



IPCLC

5th IP Case Law Conference

29-30 April 2024

Decoding Decisions: Insights
from Selected Case-Law



Conference Programme

5th Edition IP Case Law Conference 2024

Hybrid event

EUIPO Auditorium and online

Avenida de Europa, 4, 03008 Alicante, Spain
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Master of Ceremony: Thomas Frydendahl - Litigator at the EUIPO Board of Appeal Litigation Service, Member of the Norwegian Board of Appeal (KFIR)

Online Ambassador: Scott Stanley – Lawyer, Cabinet of the President of the Boards of Appeal, EUIPO

Lead Commentator: James Nurton - Intellectual Property Writer, Editor, and Consultant at Lextel Partners

Monday 29 April 2024

08:30-09:15 Registration / Connection

09:15-09:30 Welcome - Online Ambassador

Introduction

09:30 – 09:40

Welcome - Master of Ceremony

Welcome and Opening Statements

09:40 – 10:10

João Negrão – Executive Director, EUIPO

Jorma Hanski – Chairperson of the Management Board of the EUIPO and Director, Patents and Trademarks at the Finnish Patent and Registration Office

José Antonio Gil Celedonio – Chairperson of the Budget Committee of the EUIPO and IP Attaché at the Spanish Permanent Representation of the EU

Savvas S. Papasavvas - Vice-President, General Court of the European Union

Session 1: An Odyssey Through the Evolving Landscape of Trade Mark General Court Judgments

10:10 -11:30

This session will address current procedural and substantive questions of the EU courts' case-law in trade mark matters. Esteemed speakers include judges of the EU General Court in Luxembourg as well as Chairpersons from the EUIPO Boards of Appeal, who will share their invaluable perspectives and insights on the changing environment of trade mark jurisprudence.

Panel Leader: Judge Savvas S. Papasavvas - Vice-President, General Court of the European Union

Topic 1: A distinct update on weak elements in trade mark inter partes cases

Speaker: Judge Ulf Oberg - General Court of the European Union

Topic 2: Better late than never? The acceptability of late evidence in case law

Speaker: Judge Gabriele Steinfatt - General Court of the European Union

Topic 3: Not everyone knows what you know: case law on well known facts

Speaker: Judge Ion Gâlea - General Court of the European Union

Topic 4: The hardest walk is solo: Recent case law on single letters

Speaker: Sven Stürmann – Chairperson of the Second and Third Boards of Appeal, EUIPO

Topic 5: Delimiting reputed trade marks

Speaker: Nina Korjus - Chairperson of the Fourth Board of Appeal, EUIPO

Discussion 20'

11.30-12.00 Coffee break

Session 2: A Deep-Dive into the Latest Design Case-Law and Developments: Multi-Layered Perspectives

12:00 -13:20

In recent years, design law has undergone important developments. With significant revamping of relevant legislation well underway in the EU, there is a surge in market interest surrounding designs of product parts, disclosure in a high-tech environment and how to identify the common features of a design when considering invalidity on the ground of lack of individual character. The second session promises to make for compelling listening with insightful information that will encourage debate on these evolving topics.

Panel Leader: Maja Praljak - Judge of Commercial court in Zagreb

Topic 1: Beyond product safety and technical constraints: Challenges of standardized or 'common' design features

Speaker: Dr. Iván L. Sempere - Founding partner of PADIMA

Topic 2: From Ferraris to Barbie doll heads: Dilemmas of designs of part products

Speaker: Elisabeth Fink - Member of the First and the Third Boards of Appeal, EUIPO

Topic 3: Disclosure in high-tech globalized environments: Assessing the complexities of online and third country disclosures

Speaker: Eva Maierski – Partner at Lubberger Lehment, Specialist in Trademark, Design, and Copyright Law

Topic 4: Incoming waters: The latest on the Design Legislative Reform

Speaker: Dr Astrid Graul – Legal Department, DG Grow, European Commission

Discussion 20'

13.20-14.50 Lunch Break

Session 3: Reconciling the Old with the New: Challenges of Trade Mark Modernization

14:50 -16:10

As industries, business practices, consumer behaviour and innovative technology add further layers of complexity, the need to understand what drives trade mark modernisation, and the legal challenges it poses, becomes increasingly crucial. Key professionals from both the private and public sectors will consider, from the applicant's perspective, the level of acceptance and adoption of motion, multimedia, and other forms of non-traditional trade mark types.

