

Land Rover stops the Land Glider

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In October of 2009 Nissan introduced the Land Glider during the Tokyo Motor Show. A narrow two person car, in which you are seated behind each other, that hangs a bit in corners just like a motor cycle. A new concept of urban car. The name is slightly reminiscent of the supposedly indestructible Land Rover. When Nissan files for trademark protection Land Rover starts a procedure to prevent registration. Both trademarks start with the element LAND, which, according to Nissan, refers to land vehicles and is thus not distinctive. Furthermore, there are many other car brands which contain the element LAND.

Nissan does not provide any proof of this, however. The first verdict rules in favor of Land Rover. The trademarks Land Rover and Land Glider have been applied for identical goods and are deemed too similar. Because of the reputation of Land Rover the consumer may also assume that Land Glider had some kind of link with land Rover. As a result the trademark is refused. The European trademark authorities still have to rule on the European application. In general they are a bit more lenient, there is still some hope for Nissan.

Designs and copyright

Ban during opening at Trade Mart

Christina Arvin Hembo is a jewellery designer from Denmark. Her jewellery is composed of expensive material such as gold, silver and precious stones, which can be attached to leather bracelets. Each piece of jewellery has its own name, such as passion heart and four leaf clover. The jewellery is for sale in over more than twenty countries, through various distributors, such as th company Endless. In order to protect her rights Christina has protected her creations as European designs. Problems arise when Endless starts to offer jewellery that is very similar to Christina's designs. Even the names of the jewellery is identical, such

as passion heart. The only difference is the price, which is lower. When Christina notices that this collection is about to be presented at a large fair in Utrecht, she files legal action and requests a ban on the products. The court decides that the jewellery is in all likeliness an infringement on Christina's IP. Because the fair was about to open the very next day Christina was allowed to enforce a ban on the stand of Endless, along with a potential fine of € 15,000 per day. Strategically this was a very good move. Not only did it hurt the infringer financially, but publicly as well.



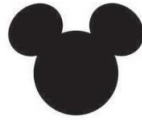
Trademarks

Deadmau5 – Disney: 1-1

Canadian Joel Thomas Zimmerman, better known as DJ Deadmau5, has been battling with Disney over his logo. For over ten years the DJ has been using a round LED helmet with two large ears during his performances. The corresponding logo was subsequently filed for protection as a trademark for many goods and services, such as entertainment services, BMX bikes, bags, clothing, toys, liquor and food. This application was objected by Disney in the United States. The logo is too similar to Disney's trademark from 1999, a silhouette of Mickey Mouse's head and ears. This trademark was also registered for a large number of goods and services. As such Deadmau5's application would harm Disney's activities.



Applicant's Mouse Ears Mark



Disney's Mouse Ears Mark

Deadmau5 does not give up the fight and strikes back at Disney. (This is probably done to try and come to a settlement). Deadmau5 tweeted that Disney was infringing his intellectual property rights. In Disney's Re-Micks cartoon Deadmau5's music "Ghost 'n' Stuff" is used, which he never gave Disney any permission for. Disney is held liable for all damages. You may follow Daedmau5 on Twitter to stay up to date in this ongoing war

Who is the mole? Quiz

In order to prevent coat tail riding, names and logos of television shows are often registered as trademarks. Use is allowed if a license fee is paid. IDTV is the owner of the name and the logo of the show "WIE IS DE MOL?" (Who is the mole?), which is registered in the Benelux. Not just for TV shows but also for games, hotels and travel services. Travelling agency Sawadee obtained a license to arrange trips to locations where the TV show was taped.



TB Events organizes company trips under the names: Boer zoekt vrouw, Holland heeft Talent, Peking Express, Seks in the City etc, all names of TV shows. Until recently there were also trips named "Wie is de Mol Lunch?", "Wie is de Mol aan tafel?" en een "Wie is de Mol? Quiz". Because TB Events does not pay for this use IDTV sues them. The court decides that the names TB Events uses are almost identical to IDTV's trademark. The only added elements are completely descriptive. TB Events also uses the trademark for similar services as IDTV's registration. The court therefore rules that this use is an infringement. TB Events is prohibited from using the names any longer and has to pay IDTV's legal costs.

