

ABCOR's ABChronicle



Trademarks

Competition bagged by Kipling

Kipling has registered her device as a European Community trademark. The device has a prominent place on all of Kipling's products. Because of this Kipling's bags are easily identified. Upon encountering a similar looking device from her competition Wibra, Kipling immediately filed a lawsuit. The outcome was quite sensational, as were the damages to be paid, € 640,000.- in total, to Kipling.



The court decided that Kipling's device was a well known mark in Belgium. Visually the two devices were deemed extremely similar, both sporting the same circles and patterns. The fact that Wibra's logo contained the entirely different text ABCINISPORTS, did not affect the court's decision.

Cristiano Ronaldo, is a real "Community"-man

Rumors are increasing that Cristiano Ronaldo will transfer from Manchester United to Real Madrid. Madrid allegedly promised the Portuguese soccer player to play under shirt number 9. His current number is 7. Interestingly, Cristiano Ronaldo has recently filed the mark "CR9" to be registered both as a Portuguese trademark and as a Community trademark, as well.



The Origins of Rome

Often trademarks contain geographical indications solely for marketing purposes. Examples are the Dublin Boxspring by Auping and the Mount Everest Pen from Pelikan. Use of a trademark in this way is not without risks, however. Recently the well known trademark ROMA was refused by the



Swiss authorities because the trademark did not originate from Italy. A remarkable decision since the trademark is registered in over 20 different countries.

Picture of Marlene is a trademark

Pictures and names of celebrities and performers are often registered as a trademark. Apparently it is not necessary that the celebrity is still alive. Recently the estate of Marlene Dietrich has registered a picture of the former movie star as a trademark. The registration was granted for clothing and diaries, it was refused, however, for videos and CDs.



The consumer would most likely assume that a picture on a CD or book would refer to the content rather of the product rather than its origin.

Club Maxi-Cozy to change its name

In Leiden, where we are located, a number of volunteers used to organize an evening at their club aimed at maximal coziness. Having a nice drink together in their newly and aptly named club Maxi-Cozy seemed like a good idea.



Zaterdag 12 Mei - LVC, Leiden

MAXI COSI, manufacturer of children's car Seats did not quite agree with this, and demanded an immediate ceasure of any use of the name by the club. The reason given by MAXI COSI was that as a well know trademark the activities of club Maxi-Cozy might harm the reputation of MAXI COSI. We do not entirely agree with this stance, but since the case has been settled outside of court we will never know what the eventual outcome would have been.

Ghost invoices and con artists

CoC - CoC

An unfortunate, and seemingly indestructible element of our business are ghost invoices. Companies, from parts unknown, send non suspecting applicants of new trademarks an invoice, in return for something that seems critical and necessary, but really is not. More often than not applicants assume they are

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dealing with actual authorities, making this a very lucrative scandal. Recently we encountered a ghost invoice that appears to be from the Dutch Chamber of Commerce. They referred to themselves as the Chamber of Customers, and were using a device that was very similar to that of the Chamber of Commerce.



ghost invoice



above: CoC logo below:ghost logo

Fortunately the real Chamber of Commerce took immediate action, and prevented 350,000 invoices from being sent. Unfortunately 1.4 million invoices were already sent before this. The amount to be paid to the Chamber of Customers was € 149.- per invoice. It is estimated that one in ten recipients of ghost invoices actually pays them.

New with Abcor

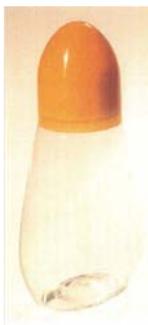
François Mol has joined our firm on January 1st. After finishing law school François has worked for various trademark agencies, increasing his experience with each of them. In the past few years he worked for Arnolds & Siedsma, Considine Consultants and Bouma. At Abcor he will focus mostly on the national market.



Designs

Nothing sweet about this honey jar

In both France as well as the Netherlands there is an on going legal battle regarding the shape of a honey jar. In this case it becomes very apparent that registering a design is a custom made matter. Most companies do not realize that the European authorities accept just about every design image. A formal check whether or not the design as already been filed by another party is not preformed. A design



registration on and of its own does not give any certainty regarding the actual scope of protection.

Abcor BV, merkgemachtigde met een marketing/ reclame achtergrond - praat wel zo gemakkelijk.

In this case the designer of a honey jar used a picture of his honey jar with a yellow cap. The purpose of the picture was to show the shape of the jar itself, not the cap. The court, however, decided that the design has to be seen as a whole, including the cap. On that basis the application was deemed invalid. Luckily the designer still had copy rights to her product. Nonetheless, it should be duly noted that the pictures accompanying a design application are presumed to give complete and exhaustive information on the design.

Domain names

Solex claim e-solex.nl

With the increased popularity of mopeds and electronic bicycles, the trademark SOLEX experiences a true revival. The manufacturer introduced a new, completely restyled moped under the name E-solex. Only to find out that the domain name e-solex.nl had already been claimed, by a company that deals in electronic bicycles as well. Claiming to own a well known trademark Solex successfully reclaimed the domain name.



Typo squatting not always profitable

Typo squatting (registering domain names that contain a typo) are becoming an increasingly bigger pest. In the United States, however, Verizon has retaliated against a company that had registered over 600 domain names containing a typo. Claiming this to be an infringement on her trademark rights Verizon was awarded a reimbursement of \$ 50,000 per domain name. This amounts to over \$ 30 million.



Abcor BV

Abcor is an IP law firm, located in the Netherlands. Our specialty is consultation with regards to intellectual property matters, trademarks, designs and domain names in particular. Our services include the registration of trademarks and designs, searches, infringements and oppositions.

Suggestions for ABCOR's ABChronicle may be sent to: info@abcor.nl

Sources: Adformatie, BIE, BMM, Boek9.nl, Class46.eu, Domjur.nl, Elsevier, GPD, IER, Nu.nl, OHIM.eu, PCM-dagbladen SIDN