



32nd ANNUAL CONFERENCE
BUCHAREST, 19-22 June 2013

ECTA
European Communities Trade Mark Association

The legislative package has been released:

How is it going to affect all of us

Country perspectives - Effects of the proposed amendments to the TM Regulation on national Jurisprudence

Beate Schmidt, President
Federal Patent Court, Germany

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Article 3 Definition of a trade mark

- Any sign, particularly words, designs, letters, numerals, colours as such, shape of goods, sounds....
- being represented in a manner which enables the competent authorities and the public to determine the precise subject of the protection

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Article 3 Definition of a trade mark

C - 273 Sieckmann, 12 December 2002

a sign which is not in itself capable of being perceived visually, provided that the representation is clear, precise, self-contained, easily accessible, intelligible, durable and objective

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Article 4 Absolute Grounds for Refusal

Art 4 para. 2 extends the examination of grounds of non - registrability – e.g. distinctiveness, descriptiveness, public order etc. – to the situation in other Member States than those where the application for registration was filed.

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Article 4 Absolute Grounds for Refusal

According to Art 4 sec 3 a trade mark shall be declared invalid where the application was made in bad faith. Any Member State may also provide that such a trade mark shall not be registered.

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Article 16, Use of trade marks

- changes relate to the calculation of the 5 year period from
 - the date of registration
 - in case of post registration opposition the date when opposition can no longer be filed or proceedings have become final
- no definition of requirements

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Article 40, Classification

Case C-307/10, IP Translator
19 June 2012

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Article 41, 45 Opposition procedures

- Art 41. Offices shall limit their examination *ex officio* of whether a trade mark application is eligible for registration to the absence of absolute grounds.
- Art 45 Member States shall provide for an efficient and expeditious administrative procedure for opposing a registration because of relative grounds before their offices (Art 45)

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Article 47 Procedure for revocation

Member States shall provide for an administrative procedure before their offices for revocation or declaration of invalidity of a trade mark

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