Law Lore & Practice

PTMG Pharmaceutical Trade Marks Group

May 2018

All in the mind?

Another tragedy in my daughter's high school just before the spring break brought the subject of teenage mental health once again to the fore. Why do young people in affluent society who, in the eyes of their elders, have never had it so good, still feel the need to end their lives? And yet, one wonders if the subject should not be approached differently: surely it is better now that we are able to talk about young people's mental health whereas in previous generations it was definitely taboo.

In fact, mental health is a regular subject on national media these days and we are at last acknowledging the chemical imbalances throughout adolescence that make the passage to adulthood so tricky for some. To paraphrase a British university tutor during a recent visit 'it does seem odd that we send our young people away from home aged 18 when they are at their most vulnerable'. The prefrontal cortex, that part of the brain which can kick-start the 'stop, this isn't a good idea' response to a situation, is not fully formed in most people before the age of 25.

Mental health issues do not of course only concern young people. The World Health Organization constitution states: 'health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.' An important implication of this definition is that mental health is more than just the absence of mental disorders or disabilities. In May 2013 the 66th World Health Assembly adopted WHO's Comprehensive Mental Health Action Plan 2013-2020 which commits all member states to take specific actions to improve mental health and to contribute to the attainment of a set of global targets.

Greater access to information via the world wide web should, one would think, bring greater access to solutions or at least advice. Indeed it does if you can navigate your way through the forests of mis-information to find recognised and reputable websites, such as those of the UK mental health charity MIND. However, once again, public funding seems lacking in this critical area of health and as we head rapidly to 2020, much remains to be done.

Vanessa

US Update

Jonathan S. Jennings, Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP

In the recent cancellation case Plaza Izalco, Inc. v Pharmadel LLC, (non-precedential) (Plaza), the Trademark Trial and Appeal Board considered the important but little-discussed Morehouse defense.

http://ttabvue.uspto.gov/ttabvue/v?pno=92065406&pty=CAN&eno=30

This defense is derived from Morehouse Mfg. Corp. v J. Strickland & Co., a 1969 CCPA decision. In Plaza, the Board stated that the defense can be used to thwart an opposition or cancellation petition where there 'already exists a registration for essentially the same mark for essentially the same goods that are subject of the involved application.' The Federal Circuit has called it an equitable defense 'to the effect that if the opposer cannot be further injured because there already exists an injurious registration, the opposer cannot object to an additional registration that does not add to the injury.' McCarthy on Trademarks and Unfair Competition §20:38 (5th Ed. 2018) (citation omitted). It is important to note that the defense applies to likelihood of confusion claims and not claims of descriptiveness, genericness, abandonment or fraud.

Plaza involved a petition to cancel a registration of the mark KOFAL for therapeutic and pharmaceutical products, including analgesic balms. The petitioner based its claim in part on likelihood of confusion with its mark COFAL for the same type of goods. The petitioner's application to register COFAL had been rejected on the basis of the KOFAL registration.

The respondent's prior registration for the mark KOFAL-T covered just analgesic balms. Therefore, the question before the Board in considering the Morehouse defense was whether the mark subject to the prior registration, namely KOFAL-T, was substantially the same as the mark at issue, and whether an overlap of one product between the old and new registrations is enough. Because the respondent had moved for summary judgment, a threshold procedural inquiry was whether there was a genuine dispute of material fact as to whether the marks or goods were 'substantially identical.'

The Board denied respondent's motion for summary judgment. The Board found a genuine dispute existed as to whether 'these additional literal elements when

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Words from the Chair

I have identified a new favorite destination for a private weekend city tour: Porto - a hidden treasure on the banks of the Atlantic Ocean! The magnificent city recently hosted our Spring Conference. This gave many of us a chance to have a first look and breathe the atmosphere of Portugal's second largest city. And my nose liked what it smelled: a salty sea harbor smell combined with some nuances of port. Those of us who had booked the optional dinner on Sunday night had a chance to hear more about the fascinating history of port wine in a guided tour at Taylor's cellars which in fact turned out to be huge storage house rather than cellars. Fortunately, the tour at Taylor's ended in a crowning finale: a port tasting with a subsequent dinner!

Again our conference was blessed with great speakers who talked about important topics such as packaging design of pharmaceutical products, trends in mobile medical apps and latest developments at the Name Review Group of EMA, just to name a few. I personally have learned a lot and got plenty of inspiration for my daily work. Our Gala Dinner was held at the exquisite Palacio Da Bolsa. What an amazing building! It is a miracle how Lesley Edwards (supported by BCD) always spots outstanding venues for our conferences that a normal visitor would probably never discover.

In Porto I was also re-elected as chairman of PTMG. I feel very much honored by this and look forward to leading the organization for another three years. Thank you all for your trust! And of course I am looking forward to seeing many of you again in October in Dubrovnik!

