



ROUND TABLE

Friday 12 November 2021
Amsterdam

UNION OF EUROPEAN PRACTITIONERS IN INTELLECTUAL PROPERTY
PRESENTS



UNITY IN DESIGN LAW **a common invalidity trap**

The protection granted by a design registration is outlined by the representations submitted in the application. Possible errors in the representations may have a fatal effect on the validity of the design registration. This Round-Table session aims to look at practical/technical aspects (strategy) and to debate on the legal consequences (scope of protection).



Organised by the UNION-IP Designs Commission
in association with the UNION-IP Netherlands national group

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In “Mast-Jägermeister”, the CJEU concluded that the representation of the design for which registration is sought must enable that design to be clearly identified. Obviously, precision, certainty and clarity of the representation will matter when assessing the subject matter and scope of protection of a design. But what if there are inconsistencies between different views of a design ? Are there ways to rectify inconsistencies during the application process or even after registration ? What is the potential impact on infringement proceedings ? Recent case law from the German Supreme Court, already making waves in design history, suggests that inconsistent representations of a design may be even a ground for invalidity. This round table will discuss, from various perspectives, conditions and consequences when finding lack of unity of subject matter, including future filing and infringement strategies.

MODERATOR

Véronique Pede 

Partner, Cape IP Law (BE)

SPEAKERS

Johanna Brückner-Hofmann

Presiding Judge, Dusseldorf District Court (DE)

Giorgio Checcacci 

Partner, Checcacci Partners (IT)

Elisabeth Fink

Board Member, Boards of Appeal, EUIPO (EU)

Henning Hartwig 

Partner, Bardehle Pagenberg (DE)

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➔ Programme

13:30 CET **Doors & Registration**

14:00 CET **Start of Round Table**

Welcome

FABIAN EDLUND

UNION-IP President - Partner, Lind.Edlund.Kenamets (SE)

Introduction (05-10 min)

VÉRONIQUE PEDE

- Reasons for inconsistencies
- Remedies in case of inconsistencies
- Impact on subject matter, scope of protection and infringement?

Inconsistent Views – How to Fix Before Registration? (20-25 min)

HENNING HARTWIG

- Withdrawal of views?
- Replacement of views?
- Division of application?

Lack of Unity as a Ground for Invalidity? (20-25 min)

ELISABETH FINK

- Sports Helmet/Sports Glasses (German Federal Supreme Court)
- Options under Community design law (ways to fix after registration)
- Case law from other authorities

Coffee Break (10-15 min)

Inconsistency as a Valid Defence Against Infringement? (20-25 min)

JOHANNA BRÜCKNER-HOFMANN

- Seat-Lounge Furniture (German Federal Supreme Court)
- Wine Decanter (German Federal Supreme Court)
- Case law from other authorities

Can We Take Lessons from Patent Practice? (20-25 min)

GIORGIO CHECCACCI

- Inconsistencies between various figures in the application?
- Inconsistencies between figures and description?
- Inconsistencies between figures and claim?

Q&A and conclusions (15-20 min)

VÉRONIQUE PEDE

16:45 End of Round Table

Coming together: **Drinks** (included in registration fee)

[OPTIONAL]

Staying a bit longer together: **Dinner (Pre-registration required)**

➞ What is UNION-IP ?

UNION-IP is an association of exclusively European practitioners in the field of Intellectual Property, that is, of individuals whose principal professional occupation is concerned with Patents, Trademarks, Designs or Copyright and related fields, and who carry on their profession independently or as employees.

UNION-IP is a private, free, international association that is not dependent on any national or international authority: it approves its own members, in accordance with its statutes, in total independence, and likewise decides on its own activities and its own budget.

UNION-IP aims to work on developments in Intellectual Property in Europe, especially by making submissions during the preparation of proposed laws and treaties, and to devote itself to the improvement of professional and personal understanding between European practitioners in the Intellectual Property field in different countries and different branches of the profession.

FOR MORE INFORMATION: **WWW. UNION-IP.ORG**

➔ Heading towards the Round Table

Eye is directly opposite **Amsterdam Central Station**. When arriving at Amsterdam Central Station, take the **exit to IJzide (IJ bank)** towards the ferry docks. **Take the ferry** in the direction of **Buiksloterweg (line F3)**. The 24/7 ferry service is free and leaves every few minutes. The ferry ride takes approximately three minutes. Eye Filmmuseum is located on your left and is a three-minute walk as you arrive in Amsterdam Noord.

➔ Covid information

The venue requires participants do have a Covid-Safe **certificate** and personal **identification** document for accessing the premises and the meeting room. A **mask** (covering mouth and nose) is required only inside public transport vehicles, including the ferry. This information reflects the status on 15 October 2021.

➔ How to register

Send in your filled-in registration form on or before **09 November 2021** to **hans.mertens@epc.nl** either by PDF editing, by printing & scanning, or by copying in the email text the above item numbers followed by the corresponding information. The information corresponding to bold item numbers (for example 09.) is required.

➔ Registration Fee

IN PERSON PARTICIPATION

€ 80 **UNION-IP** member

€ 120 No UNION-IP member

ONLINE PARTICIPATION

€ 50 **UNION-IP** member

€ 90 No UNION-IP member

The fee includes a coffee break and closing drink.

➔ Online participation details

The online participation will essentially provide a view on the beamer screen (presentations) accompanied by the audio sound from the meeting room speakers. There will be no possibility to interact with the speakers.

➔ Credits for permanent formation

This event is not accredited by a credit organisation for consultants and attorneys. The presence of attendees will be neither registered nor verified. **No certificates** will be issued for this event.

➔ Organisation

UNION-IP aisbl - Designs Commission

Boulevard General Wahis 15, 1030 BRUSSELS [BE]

REGISTRATION

This UNION-IP Round Table on **UNITY IN DESIGN LAW** will be held

on **Friday, 12 November 2021 14:00 CET**

at The **Eye Filmmuseum** [www.eyefilm.nl]
IJpromenade 1, 1031KT Amsterdam (NL)

Registration form

01. Full Name

02. Title

03. Firm/Company

04. Phone

Invoice information (optional)

05. Company name

06. Street & no.

07. City & Zip code

08. VAT number

Options

I will attend the Round Table:

09. ☐ in person (Amsterdam) ☐ on-line (live stream)

I am **member** of UNION-IP:

10. ☐ yes ☐ no

I will attend the subsequent **dinner** (in person and at **own expense**):

11. ☐ yes ☐ no

Data protection

By registering for the event the participant authorises UNION-IP to hold and process the provided personal information and to pass on said information to any third party where such may be required for the efficient administration of the event, and further authorises to:

Use the provided information to keep the participant informed of future UNION-IP events.

12. ☐ yes ☐ no

Use the provided information (name, surname, title, company and e-mail) to be shared with the other participants of the event. UNION-IP never rents or sells any personal information to any other company or organization.

13. ☐ yes ☐ no

I wish to receive a certificate for proof of participation (simply confirming your participation to the event, only for entire duration).

14. ☐ yes ☐ no

ON OR BEFORE 09 NOVEMBER 2021 TO HANS.MERTENS@EPC.NL