identic notions in directives regulating neighbouring fields.