Panel leader: Augusto Drumond - Principal Legal Counsel, EU IP OPERATIONS, Amazon

Topic 1: The Twilight Zone – Placing Limits on Acceptable Use of a mark in a form differing from the one registered

Speaker: Yann Basire - Director General of CEIPI and Director of the French section of CEIPI

Topic 2: Avoiding arbitrariness: The role of subcategories in genuine use

Speaker: Christoph Bartos - Member of the First and the Third Boards of Appeal, EUIPO

Topic 3: Assessing the buy-in to motion, multimedia and other forms of non-traditional trade marks

Speaker: Nedim Malovic - Trademark/IP Counsel at Assa Abloy

Topic 4: Challenges of Revamping Trade Marks: An in-house counsel perspective

Speaker: Desirée Russo - Trademark Counsel for PUMA SE

Discussion 20'

Session 4: IP Code-Breaking in the Era of AI Advancements

16:10 -17:30

While many undertakings and organisations still grapple with the challenges brought about by digital transformation, cutting edge blockchain technologies and virtual reality transform everyday life. How have businesses coped? Does artificial intelligence and the Metaverse have a role to play in legal practice? Do generative AIs, such as ChatGPT, have an impact on lawyers' work? The fourth session will look into these pressing matters, as well as the IP enforcement challenges posed by Cyberspace.

Panel leader: Noemi Parrotta – Partner, Attorney at law at Spheriens

Topic 1: IP in NFTs and Crypto currency – On the origin of “specie”

Speaker: Hugh O'Neill - Head of Legal Practice Service, EUIPO

Topic 2: IP Professionals and the Metaverse: Grappling with VR and AI technology

Speaker: Avv. Emanuela G. Zapparoli - Counsel at Nunziante Magrone

Topic 3: IP Perils of Avatars in Cyberspace: Can law catch up with technology?

Speaker: Bharat Kapoor - Vice President, Authentix

Topic 4: Ten steps to protecting IPR in Cyberspace

Speaker : Sarah Bailey - Avocat à la Cour, Partner at Simmons & Simmons LLP

Discussion 20'

End of day 1

20:00-22:30 Official Dinner

Tuesday 30 April 2024

09:00-09:30 Welcome coffee / Connection

09:15-09:30 Online Ambassador

Keynote address: Exploring new paradigms of intra-judicial connectivity in IP

09:35-09:45

With globalization, economic integration and digitization, courts face growing demands to resolve disputes that transcend territorial boundaries, whether due to the nature of the IP right, the manner of infringement, the parties involved, or the existence of parallel litigation across multiple jurisdictions. International judicial exchange and cross-pollination of approaches will contribute to IP judicial systems responding effectively to local requirements, while fostering harmonious engagement across borders to meet the challenges of our interconnected world.

Speaker: Ms Eun-Joo Min - Director, WIPO Judicial Institute

Keynote Address: Shaping Future IP Legislation: A Corporate Wish List

09:45-09:55

As new IP legislative initiatives evolve, stakeholder needs must be factored in. This presentation considers what concerns companies should ideally have addressed in today's fast evolving legislative landscape.

Speaker: Myrtha Hurtado Rivas - General Counsel Brands, Marketing Properties, Licensing & Anti-counterfeiting at Société des Produits Nestlé

Session 5: Copyright in Flux: What Does the Future Have in Store?

09:55-11:15

Protection of original literary, scientific and artistic works and the respective rights of their authors, performers, producers and broadcasters are crucial for fostering investment in creativity and promoting cultural diversity through content. This panel brings together experts and practitioners to exchange views on a wide range of topics, from copyrighted works becoming trade marks to the potential construction of an EU-wide copyright protection system and what it might look like.

