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
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
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.
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.
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.
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
Article 40, Classification

Case C-307/10, IP Translator
19 June 2012
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)
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
Thank you!