



TRADEMARK WATCH ON THE INTERNET

Internet has broadened and reshaped the way in which we all understand business, but at the same time poses serious risks and threats for brand owners. Thus, watching and analyzing the use of the trademark and the company's corporate identity on the Internet is a new battlefield for brand owners if they want to be aware of what is going on in the virtual world regarding their trademark rights.

Our new trademark watch service on the Internet detects unfair or non-authorized uses of brands, monitors online piracy and scans social networks in order to deliver precise information to make timely decisions. Building up brand value on the Internet is not only about promotion but also about protection.

EU CUSTOMS REPORT

Last July 24, the European Commission published its yearly report on customs control of Intellectual Property rights in 2011. The amount of counterfeiting and detained goods has increased by 15% compared to 2010, their market value amounting to €130 billion.

Medicines are still the most detained products, with a 24% share. Among them, dietary products and fake Viagra are the most common. Packaging material, tobacco, textile and leather goods as well as electronic products complete the list.

As to the origin of the goods, China is the source to 73% of the total amount, and a certain specialization in different sectors has been detected in the rest of countries of origin. Thus, Turkey has specialized in the food industry, Panama in alcoholic beverages, Thailand in refreshing drinks and Hong Kong in mobile telephones.

THE EU INTERNAL MARKET TURNS 20

Twenty is a good age, especially when talking about trademarks. The OHIM was a strategic tool for the implementation of the single EU market. A Europe with no trade or custom borders also meant a single IP rights market. The challenge has been met with great success with respect to trademark and design rights. The numbers are appealing: more than 1M applications, with a consolidated growth of 142% since 1996, when the OHIM was established, with an average increase of 8% per year. Spain ranks as the fifth main applicant of the system. The advantages and savings envisaged for a EU-12 have done nothing but largely increase with a EU-27. At this point, IP rights holders only need a unified patent system in Europe for a "Happy Ending".

VALORTEC CONTEST

Oficina Ponti proudly sponsors the second edition of the VALORTEC contest on patent business plans and technology-based companies organized by ACC1Ó, an agency of the Catalan Government.



TWO NEW EPAS AT PONTI

This summer, two professionals of our Firm passed the European Qualifying Examination: Pablo Blanch, Industrial Engineer and Physicist, and Rafa Moreno, Chemist. With this success we expand our team to a total of 5 EPAS in all major technological fields. Congratulations to our hard-working workmates!

WORKSHOP AT THE TEKNON FOUNDATION

On October 4 an awareness-raising session on IP took place at The Teknon Foundation in Barcelona, a non-profit organization linked to the Teknon Medical Center that promotes and supports scientific research in the healthcare sector. Our EPAS Pablo Blanch and Rafa Moreno gave the presentation "Patents in Healthcare: Transforming ideas into inventions".

AGENDA / EVENTS:

20-24.10.2012

International Association for the Protection of IP.
AIPPI - Seoul. Korea

27-31.10.2012 Asian Patent Attorneys Association.
APAA - Chiang Mai. Thailand

02-05.12.2012 Asociación Interamericana de la Propiedad
Industrial. ASIPI - Punta del Este. Uruguay.

THE UNITARY PATENT: LIGHT AT THE END OF THE TUNNEL?

The European patent, established in the seventies, was a first breakthrough towards harmonization of the procedures to obtain patent protection across about forty European states party to the European Patent Convention. The Convention makes it possible to file and prosecute before the European Patent Office (EPO) a single patent application drafted in a single language up to its granting in a centralized and thus cost-effective and time-saving procedure.

However, under the present system, once the European patent is granted, it is necessary to validate the patent in those individual states where patent protection is actually sought. Thus, the advantage of having a single procedure disappears as the European patent falls apart as a bundle of national patents, which have to be dealt with before each national patent office according to different national laws and in different languages. Consequently, patent proprietors face significant costs at the validation stage.

The European industry has been calling since long ago for a truly unitary European patent system, in which a single patent right would be effective throughout the European Union (EU), as a catalyst to enhance Europe's competitiveness with respect the United States, China or Japan, and as an incentive for innovation at an affordable cost, specially for SMEs.

Unfortunately, discussions on the unitary patent system have been long deadlocked due to differing views among the EU states on matters relating to its implementation, the most controversial issues being of political nature: the choice of "official" languages of the unitary patent and the location of the future European Patent Court. However, recent breakthroughs on these two issues make us more optimistic about the coming about of the unitary patent system, which could be in place by spring 2014.

The first breakthrough came in February 2011 when, after an initial failure to reach a language agreement among all the EU states, the European Parliament voted favorably to an "enhanced co-operation" for the implementation of a unified patent system administered by the EPO. According to the enhanced co-operation scheme, upon the granting of a European patent, the unitary patent will be automatically valid throughout the territory of the participating EU states in the EPO language in which it was granted. Currently, all the EU states with the exception of Italy and Spain have adhered to the enhanced co-operation scheme.



Josep Mumbrú
Head of the Patent Department
European Patent Attorney

More recently, the agreement reached by the EU states in June 2012 on the location of the Central Division of the European Patent Court represents the second breakthrough, and maybe the definitive one, in the road towards the unitary patent, as this Court will have exclusive jurisdiction in infringement and revocation proceedings involving European and unitary patents.

The EU states have agreed to establish in Paris the seat of the Central Division of the European Patent Court and satellite courts in Munich and London to deal with patents relating to mechanical engineering, pharmaceuticals and chemistry respectively.

The unitary patent will coexist with the current validation-based system so that, at the grant of a European patent, the patent proprietor will choose whether to have a validation of the European patent with individual territorial effect in each designated country, or a unitary patent with unitary territorial protection in all the EU states participating in the enhanced co-operation scheme. Of course, the validation system will remain unchanged for those EPC contracting states that are not EU states as well as for Italy and Spain.

Under the new system, patent proprietors will benefit from a simplified "validation" procedure (where cost can be reduced by 70% with respect to the present system) and fewer renewal requirements. Moreover, the establishment of a centralized European patent litigation system will benefit innovative companies by bringing down litigation costs and increasing legal certainty.

But this unitary territorial character of the unitary patent may, in certain circumstances, be regarded as a disadvantage. For example, it will no longer be possible to transfer the unitary patent, or to abandon it, in one single country. This "inconvenience" can nevertheless be handled with creative licensing agreements. Also, if the patent is deemed to be invalid in a single EU state, then this will mean that the patent will be cancelled in all the participating EU states. However, this risk is clearly outweighed by the fact that infringement is also determined, and damages awarded, at the European level.

In conclusion, and although decisions should be made on a case by case basis, applicants should consider the upcoming unitary patent as part of their patenting strategy.

Experts in Intellectual
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