Frank Meixner

Members News

New Members

We are delighted to welcome the following new members to the Group:

Deidre Kilroy of Matheson, 70 Sir John Rogerson's Quay, Dublin 2, Ireland deidre.kilroy@matheson.com

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Members News

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Moves and Mergers

Adrian Murray has left Pinsent Masons to join 4D Pharma plc in Leeds, UK. Adrian can be contacted at Adrian.murray@4dpharmaplc.com

Elise Melon has left EFPIA to join UCB in Brussels, Belgium. Elise can be contacted at elise.melon@ucb.com

Michael Peroff has left Ladas & Parry to join Wilson Keadjian Browndorf LLP in Northbrook, Illinois, USA. Michael can now be contacted at Michael.peroff@wkbllp.com

Last November Redd LLP joined Wiggin LLP in London, UK and members **Anna Carboni, Sara Ashby and John Colbourn** can now be contacted respectively, at anna.carboni@wiggin.co.uk sara.ashby@wiggin.co.uk and john.colbourn@wiggin.co.uk

Alberto Berton-Moreno Jr. can now be found at Berton Moreno + Ojam in Buenos Aires, Argentina. Alberto can be contacted at abmjr@bertonojam.com.ar

Georgy Evans, former Editor of LL&P, has left Harbottle & Lewis and joined Lewis Silkin LLP in London, UK. Georgy can be contacted at georgy.evans@lewissilkin.com

Henry Wheare has left Hogan Lovells to join Nixon Peabody CWL in Hong Kong. Henry can be contacted at henry.wheare@nixonpeabodycwl.com

Teresa Faggiano has joined Novartis Pharma AG in Basel, Switzerland and can now be contacted at Teresa.faggiano@novartis.com

Marianne Hollands has left Orion Corporation to join Berggren Oy in Helsinki, Finland. Marianne can now be contacted at Marianne.hollands@berggren.fi

Please remember to let us know of any changes to your contact details. You can notify me either via the PTMG website www.ptmg.org or directly to Lesley@ptmg.org or by writing to me at Tillingbourne House, 115 Gregories Road, Beaconsfield, Bucks, HP9 1HZ

Lesley Edwards

US Update cont

added to the term KOFAL create a different commercial impression with a slightly different sound and appearance,' and as to the whether the goods were substantially the same. The Board took pains to note the similarity analysis under the Morehouse defense is narrower than for a normal likelihood of confusion issue.

The Board conceded that the differences between the marks may seem insignificant, but nevertheless determined there was a genuine dispute over whether KOFAL and KOFAL-T made essentially the same commercial impression. This is somewhat surprising because in an earlier case, albeit not involving a summary judgment motion, the Board had found that PEARLE VISION CENTER and Design and VISION CENTER were indeed close enough to apply the defense where the case revolved around VISION CENTER. Similarly, the question of whether one overlapping product as between the prior registration and the current one is enough to apply the defense did not seem like a factual dispute, but rather a legal one that could have been adjudicated at the summary judgment stage.

What this case shows is that the Morehouse defense is alive and well and should be kept in mind. However, the Board tends to apply the defense narrowly, and where the marks and goods do not match up almost exactly, the Board may deny summary judgment and require adjudication after a full trial.

PTMG 97th

Conference

Dubrovnik

3rd - 6th October

Registration opens mid June

Waiting to Inhale - Canada Proposes Plain Packaging Guidelines for Cannabis Products

Cynthia Rowden, Bereskin & Parr

The Canadian Government has committed to legalize and regulate the sale of cannabis products, including recreational cannabis, by summer 2018. In anticipation, there has been an explosion of trade mark filings covering cannabis and marijuana-related goods and services. Unlike the United States Patent and Trademark Office, which will not accept applications for cannabis and marijuana per se, since the sale of such goods is unlawful under Federal laws (despite legalized sales in some states), the Canadian Trademarks Office now accepts applications for a variety of drug-related goods and services, and about 1300 applications have been filed for marijuana, cannabis, related personal care and food/beverage products and accessories. To date, less than 200 of such marks are registered, most for medical marijuana, which is already legalized in Canada.

As the date for further legalization of cannabis and marijuana gets closer, it is expected that even more trade mark applications will be filed. However, for those in the industry, care should be taken to select and file marks that may be lawfully used, since the Government has clearly signaled that it intends to control all aspects of promotion and sale of legalized cannabis products, including the use of brand elements such as trade marks and trade dress.

Draft legislation permitting sale of cannabis and related goods and accessories is found in Bill C-45, the Cannabis Act. In November, the Government initiated a broad-based consultation on cannabis regulation that covered all aspects of production, packaging, sale and advertising of cannabis for medical purposes and related health and cosmetics products. The result, published on 19 March 2018 as the 'Proposed Approach to the Regulation of Cannabis: Summary of Comments Received During the Public Consultation', or 'the Report', contains very strong indications of the Government's intent to strictly regulate packaging appearance and brand usage on cannabis and related products.

As currently drafted, the Cannabis Act generally prohibits packaging and labelling not in compliance with the Regulations. The Act specifically limits packaging (as well as displaying and selling) that:

- appeals to young persons;
- displays or communicates a testimonial or endorsement;
- depicts a person, character or animal, whether real or fictitious;
- evokes a positive or negative emotion about or image of a way of life (e.g., glamour, recreation, excitement, vitality, risk or daring); or
- contains false, misleading or deceptive information about characteristics, including potency, health effects, strength or composition.

