Kluwer Trademark Blog

Top 3 posts from our IP law blogs in April 2016

Kluwer Patent Blog · Wednesday, May 11th, 2016

To ensure you don't miss out on interesting IP law developments reported on our other IP blogs, we will, on a regular basis, provide you with an overview of the top 3 most-read posts from each of our IP law blogs. Here are the top posts from last month.

Top 3 Kluwer Trademark Blog posts in April 2016

1) Denmark: Trademark right established through use by Lasse Arffmann Søndergaard Christensen

"In the EU there are jurisdictions (like Spain, France, Benelux) that do not recognise any unregistered trademarks beyond those that are notoriously known. There are others where the acquisition of unregistered trademark rights is possible but subject to use and recognition of the mark surpassing a certain qualitative threshold – with varying requirements. Then of course in the UK and Ireland you have passing-off. From all we know, Denmark is the one EU country where it is easiest to acquire trademark rights without registration."

2) POLAND: From letters of consent to abandonment of the ex officio examination of relative grounds by Bartosz Krakowiak

"In two significant legislative steps, Poland has changed its overprotective approach to earlier rights in trademark application proceedings…All these changes – aimed to simplify and expedite trademark application proceedings before the PPO (currently taking more than 1 year) – are very much welcome by Polish practitioners."

3) Sweden: UK company found guilty of EUTM infringement of famous Swedish pattern by David Leffler

"In the Stockholm District Court judgment of March 22, 2016, the UK company Textilis, Ltd ('Textilis') was found infringing, amongst others, the Swedish company Svenskt Tenn Aktiebolag's ('Svenskt Tenn') figurative EUTM 'Manhattan' … The case concerned two questions, namely whether (a) there was infringement in Sweden and (b) the trade mark is valid."

Top 3 Kluwer Copyright Blog posts in April 2016

1) Say Nay to the Neighbouring Right! by Bernt Hugenholz

"The European Commission keeps sending us surprises. After December's Communication on Modernizing Copyright, which contained a mixed bag of copyright goodies, we had expected just about anything but the announcement that followed on March 23rd. The European Commission has launched a public open consultation on 'the possible extension' of neighbouring rights to publishers. As we all know, neighbouring (or related) rights at EU level are currently confined to four categories: performing artists, phonogram producers, broadcasters and film producers. Apparently, someone has convinced the Commission that extending this regime to publishers might be a good idea."

2) The Opinion of AG Wathelet in GS Media: what's in a "precedent"? by Ana Ramalho

"On the 7th of April AG Wathelet issued his Opinion in the GS Media case (C-160/15). The case concerned the provision by GS Media of hyperlinks that directed users to Filefactory.com, an Australian data-storage website…This Opinion contributes to the understanding of the legal regime applicable to hyperlinks within the framework of copyright law, but it also sheds some light on the system of "precedent" (note the air quotes) within the EU. "

3) Where to Look? Diligent search requirements too vague! by Lucie Guibault

"A report published by the EnDOW project on the "Requirements for Diligent Search in the United Kingdom, the Netherlands, and Italy" confirms what everyone suspected all along: the diligent search mechanism set up by the Orphan Works Directive is too cumbersome to lead to useful results. Consequently, the status of works held by cultural heritage institutions (CHIs) risks remaining unknown, barring the re-use of potentially orphan works."

Top 3 Kluwer Patent Blog posts in April 2016

1) Breaking News: Board of Appeal finds that Acetic Acid is no Inorganic Acid by Thorsten Bausch

"Okay, this result, which was recently reached by TBA 3.3.04 in decision T 394/11 (in German language), may perhaps not come as a big surprise to you, since we all learnt in school that acetic acid is a classic example of an organic acid as opposed to an inorganic acid. Yet it raises two interesting questions: Firstly, why did a Board of Appeal (have to) decide this at all? And secondly, would it theoretically be possible that acetic acid could be subsumed under the genus "inorganic acid" in a patent document?"

2) Recruitment of Unified Patent Court judges to begin next month by Kluwer UPC News Blogger

"The UPC Preparatory Committee has announced the selection of judges will start soon.

During its 15th meeting, on 14 April 2016 in Luxembourg, agreement was reached on the recruitment package. In its report on the meeting the Preparatory Committee writes this means 'adverts for judicial appointments can be advertised in May. The exact date of the launch is to be agreed but for those interested it is expected the recruitment process will begin in early May.'"

3) 'Unified Patent Court will create a new category of European litigation experts' by Kluwer UPC News Blogger

"In ten to fifteen years, the current differences between European patent attorneys (EPAs), lawyers and patent litigators will have diminished and a there will be a new category of professionals, who are experts in litigation at the Unified Patent Court (UPC).

This is the expectation of Koen Bijvank, president of the European Patent Litigators Association (EPLIT), which held its 3rd annual meeting on 11 April 2016 in Amsterdam."

Read further posts on the Kluwer Copyright Blog here, the Kluwer Trademark Blog here and the Kluwer Patent blog here.

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