Panel Leader: Julie Samnadda - Member of the Legal Service European Commission

Topic 1: Should the EU unify copyright laws?

Speaker: Professor Dr. Eleonora Rosati - Of Counsel at Bird & Bird, Professor of IP Law at Stockholm University

Topic 2: The Copyright Register in Action

Speaker: Péter Lábodó - Vice President, Hungarian Intellectual Property Office, researcher, Institute of Information Society

Topic 3: Italian Supreme Court case on the Vespa appearance

Speaker: Irene Calboli - Professor of Law, Texas A&M University School of Law

Topic 4: When copyright works become trade marks

Speaker: Dr. Anastasiia Kyrylenko - Postdoctoral Researcher at the Universidade Católica Portuguesa and IP Consultant

Discussion 20'

11.15-11.50 Coffee Break

Session 6: Crafting the Future: New perspectives for Geographical

Indications

11:50-13:10

The new Regulation (EU) 2023/2411 establishes a unified GI instrument for the protection of craft and industrial product names throughout the EU. This GI is granted to products originating from specific places or regions, possessing qualities, reputation, or characteristics essentially linked to their geographical origin, and involving at least one production step in that area. Together with considering the more traditional AGRI GI regime, panel experts drawn from a wide range of business backgrounds will analyse the new Craft GI regulation. Additionally, pivotal topics like the interplay between GIs and EU certification and collective marks together with the Third Country dimension to GIs will be considered.

Panel Leader: Dr. Anke Moerland - Associate Professor of Intellectual Law at Maastricht University

Topic 1: The New Craft GI: Opportunities and Challenges

Speaker: Katarina Kompari, LL.M (UCL), Intellectual Property Legal Expert in the Legal Department and Team Leader of the GI reform team and the Knowledge Circle for GIs and Collective rights, EUIPO

Topic 2: Broadening Protection in Geographical Indications Law

Speaker: Pilar Montero - Commercial Law Professor, Director IP and Digital Innovation Alicante Master-Magister LVCENTINVS UA

Topic 3: Can CRAFT and AGRI GIs successfully meet the challenges of globalization?

Speaker: Dr. Dev Gangjee - Professor of Intellectual Property Law at Oxford Law Faculty

Topic 4: Too good to be true? – Exploring triangulation between GI Regulations and certification or collective marks

Speaker: Virginia Melgar - Chairperson of the 5th Board of Appeal, EUIPO

Discussion 20'

13.10-14.40 Lunch Break

**Session 7: Quality through Coherence and Consistency: Reflections
and Visions**

14:40 -16:00

Harmonisation through soft law has been at the heart of numerous EUIPO initiatives over the past years. While the Office guidelines strive to achieve predictability at the first level of decision-making within the EUIPO, the Boards have made multiple efforts to encourage consistency and coherence at appeal level. This session discusses the steps that have been taken both within the EUIPO and nationally to foster decision-making quality and predictability as well as considering what the future might hold.

Panel Leader: Mladen Vukmir - ECTA President

Topic 1: Contributing to Trade Mark and Design Harmonization in the European Union: Trailblazing at the Boards of Appeal

Speaker: Gordon Humphreys - President of Boards of Appeal ad interim, EUIPO

Topic 2: Latest achievements: The harmonisation of practice on bad faith (CP13) and public policy and morality (CP14)

Speaker: Joana De Moura Oliveira - IP Specialist and Team Leader of the Convergence of Practices Team within the European Cooperation Service, EUIPO

Topic 3: Defining Decisional Quality at Appellate Level

Speaker: Prof. Dr. Volker Michael Jänich - Friedrich Schiller University Jena, Gerd Bucerius Chair of Civil Law with German and International Intellectual Property Law, Judge at the Thuringian Higher Regional Court (OLG)

Topic 4: Striving for Predictability: 10 Years of EUIPO Guidelines

Speaker: Dimitris Botis - Director of the Legal Department, EUIPO

Discussion 20'

Closing Remarks

16:00-16:10

Gordon Humphreys - President of Boards of Appeal ad interim, EUIPO

End of the Conference