The Report suggests that the Regulations will include specific guidelines to reduce appeal of cannabis products to children and youth, avoid accidental consumption, and permit adults to make informed decisions. It recommends that not only must packaging meet child resistant and tamper-proof guidelines, but adds packaging restrictions, such as:

- only single colours will be permitted, and they cannot be shiny or metallic;
- graphics and images will be prohibited;
- use of branding and logos will be restricted;
- label appearance will be governed by requirements to add specific information, such as mandatory health warnings, the use of a standardized 'stop' sign, with a cannabis leaf and the letters THC.

The Cannabis Act uses the term 'brand elements', defined (Cannabis Act, s. 2 (1)) to include brand names, trade marks, trade names, distinguishing guises, logos, graphic arrangements, designs or slogans associated with cannabis and cannabis accessories or services, and while the Report uses 'branding', it appears to cover the same list of proprietary and identifying indicia used to distinguish companies and their products.

The consultation document leading to the Report had also raised the possibility of restrictions on font style and colour. While the Report does not mention those, by mentioning 'branding' restrictions, such limitations may be included. The Report does not address advertising and promotion, but the Act permits additional Regulations to deal with that.

The Report's restrictions will impact many cannabis product trade marks already filed in Canada – forcing a re-evaluation of brands and product appearance. It is clear that many pending marks, which show representations of persons, or have geographic connotations, will not be permissible. Further, prohibiting 'graphics and images' and colour, as proposed in the Report, will place significant restrictions on package design, particularly in an industry already known for innovation and imagination. The mandatory display of warning messages and a standard 'stop' sign design may also limit the relative size and impact of brands and logos.

Apart from avoiding appeal to children (which in turn will partly be addressed by restrictions in the channels of trade), it is interesting that the Government has proposed a plain packaging regime for cannabis that mirrors that for tobacco products. The Government's stated goal with tobacco packaging regulation is to reduce tobacco consumption. That is not the stated purpose of the cannabis restrictions – which is limiting appeal to children, avoiding consumer error and providing information. However, should that apply to a new industry, where market participants have not yet had a chance to develop any reputation or goodwill, and do not have the benefit, as do many tobacco brand owners, of having long-used and well-known word marks to facilitate consumer choice? Brand owners use their marks, including colours, designs and graphics, to not only identify their products and distinguish them from competitors, but also to convey subtle (or not so subtle) information about quality, use, ingredients, etc. Are broad restrictions necessary when the consumer response to recreational cannabis has not yet been fully tested? Should the Government wait for more information on consumer use and risks before imposing so many branding restrictions?

The Government's approach to recreational cannabis should also be watched carefully by other industries selling other consumer goods. In addition to tobacco and cannabis, Canada's Senate recently passed the Bill S-228, the Child Health Protection Act, proposed to amend the Food & Drugs Act to address childhood obesity and other health issues. So far, the Bill contains a statement of intent, but no specific guidelines, but brand owners are well aware of the potential for more control of brand elements on a wide range of foods, beverages and personal care products.

Many may have expected recreational cannabis products to be sold with psychedelic images and bright tie-dyed colours. Not likely, according to the Report. Looks like such tie-dyed images will be replaced with the packaging equivalent of a plain grey suit…

How can blockchain technology benefit pharma IP?

Birgit Clark, Baker McKenzie

What is blockchain?

Blockchain technology is the technology behind the cryptocurrency Bitcoin and the Ethereum platform, and in its basic form is an open ledger of information that can be used to record and track transactions and which is exchanged and verified on peer-to-peer networks.

From an information governance perspective, the real innovation of blockchain and other distributed ledger technology (DLT) is that it ensures the integrity of the ledger by crowdsourcing oversight and removes the need for a central authority, i.e., transactions are verified and validated by the multiple computers which host the blockchain. For this reason it is seen as 'near unhackable', as to change any of the information, a cyber attack would have to attack all copies of the ledger simultaneously. What makes blockchain technology so attractive not just to financial technology companies but for a large variety of industries, including the pharmaceutical industry, is that it creates a date-stamped, trustworthy and transparent record by allowing multiple parties to a transaction to verify what will be entered onto a ledger in advance without any single party having the ability to later change any ledger entries. Moreover, different types of data can be added to a blockchain, from cryptocurrency, transaction and supply chain information and contracts, to data files, photos, videos etc. It is therefore not surprising that DLT is already firmly on the radar of various governmental agencies, including the EU Commission, US Congress, the European Union Intellectual Property Office (EUIPO) and the World Intellectual Property Office (WIPO).

Spotlight on blockchain and the pharma industry

We set out below a few ideas of how blockchain technology could be utilized by pharmaceutical companies in the field of intellectual property.

Possible applications in IP

The utilization of blockchain technology for the management of intellectual property rights is vast and could conceivably cover the registration of IP rights, evidence of creator / inventor / author and evidence of use. The idea of 'smart IP Registries', with the ability to have a ledger showing when the mark was registered, first and/or genuinely used in trade, licensed, etc. may appear attractive and resourceful to some brand owners. Not only would this be an immutable record, but it would also resolve the practicalities of collating, storing and providing such evidence. This could be particularly helpful in those jurisdictions where proof of first or genuine use is required or where the extent of use is crucial, such as in disputes or other proceedings involving recognition of well known marks, or defending a non-use revocation action. Often cited in the context of blockchain is the concept of 'smart contracts'. As some blockchain solutions can hold, execute and monitor contractual codes, such 'smart contract performance' could be of interest to digital rights management (i.e., in context with pharmaceuticals outsourcing manufacturing) and other IP transactions: smart contracts could be used to establish and enforce IP agreements such as licenses, and allow the transmission of payments in real-time to IP owners. In addition 'smart information' about intellectual rights of protected content could be encoded in digital form.