Dracula; scope of normal use

A trademark registration is a powerful tool to prevent another company from introducing a product with a similar name. This is, however, not always the case. In most of the European Union if a trademark is older than five years it is subject to use. The trademark authorities will judge whether the use of the trademark constitutes normal use in commerce, for the type of good it has been used for.



Earlier registered mark



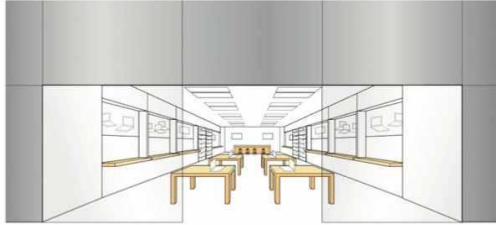
new Dracula mark

Dracula was registered as a trademark in 1995 in Romania for liquor. The proprietor of this trademark objects against a European application for Dracula Bite, filed by a competitor. Because Dracula is a trademark older than five years the owner must prove that the trademark is in use. Only six invoices were provided as proof, corresponding with a sale of just 2,500 bottles in the past five years. Much too little for an area as large as Romania, where a lot of vodka is consumed. The competitor is allowed to register Dracula Bite.

Trademark protection for store layout

Apple has been trying to protect the look and feel of her store in Europe as a trademark for a couple of years now.

Apple stores, due to their unique design and use of glass panels, brown square tables, a glass stair case and built in lighting, have a distinct look. Research proved that consumers in the United States recognized the interior of an Apple store immediately as such. Even if the logo is not on the wall. With this research in hand Apple succeeded in obtaining a trademark registration for her store layout in the United States.



Based on this registration protection was sought in several countries in Europe. In Poland and Italy the trademark was directly accepted, but in the Benelux and Germany it encountered problems.

The German authorities inquire with the European Court whether a store lay out may or may not be protected as a trademark. The Court gave a very clear answer to this question this summer: Yes. The layout should be distinctive, though. The consumer must immediately be able to recognize who the goods offered in the store are from. The extent in which the layout differs from what is common will determine the ease with which it may obtain a registration. This ruling may have some positive consequences for stores such as supermarkets.

Trademark Redskins not allowed?

For some time now there has been controversy over Washington DC's football club the Redskins. The first trademarks of this club are from the 1960's. According to the club the name is a reference to honor and courage. Native Americans, however, believe that the name is condescending, to say the least. In the dictionary the word red skin is also described as racist and discriminatory.



In 1993 the National Congress of American Indians decides that the name of the club is condescending, racist and hurtful to Native Americans.

Although the final word has not been said on this case, the American trademark authorities already decided to cancel the trademark registration. The reason for this being that the trademarks are discriminatory. The club may still use the trademark, but may find it very difficult to act against merchandising products from third parties. This may turn into a financial disaster. The Washington Redskins have filed an appeal against the cancellation, which means that for the time being they may still invoke their trademark rights.

Designs

Happy Cocooning- photo or drawing?

For some Designs are often filed with the use of drawings, however, if texture or material is essential to the design, it is sometimes better to use photos. Happy Cocooning sells table furnaces. The Cocoon tables are massive square or round composite garden tables with a gas burner assembled inside them. The tables have a concrete look to them because they have been sand waxed. At the bottom of the table there is a small caving, which makes it look as if the table is standing on legs.



Because the material is an important part of the look of the table photos have been used for the design application. When a similar product was introduced on the market (the Cosy Living Lounge), a legal procedure soon followed. The court decided that the distinctive elements have been copied (including the concrete look) and that there is therefore an infringement.

