



Question Marks

THOMSON COMPUMARK NEWSLETTER

October 2005

We hope to be able to welcome many of you to one of our Infodays. This is the ideal opportunity for you to find out all you need to know about our new products and services and to tell us what you think of our current range and how we can provide you with even better support in the future. In 2005, we have focused primarily on further developing our electronic services. Not only can you rely on us for assessing potential legal conflicts or protecting your rights; we can also help you increase your productivity. Over the forthcoming Infodays the emphasis will therefore be on the workflow of your organization: we will be happy to show you what we can do for you.

Jan Broeckx
Managing Director

FOCUS

- 4 *Industrial designs on the way up!*
- 5 *Search E-Services Reports: compile your own report in a flash*
- 7 *A worldwide network of reliable partners*

Thomson CompuMark
Global Trademark Solutions

THOMSON
™

Portugal's own database

Thomson CompuMark has expanded its range of internal word mark databases to include a database for Portugal. From now on, Portuguese trademarks will be fully integrated into the report of a similarity or identical search for Europe. Of course, we guarantee the same quality as for our other databases.

For a trademark search for Portugal, you therefore receive:

- the same layout as the other Thomson CompuMark reports;
- full text information for the selected trademarks;
- a consistent selection across all our databases;
- automatic translation of the goods and services list into English.

Trademark searches for Portugal also contain, in addition to the national trademarks:

- company names ("nomes de estabelecimento");
- company signs ("insignias de estabelecimento");
- logos ("logótipos").



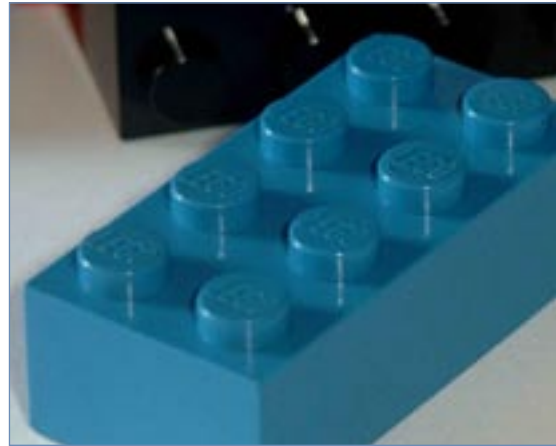
New on SAEGIS: Portugal and Latvia

The Portuguese database is now also available on SAEGIS. At the same time, we have also added the database for Latvia; in all respects this is comparable to the databases for Central Europe.



>> COMPETITION OR IMITATION?

It is not always easy to protect your product from imitation and “dishonest” competition on the market. This is possible in the IP world, by registering patents, industrial design and trademarks. Nonetheless, the ultimate decision lies with the courts in cases of conflict. While one court may decide in favour of the plaintiff, its counterpart in a different country may not necessarily do likewise. We found a couple of decisions in legal cases to demonstrate this, both involving the LEGO® trademark.



‘Confusion is possible’

A Dutch court recently banned the manufacturer of Mega Bloks from selling its own building bricks in the Netherlands. According to the court, the bricks in question are an imitation of the famous LEGO bricks and Mega Bloks should sell its bricks in different sizes (smaller or bigger than a LEGO brick) in order to avoid consumer confusion. Mega Bloks appealed the court’s decision. This particular case between the two manufacturers has been ongoing since 2002 and does not seem to be over yet.

‘The doctrine of functionality’

In Canada, a similar and long-running legal case between KIRKBI / LEGO Canada Inc. and Mega Bloks turned out slightly differently. The decision of the Trial Court was upheld on appeal. Part of the judges’ ruling was based on the doctrine of functionality. According to this doctrine, the plastic building bricks are regarded as primarily functional and, as a result, can not be regarded as a unregistered or registered trademark. In the case, Mega Bloks alleged that the LEGO Group was attempting to extend its patent monopoly through asserting trademark rights. The LEGO Group argued that the shape of its brick is in fact an unregistered trademark and that it can assert a passing off action against Mega Bloks for using the mark on packaging and in advertisements. This case was heard by the Canadian Supreme Court in March and the parties are currently awaiting a decision.

Sources: Managing Intellectual Property, INTA Bulletin

Industrial designs on the way up!

In the previous edition of this newsletter, we answered the most frequently asked questions about international trademarks. Now, we are repeating the entire mental exercise for industrial designs.

What is an industrial design?

It is the two-dimensional or three-dimensional external appearance of a product or object. It is derived from the characteristics of the lines, contours, colours, form, texture or materials of the object itself or its decoration. In the first instance, an industrial design has aesthetic properties and does not offer protection for the technical aspects of the product.