Anti-counterfeiting, traceability and supply chain management

A recent study by PWC reports that the counterfeit pharmaceuticals markets are a EUR €188 billion (USD $200 billion) annual business, amounting to the largest of all counterfeit goods. Of particular interest to the pharmaceutical industry is therefore that DLT could also be used to record and track where a product was made and by whom. The ability to track goods on an immutable blockchain record could assist pharmaceutical companies enforce their contractual arrangements regarding distribution, spot leaks in their - often fragmented - distribution system as well as assist in identifying parallel imports or gray market activity. Such technology already exists, e.g. London-based Qadre's blockchain solution is currently being tested by several large pharmaceutical companies. DLT ledgers holding IP rights information could also enable brand owners, consumers and official authorities, including customs, to verify the authenticity of a product, spot counterfeit drugs and provide confidence for purchasers.

The ability to add blocks of data to the chain also creates opportunities for the pharmaceutical industry to record details about a product's progress through stages from sourcing the raw materials to manufacturing and supply chain management and control. Due to its traceability features, DLT has potential for revolutionising pharmaceutical companies' own anti-counterfeiting and enforcement efforts and may in due course also be a feasible solution for customs programs to prevent global trade in counterfeit pharmaceuticals. It also ties in with legal traceability requirements. The EU Falsified Medicines Directive 2011/62/EU (FMD) will by February 2019 introduce a European Union-wide system to secure the supply chain between pharmaceutical manufacturers and patients against counterfeits. All prescription and certain non-prescription medicines will need to bear unique identifiers i.e., a two dimensional matrix code and human-readable information tamper evident features which will be uploaded to a European Medicines Verification System (EVMS). In the United States, the Drug Supply Chain Security Act (DSCSA) of 2013 requires that manufacturers and re-packagers add a unique electronically readable product identifier to certain prescription drug packaging in order to be able to trace the product, and who has handled it, through the various steps of the supply chain and allows verification of the product's authenticity. The DSCSA also introduced obligations to quarantine and investigate suspect drugs and to notify the Federal Drug Administration (FDA) of any illegitimate products.

While there are potential hurdles to the large-scale legal application of DLT within IP law, including technical scalability, questions of governing laws and jurisdictions, enforceability of smart rights, data security and privacy concerns, reliable rules and definitions for smart contracts, the various legal and technical requirements of the pharmaceutical industry could make it into one of the premier use cases of DLT outside fintech.

Porto - First Port of Call for Pharmaceutical Trade Marks 96th PTMG Conference

Melinda Achermann, Abbott

After nine years since visiting Portugal, PTMG returned to Porto for the 2018 PTMG Spring conference which was held on 19th and 20th March at the Sheraton Porto Hotel. In contrast to the rather sombre business style of the Apollo Ballroom stood a vibrant, colorful and entertaining potpourri of topics presented under the title Porto - First Port of Call for Pharmaceutical Trade Marks.

Chairman Frank Meixner, who was re-elected for a further three-year term, in his opening remarks noted that PTMG is continuing to thrive, with a growth in the number of new members as well as a varied and interesting selection of industry relevant speakers and topics for the conferences. He welcomed the new members to the Committee of PTMG, who are Eva Borgen of Novo Nordisk and Bruce Longbottom of Eli Lilly and Company. He welcomed delegates and speakers to the beautiful city of Porto, which was certainly a much-appreciated change in scenery for many of those who left places covered in snow.

Peter Brownlow of Bird & Bird kicked off the conference on Monday afternoon with a clear and concise presentation on The Power of Unregistered Rights – an international view that focused on the court rulings of several common and civil law jurisdictions regarding the topics of unfair competition or passing-off and some specific unregistered rights such as company names and trade names. Peter Brownlow's focus and review of the case law revealed that unregistered rights can actually match with registered trade marks as well as potentially being a successful additional armory in the rights holder's hands. For the Pharmaceutical industry, unregistered rights could indeed be a welcome additional resource when it comes to the trade dress that gets frequently overhauled to adapt to a new brand identity, without being trade mark protected, and where such new trade dress may be copied by other companies.

Johannes Fuhrmann of Bomhard IP navigated delegates through the International case round-up on the trends in the selected topics of genuine use and likelihood of confusion. Of particular relevance for the industry were the cases presented on the questions of refusal of trade mark registration on absolute grounds. In Novartis AG v EUIPO/SK Chemicals registration was refused for a sign that consisted exclusively of shapes, which arguably were necessary to obtain a technical result. This case underlined that it can be difficult to obtain trade mark protection for shapes and product packaging, particularly if those shapes were previously disclosed in the patent application for the respective product.

The last presentation of an entertaining Monday afternoon was provided by Kathy Wright of Astellas Pharma on Avoiding going generic: compliance with Trade Mark policy. Since there are no clear and firm rules about this topic, the presenter made it transparent that she was sharing her view on the matter based on her experience. She captivated the audience with her personal account that gave insights into the way Astellas Pharma avoids going generic with their brands. It can be noted that ultimately, despite strict policies and enforcement on proper trade mark use, the success of these efforts may be limited when it comes to educating the customer particularly when language is constantly changing and with it the meaning of words.

