

SUMMARIES

UNIVERSITY IP PROTECTION AND COOPERATION WITH INDUSTRY IN AN OPEN INNOVATION ENVIRONMENT: OPEN ACCES OR EXCLUSIVE RIGHTS?

István Molnár – Gábor Németh

Recently, growing attention has been devoted to the concept of “Open Innovation”, especially in the practice of publicly-funded research organisations. In the Open Innovation model the firms intend to involve other parties, combine internal and external ideas while developing new products and technologies. In this environment the universities have basically two ways to disseminate the generated knowledge: granting open access to the research results or acquiring industrial property rights and promoting the technology transfer between the research organisations and industry partners.

AN IRREGULAR CLAIM AND ITS DANGERS IN PRACTICE (OMNIBUS CLAIM)

Dr József Markó

This paper deals with a special type of patent claims, that is, the OMNIBUS claim, which has a long tradition and can play even nowadays an important role in assessment of the validity or infringement of a patent. An OMNIBUS claim defines a monopoly by reference to the whole body of the description or to a particular part thereof, such as the embodiments or examples and/or the drawings. It is worth to know that OMNIBUS claims are now broadly allowable in UK, AU, NZ, but they are allowable under exceptional circumstances only in a few other countries.

OUTCOME OF BREACH OF A LICENCE AGREEMENT IN RESPECT OF A MARK WITH REPUTATION

Dr Sándor Vida

In the trademark licence agreement, concluded between DIOR and SIL it was stipulated, that the licensee „agrees not to sell to wholesalers, buyers collectives, discount stores ... without prior written agreement from the licensor”. When SIL faced economic difficulties, it sold however corsets to COPAD, a company operating discount stores. The trademark infringement suit resulted in a dismissal at first instance. The Paris Court of Appeal condemned only COPAD. Both parties appealed. The French Supreme Court referred to the ECJ. The latter held (C-59/08) that sale by a licensee in contravention of the limi-

ted distribution clause constitutes trademark infringement provided it is established that such sales can damage the reputation of the mark. Moreover the unauthorised distributor (the operator of discount stores) commits trademark infringement and cannot rely on exhaustion where such resale damages the reputation of the mark. – Commentaries of Folliard-Monguiral, von Mühlendahl and de Haan are reported. – In Hungary DIOR sued with success several imitators already, that exploited the repute of DIOR clothing. Considering the growing number of prestige shops, neither in Hungary similar situations cannot be excluded.

VALUE OF INFORMATION IN THE INFORMATION SOCIETY

Péter Tarr

This study examines a recently ruled decision of the European Court of Justice ('ECJ') concerning the application and interpretation of Article 2 and 5 of the Directive 2001/29/EC of the European Parliament and the Council of 22 May 2001 „on the harmonization of certain aspects of copyright and related rights in the Information Society”. The proceedings between Infopaq International and the professional association of Danish daily newspaper publishers in which Infopaq requested the national court to find that for the production of extracts from newspaper articles which are composed of search words and the five preceding and five subsequent words it does not require authorisation from the holders of copyright over the newspaper articles. The questions referred to the Court in the examined case concern whether the storing and printing of these extracts from newspaper articles can be regarded as reproduction within the meaning of Article 2 of the Directive 2001/29. They also concern whether the production of those extracts are permitted on the basis that they are reproduction activities which fulfil the conditions of Article 5(1) of Directive 2001/29., and whether the acts of reproduction in this case fulfil the conditions of Article 5(5) of Directive 2001/29.