Does an international Classification exist for industrial designs as well?

Of course: the Locarno Classification for industrial designs includes 32 main classes and 223 sub-classes and gives a detailed description of the relevant goods in each case. A new version is published every five years. The 8th edition has been in use since 1 January 2004. More information can be found on the WIPO web site and, in particular, from the following link: www.wipo.int/classifications.

What is an International Industrial Design?

If you register a model as an International Industrial Design with the WIPO, you can enjoy automatic protection in some or all member states of the Hague Agreement. This does for industrial designs what the Madrid Protocol and Agreement do for word and image marks.

This Agreement has been in force since 1925 and currently covers 42 countries: Belgium, Belize, Benin, Bulgaria, Croatia, Egypt, Estonia, France, Gabon, Georgia, Germany, Greece, Hungary, Iceland, Indonesia, Italy, Ivory Coast, Kyrgyzstan, Latvia, Liechtenstein, Luxembourg, Macedonia, Moldavia, Monaco, Mongolia, Morocco, Namibia, The Netherlands, Nigeria, North Korea, Romania, Senegal, Serbia and Montenegro, Singapore, Slovenia, Spain, Surinam, Switzerland, Tunisia, Turkey, Ukraine and Vatican City (situation on 26 April 2005).



What is a Community Design?

If you register a model as a Community Design with the OHIM you automatically enjoy protection in all European Union member states. The procedures for Community Designs are very similar to those for Community Trademarks.

How many Community Designs have been published in recent years?

Year	2003	2004	2005 (status on 4 juli)
Number	40 114	52 903	18 740

Which countries publish the most Community Designs? Provisional total for 2005 (situation on 30 June)

Country	Number
1. Germany	5 505
2. Italy	4 171
3. United States	2 052
4. France	1 941
5. Spain	1 794

Source: <http://oami.eu.int/>

What can Thomson CompuMark do for you?

In addition to a search in almost every member state of the European Union, Thomson CompuMark also allows you to **search** Community Designs and International Industrial Designs by design or owner. Since many applicants also register their image mark as an industrial designs, we recommend that you combine both types of search.

Moreover, Thomson CompuMark can also **watch** your Community Design for you. This is possible by model and by owner.

Search E-Services Reports: compile your own report in a flash

Thanks to Search E-Services Reports, you no longer need to retype complete goods lists or put trademark copies through the scanner. Below are some tips to make things easier for you.

1 Do you want to incorporate a table into your report?

Select the table by blocking it and then right-click with your mouse. This allows you to load the table into Excel and process it further.

2 Do you want to edit the original (pink) summary list of selected trademarks?

In that case, retrieve it electronically from us. Look under Preferences: retrieval is possible during the first two weeks after on-line delivery.

3 Do you ever look at the computer list at the end of an analysed search?

In that case, it is a good idea to use the "Show all hits" option and show these extra trademarks on your screen. With one simple click, you can see all the details for them, entirely free of charge.

4 Do you prefer to compile a report per country?

You can. Via the query, you can filter the trademarks for a certain country. Using the mail function each time, you can obtain a Word document electronically for each country.

The screenshot shows the 'Trademarks reported' section of the Search E-Services Reports interface. A table lists trademarks with columns for Country, Number, Trademark, and Status. A blue bracket on the left side of the table is labeled with a circled '1'. Above the table, there are control buttons: 'Show all hits' (circled '3'), 'Print' (circled '4'), and 'Show only hits' (circled '2'). The interface also includes a search bar and various filters.

Country	Number	Trademark	Status
USA	0001	...	...
USA	0002	...	...
USA	0003	...	...
USA	0004	...	...
USA	0005	...	...
USA	0006	...	...
USA	0007	...	...
USA	0008	...	...
USA	0009	...	...
USA	0010	...	...
USA	0011	...	...
USA	0012	...	...
USA	0013	...	...
USA	0014	...	...
USA	0015	...	...
USA	0016	...	...
USA	0017	...	...
USA	0018	...	...
USA	0019	...	...
USA	0020	...	...
USA	0021	...	...
USA	0022	...	...
USA	0023	...	...
USA	0024	...	...
USA	0025	...	...
USA	0026	...	...
USA	0027	...	...
USA	0028	...	...
USA	0029	...	...
USA	0030	...	...

For more information about Search E-Services, please ask our Customer Support Department for the brochure or watch the demo on our website under 'useful information'.

Want to increase your efficiency? Come to our Infodays!

In October, the Thomson CompuMark team again takes off on a European Tour to present all its latest innovations. This year, our Infodays will focus on the various E-Services we have developed for you.