The neoclassical Palácio da Bolsa in the historic center, a national monument of Portugal and a World Heritage site, was the choice of an elegant venue for the Cocktail Reception and Gala Dinner. The Cocktail Reception provided the delegates with the opportunity to walk around the first floor and visit the splendid Arabian room, an abundance of ornamental features in various shades of gold. The dinner took place in the wide open Pátio das Nações on the ground floor, where in between courses, delegates enjoyed an animated musical performance of the Tuna band of Porto's students of the medical faculty. One of the highly anticipated parts of the evening was the announcement of the venue for the 2019 Spring conference, which will be the eternal city Rome in Italy.

On Tuesday, Maria Cruz Garcia of J. Pereira da Cruz Lda was the first to extend a warm welcome to the delegates. At the beginning of her presentation on What is New in Portugal?, she demonstrated that typically food, wine or football are the more obvious associations with Portugal, but pharmaceuticals is not as obvious, and that this may not be a completely accurate picture. Historically, the pharmaceutical sector faced serious problems mainly due to the lack of finance and the absence of strategic planning on the part of the government. This all changed recently, in particular when Portugal became a member of the EU. This enabled a boom of the generic pharmaceutical industry in Portugal, which at the beginning was dominated by local players but now more and more international companies are also seeking to avail themselves of the

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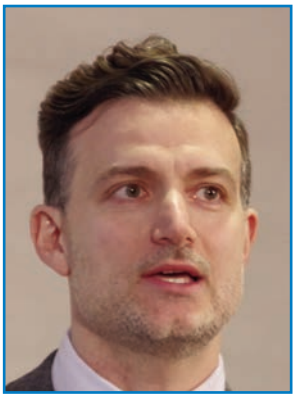
opportunity to build upon the Portuguese pharmaceutical industry's expertise.



Alexios Skalatos of the European Medicines Agency provided a comprehensive update on the Acceptance of invented names by the Name Review Group (NRG) and recent development. Revision 6 of 2015 has brought some clarifications on certain areas on the acceptability of the names and an allowance reduction from four to two name submissions to make the review more manageable. Alexios Skalatos focused on specific issues that typically lead to a name refusal and provided useful advice on where there could be room for improvement from the side of the applicants. He also showed where the NRG takes a conservative approach or watches certain trends with concern, for example the company umbrella branding concept.

Myrtha Hurtado-Rivas of Novartis International kicked off the industry presentations in the afternoon, which covered various thought provoking issues of the pharma in-house practice that industry members currently face. She gave a holistic and well-rounded overview of The Importance of Packaging Designs for Pharmaceutical products. Of concern to the industry are the newest developments of trying to introduce standardized packaging in Chile, Australia and the EU, which could potentially see a limitation of the space given to the brand or unique identifiers on the packaging. These concerns of Myrtha Hurtado-Rivas were shared in the audience, as evidenced from the questions raised at the end of her presentation. One of the stated aims of this standardized packaging seems to be based on patient safety, but as Myrtha Hurtado-Rivas suggested, this aim may be short sighted as patients rely to a large degree on the packaging of the product to identify their medicine. Packaging with unique identifiers is also helpful in the fight against counterfeits.

Wolfgang Feiler of Takeda presented next with his equally entertaining and informative view on Japan – A Pharma Trade mark Challenge. He focused on providing practical advice and demonstrating the differences of the three official Japanese scripts, and the challenges foreign companies are facing from transcribing Latin into the most common one, Katakana. There are several options to transcribe a word from Latin into Katakana and the Trade Mark Examination Guideline should be consulted to determine the similarity of the signs in Japanese, which are unrelated to the similarity of the signs in their Latin version. The trade mark check has to be supplemented with a regulatory JAPIC test on the similarity to existing registered pharmaceutical products. If the JAPIC test is negative however, it is worth verifying if the cited drug is still on the market, because the database is not necessarily updated.

The final sessions were kicked off by Jessica Schmidt of Merck KGaA, who navigated delegates through the Trends in Mobile Medical Apps, a topic that is becoming increasingly relevant to the industry practitioners. She provided facts and figures evidencing the greater importance of health apps. The most important driver for this shift is the mobile revolution, which allows for a broad reach and tailored interactive real-time communication between patients, healthcare professionals and healthcare companies. When venturing into this field, one has to be aware of the various stakeholders with various drivers. The presenter gave an overview of the several legal aspects to consider and provided practical advice, based on her research and experience. Jessica Schmidt clearly demonstrated that mobile medical apps have the potential to fundamentally transform healthcare.

Philip Laue of Bayer gave the last but not least presentation on Data Privacy in the Pharmaceutical Industry. He resisted the temptation to talk about the hot EU topic of the moment, which is the entry into force of the General Data Protection Regulation in May 2018. Instead, he set out the basic principles and then focused on other industry relevant aspects. Firstly, the use of apps by patients for the collection and transfer of health data in clinical studies; where it is indeed uncertain who is the data controller and when data privacy agreements are warranted between various stakeholders. He further cautioned that technical possibilities, such as face scanning a customer in a pharmacy to tailor advertisements, would not per se pose a data privacy issue, but could potentially back fire in the arena of public opinion and it is essential to critically assess before putting such technology into use. His entertaining and highly practical presentation ended on a final aspect, which is the EMEA's requirement to make Patient Level Data available to third parties. It is a constant challenge to keep the key coded data anonymous.

It was on that important topic amongst legal practitioners, particularly in Europe, that the Chairman closed the Conference. Frank Meixner, in his closing remarks, thanked the speakers who did a tremendous job in navigating the delegates through a kaleidoscope of highly relevant topics to the industry, and providing concrete and practical advice on each of these topics. Delegates were then invited to set sail to the second port of call of PTMG in 2018, which will be Dubrovnik, Croatia, for the Autumn conference.

International Update

BRAZIL

Flávia Tremura and Polli Rodrigues, Anderson Ribeiro, Kasznar Leonardos

On 22 December 2017 came into force the National Sanitary Surveillance Agency's (ANVISA) Service Orientation no. 43/2017 (OS 43/17), establishing objective and detailed criteria for evaluation and analysis of the registration and posterior modifications of name of drugs and biological products before ANVISA, to be executed by the General Drugs and Biological Products Management (GGMED). Such Service Orientation complements the prior Board of Directors' Resolution RDC no. 59/2014 – that establishes the criteria for drug name creation.

According to OS 43/17, ANVISA's analysis for granting new drug names shall gradually adopt the following procedures: (i) research in the POCA system, which comprises the ANVISA's database, and identifies graphic and phonetic similarities with previous marketing approvals; (ii) research in drugs database (Datavisa); (iii) research in the Brazilian Trademark Office's database, to verify the application/registration of the trade mark; (iv) evaluation, by the examiner, of graphic and phonetic conflict with prior marketing approvals in ANVISA's database; (v) search for eventual mistakes and (vi) evaluation of the safety of the proposed name, taking into consideration the risk of error in its prescription, distribution, administration or use.

The analysis will be performed in Portuguese and, in case of conflict, the following elements shall be considered: (i) intended use; (ii) directions on how to use; (iii) how it works; (iv) its benefits; (v) risks associated to its use; (vi) measures to ensure its safe use; (vii) its technical features, such as: name, Active Pharmaceutical Ingredient (API), indication, how to administer, frequency and quantity, target, restrictions, history of similar cases, previous orientations from the Board of Directors, among others.

If a conflict between drug names is identified, and based on the above-mentioned criteria, GGMED will analyze the risk of error or misleading prescriptions, with the help of a flowchart and a risk matrix. The flowchart helps in identifying the name availability and registrability, while the risk matrix provides a detailed analysis of the graphic and phonetic elements of the intended name and the potential conflicts with other already registered names. These tools aim to reduce subjectivity on the drug name analysis. If the possibility of confusion is confirmed, the comparative analysis will also take into consideration the distribution, administration and/or how to use it.

According to the OS 43/17, the registration of the name will be rejected only if there is risk of confusion, even if there is similarity between two names. The risk of confusion is the leading and predominant element in ANVISA's analysis.

It is possible to file the application form presenting more than one name option for registration. The analysis will follow the priority established by the applicant and the alternative name is analysed only after the final decision concerning the rejection of the first name option is rendered and sent, with its grounds, to the applicant. If the applicant identifies possible conflicts before filing its application, it is possible to present relevant information to the examiner, to increase the chances of registration.

On 27 February 2018, GGMED hosted a meeting with trade associations to clarify several aspects regarding the application of the OS 43/17, the flowchart and the risk matrix.

Lastly, it is important to point out that the registration of the drug name before ANVISA does not substitute registration before the Brazilian Trademark Office, which is still needed to grant exclusive rights to the owner, as well as to prevent third parties from using and exploring identical or similar trade marks.

CANADA

Mina Chana and Wynnie Chan, Bereskin Parr

In an effort to modernize Canada's IP landscape, the Canadian trade mark regime is set to undergo a significant overhaul as Canada is not far off from the coming into force of the amendments to the Trademarks Act, expected in 2019. The amendments will have a notable impact on trade mark owners across all industries, including the pharmaceutical industry, as outlined below.

Madrid Protocol

Through Canada's adoption of the Madrid Protocol, foreign-owned pharmaceutical companies will soon have the option of designating Canada as one of the countries to seek protection of their mark through WIPO, instead of applying directly in Canada. Conversely, adoption of the Madrid Protocol will permit Canadian applicants to streamline their global trade mark registration process by filing a single international application and designating multiple countries via the Protocol, resulting in more efficient and cost effective global trade mark protection.

Registration without USE

Currently, applicants are required to specify one or more filing bases (e.g. proposed use, use in Canada, use / registration abroad, etc.). For proposed use applications, a declaration of use is required before registration. This can impose obstacles and delays for pharmaceutical applicants who, in addition to compliance with the requirements of the trade mark registration process, must also seek approval from Health Canada to use the drug name. The Health Canada approval process can be lengthy (with no sales allowed until approval). Accordingly, pharmaceutical applicants often need to request multiple extensions of time for filing of their declaration of use with the Trademarks Office until the name is approved by Health Canada and use commences. Sometimes, applicants are even forced to re-file their applications, if they run out of extension requests while waiting for Health Canada approval.