How can you best integrate our E-Services into your workflow and, as a result, increase your efficiency? In an interactive presentation, you can find out about all the possibilities of Search E-Services and Watch E-Services. Some customers will also talk about how they have used these on-line applications and have thus simplified their day-to-day activities.

If you have not yet received an invitation, you can also register on-line through our web site. There you will find all practical information.

We would like to welcome you to one of the following sessions:

12 Octobre 2005	Zurich
14 Octobre 2005	Paris
18 Octobre 2005	Antwerp
27 Octobre 2005	Stockholm
03 November 2005	Amsterdam
10 November 2005	Paris
15 November 2005	London
17 November 2005	Geneva
22 November 2005	Vienna
23 November 2005	Munich
24 November 2005	Frankfurt
28 November 2005	Hamburg
29 November 2005	Berlin
30 November 2005	Cologne



A worldwide network of reliable partners

Thomson CompuMark is constantly expanding its range of databases. It is also very important to maintain close contacts with foreign partners and trademark organizations. The person responsible for these contacts is Jacqueline Verwerft, Business Manager 3rd Parties.

In countries where Thomson CompuMark does not yet have its own database, we rely on carefully selected partners for our searches. "Close contacts with correspondents all over the world are invaluable," says Jacqueline Verwerft. "Thanks to them we can offer consistently high quality on every continent".

Clear arrangements about fixed quality standards and turnaround times ensure that the work of the correspondents meets our high standards – although this is not as easy as it sounds. Jacqueline Verwerft explains, "Trademark offices in smaller and economically weaker countries do not always have the most effective search systems and are often also subjected to local legislation. We have developed a special procedure in order to overcome this dual problem."

This involves supplementing the local searches with a screening in our own worldwide database, which you may know from our Identical Screening Searches (ISS). "This database contains all new trademarks first published since 1976. In addition, we also search for identical and phonetically identical trademarks and trademarks sharing the same prefix," explains Jacqueline Verwerft.

In brief, the bar is just as high for the searches and databases by our correspondents as it is for our own work. Jacqueline Verwerft again, "Thanks to the years of intense collaboration with our partners, the special procedures and quality controls, our searches have maximum depth and consistency in all corners of the world."



Jacqueline Verwerft,
Business Manager 3rd Parties.

Question Marks is the newsletter of Thomson CompuMark Europe, Middle East & Africa and is published three times a year.

You can also find this newsletter on our website at <http://compumark.thomson.com>

Editors

Sint-Pietersvliet 7, 2000 Antwerp, Belgium

Tel + 32 3 220 72 11, Fax + 32 3 220 73 90, compumark.questionmarks@thomson.com

Would you like to write an article?

If so, please contact **Ringo Van Oost**.

Do you have a question about our services?

Call our **Customer Support Department**.

Copyright © 2005 Thomson CompuMark

Where, when and what?

Match each city to the correct year and the corresponding brief description and win a golf practice set!

Where?	When? <i>Pick one:</i>	What? <i>Pick one:</i>
The Hague	1883	device marks
Lisbon	1891	classification of trademarks
Locarno	1925	classification of models
Madrid	1957	industrial property
Madrid	1958	international trademarks (Protocol)
Nice	1968	international trademarks (Agreement)
Paris	1973	international industrial designs
Vienna	1989	Appellations of origin

As an example, we have given you “**Paris – 1883 – industrial property**” because a convention was held in Paris in 1883 on the protection of industrial property. This is one of the concepts on which all subsequent IP systems were to be based.

ANSWERS TO THE PREVIOUS QUIZ:

Did you put the correct class with the correct product? You should have had the following results:

Product	Class
lipstick	3
chain saw	7 *
drumsticks	15
wig	26
Christmas decorations	28

* As correctly stated on many of the entries, a chain saw belongs to class 7. However, this was not one of the possible classes listed. Since all entries gave class 7 or 8, we accepted both answers for all entries.

The following five readers submitted the correct answers and will soon be flying high with their new luggage trolleys:

- Ms Laurence Rey - Germain & Maureau - France
- Ms Bettina Warmus - Viering, Jentschura & Partner - Germany
- Ms Anne-Gaëlle Peters - Kirkpatrick SA - Belgium
- Mr Luiz Blanc - Reinhold Cohn Group - Israel
- Mr G.E. Smith - Harrison Foddard Foote - United Kingdom

> Send your solution by e-mail to compumark.questionmarks@thomson.com or fax it to + 32 3 220 73 90

Mrs

Mr

NAME: _____

COMPANY: _____

ADDRESS: _____

COUNTRY: _____