The new trade mark regime will provide an opportunity for all applicants to obtain registration even if the trade mark is not in use in Canada, as applicants will no longer need to include a basis at filing and filing of a declaration of use for 'proposed use' applications will no longer be required. This will provide a major advantage for pharmaceutical applicants, as they will be able to obtain trade mark registration, without use, even if they are still awaiting Health Canada approval of the name. On the flip side, there may be challenges posed by the elimination of use, as the Canadian trade mark profession is already noting a rapid increase in the number of trade mark applications (often by 'trade mark squatters') covering a long and very broad range of classes (including pharmaceutical goods/services). This trend may ultimately result in increased hurdles in clearance, examination, opposition, and enforcement for legitimate brand owners.

Definition of 'trade mark' and Distinctiveness Examination

The definition of a 'trade mark' will change as the amended Trademarks Act will

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recognize an expanded definition to include various non-traditional marks (e.g. scents, tastes, textures, moving images, holograms, figurative elements and the positioning of a sign, etc.). While an expanded definition is a welcome change in Canada, all trade marks will be subject to examination for distinctiveness. With the amended Act, if the examiner is of the view that the mark is not 'inherently distinctive', applicants will be required to provide evidence that the mark has 'acquired distinctiveness' in Canada as of the filing date in Canada, in order to achieve registration.

Examination for distinctiveness will impose a new level of scrutiny of particular importance for the pharmaceutical industry, where protection is often sought for non-traditional marks such as the colour of a pill or tablet, or the shape of a device, potentially making it more difficult to register such non-traditional marks.

While the full impact of the new Act remains to be seen, it is clear that some of the changes will bring on new opportunities for pharmaceutical companies, while others may impose challenges to trade mark protection in Canada.

ROMANIA

PETOSEVIC

On 12 January 2018, the Romanian PTO published the first draft of the new trade mark law, aimed at transposing the Directive (EU) 2015/2436 into national legislation. The most important changes are listed below.

Absolute Grounds for Refusal or Invalidity

The draft law extends the absolute grounds for trade mark refusal or invalidity by adding the words 'or another characteristic' to the relevant article in the law, meaning that now the restrictions apply not only to shape signs but to other types of signs as well. Namely, according to the draft law, signs can be refused if they consist exclusively of the shape, or another characteristic, which (i) results from the nature of the goods themselves, (ii) is necessary to obtain a technical result, or (iii) gives substantial value to the goods.

Earlier Rights

The draft law widens the scope of earlier rights to include traditional terms, guaranteed traditional specialties and plant variety rights, along with the already covered designations of origin and geographical indications.

Trade mark Infringement

The draft law broadens the concept of trade mark infringement by establishing additional uses of a similar or identical sign that may be prohibited by the trade mark owner and are not specified in the current trade mark law, namely:

- Use of a sign as a company name or as part of a company name (however, the draft law does not clarify, like Directive (EU) 2015/2436 does, that in order to be prohibited, such use has to be made for the purposes of distinguishing goods or services);
- Use of a sign in comparative advertising in a way contrary to the provisions of the Misleading and Comparative Advertising Act No. 158/2008; and
- Use of a sign on packaging, labels, tags, security or authenticity features or devices, and placing these on the market.

Goods in Transit

Regarding the issue of goods in transit, the draft law prohibits third parties from bringing goods bearing an infringing sign into Romania, even if there is no intention to commercialize the goods in the country. According to the current law, counterfeit goods can only be seized if they are intended to be placed into circulation in Romania.

Revocation and Declaration of Invalidity

The draft law enables the Romanian PTO to handle applications for revocation and declaration of invalidity, which are now handled by the Bucharest Tribunal. Applications will be reviewed by a board consisting of three members of the PTO's legal department. The board's decisions have to be issued within three months of their pronouncement and can be challenged before the Bucharest Tribunal within 30 days of their communication date. The Tribunal's decision is subject to appeal only before the Bucharest Court of Appeal.

Directive (EU) 2015/2436 provides that the deadline for establishing the administrative procedure for revocation and declaration of invalidity is 14 January 2023, which leaves sufficient time for the relevant authorities to implement an efficient system.

The Romanian PTO only offered interested parties 10 days to provide their comments on the draft law, which is a very short term, but it is still open to debate and subject to numerous amendments. It remains to be seen how the draft law will progress and how the authorities will go about implementing the proposed substantive changes.

RUSSIA

PETOSEVIC

Following the recent Moscow Arbitration Court's decision in line with the Federal Antimonopoly Service's (FAS) stance on parallel imports, in a 13 February 2018 ruling, the Russian Constitutional Court clarified the conditions under which courts may authorize parallel imports into Russia. From now on lower instance courts will probably apply these guiding principles when considering parallel import cases, which may make the right holders' goal to prevent parallel imports more complex.

Following a complaint raised by the Russian parallel importer PAG LLC against Sony Corporation, the Constitutional Court examined the constitutionality of Civil Code provisions prohibiting parallel imports and ruled that, while the provisions do not contradict Russia's constitution, the principle of regional exhaustion of rights in Russia should not be automatically applied to all cases without considering the facts and circumstances related to every case.

In particular, parallel imports may be authorized for public interest reasons such as the protection of health or if the right holder acted in bad faith or abused his trade mark rights, for instance if the actions of the trade mark owner constitute unfair competition or are in favor of economic sanctions against Russia. The ruling can, however, give rise to various interpretations, and even a right holder's failure to reply to a permission request from an importer may be considered 'abusive'.

The Constitutional Court also ruled that, when imposing remedies, courts should distinguish between parallel imports and counterfeit goods. As a general rule, remedies, especially monetary fines, for parallel imports should not be as severe because losses incurred are generally not as high as in the case of the importation of counterfeit goods. Seizure and destruction of parallel imports should only be applied if the goods do not meet the required quality standards and can undermine public health and security.

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Focus on Medical Marijuana in Australia

Carly Mansell, Nicholas Butera, Brett Lewis, Davies Collison Cave Pty Ltd.

The law in Australia has recently changed to allow for the production of cannabis and cannabis resin for medical and scientific purposes. As trade marks for use in relation to both medical and recreational cannabis and marijuana can be registered in Australia, savvy businesses have been fast to take advantage of the ability to protect their rights in their trade marks in this growing industry. There are now over 60 trade mark applications and registrations on the Australian Trade Marks database covering cannabis and marijuana, almost all of which have been filed or proceeded to registration since the recent changes to the law (in March 2016).

Medical Marijuana Trade Marks in Australia

Australian trade mark law prevents the registration of trade marks that 'contain scandalous matter' or the use of which would be 'contrary to law'. As the promotion and sale of cannabis or marijuana for any purpose was previously a criminal offence (and remains so if for recreational use), historically the Australian Trade Marks Office had, in some cases, raised (at least initially) objections to the registration of trade marks associated with selling or promoting cannabis or marijuana on the basis that the use of those marks would be illegal. In addition, registrations for such marks were typically vulnerable to opposition/cancellation by a third party on the basis that, as the sale of cannabis or marijuana was illegal, there could be no intention to lawfully use the trade mark in Australia.

However, since the recent amendments to the Narcotic Drugs Act 1967 to allow for the production of cannabis and cannabis resin for medical and scientific purposes, the Official practice has changed. Recently, a number of trade mark applications have been accepted for specifications including cannabis and marijuana, even where the goods and services claimed include use of those goods for recreation purposes. Allowing registration of marks for cannabis and marijuana is consistent with Australia's obligations under International Law, and particularly the Paris Convention for the Protection of Industrial Property, under which countries are not permitted to refuse to register trade marks based on the nature of the goods for which registration is sought.

Trade marks for use in relation to both medical and recreational cannabis and marijuana can therefore be registered in Australia, and businesses in the field should take advantage of the ability to protect their rights in this respect. All aspects of the brand, including words, logos, slogans, 3D shapes, colours, moving images, scents and tastes can theoretically be protected as trade marks.

Branding Tips

Two important considerations when developing branding for goods and services generally, and for branding medical cannabis or medical marijuana products in particular, are:

- As with other plant-based products, a clear distinction should be made between the name of the plant variety and the 'brand' name (trade mark) used in association with the company's goods produced from that plant variety. Australian Trade Mark law does not allow a trader to register as a trade mark the name of a protected, or previously protected, plant variety under a Plant Breeders' Right. In addition, distinctiveness objections will be raised where traders need to legitimately use the name to describe their products as coming from that plant (even if the trade mark applicant is the only source of root stock for the plant variety itself). However, businesses should seek protection of the trade marks they adopt in relation to their goods and services associated with medical cannabis and medical marijuana.

- It is important that appropriate searches of the Trade Marks Register and the marketplace be conducted before use commences — other traders (particularly those in the agricultural, pharmaceutical and research and development spaces) may own trade mark registrations that could pose significant risks to the adoption of a trade mark in the medical marijuana and medical cannabis field, even if those traders are operating in slightly different fields.

Consumer healthcare products - food labelling and hemp products

In November 2017, the Australia New Zealand Food Standards Code was changed to allow certain products derived from hemp seeds to be sold and marketed as food products. Hemp is defined by reference to the tetrahydrocannabinol (THC) level present in the lead of the cannabis plant and the maximum amount permissible varies from state to state.

For businesses in the food industry, it is important to remember that, under the Australia New Zealand Food Standards Code, restrictions apply to claims and representations about foods that are, or contain, hemp products. The food for sale must not be labelled or otherwise presented for sale in a form which expressly or by implication suggests that the product has a psychoactive effect. This should be considered when coining the trade mark to be applied to the food.

Among other things, the label for the food must not include the words cannabis, marijuana or words of similar meaning (the label/name may include the word hemp) or an image or representation of any part of the Cannabis sativa plant (including the leaf of that plant) other than the seed. A label, in relation to a food being sold, means any tag, brand, mark or statement in writing or any representation or design or descriptive matter that:

- is attached to the food or is a part of or attached to the packaging;

- accompanies and is provided to the purchaser with the food (e.g., promotional materials, cutlery sleeves, napkins); or

- is displayed in connection with food when it is sold (e.g., in-store posters, menus).

Brand owners should also consider these requirements when developing logos and related packaging, signage and promotional materials for their hemp food products.

Medical Marijuana Trade Marks Internationally

Trade mark protection for medical cannabis and medical marijuana related goods and services can be obtained in other jurisdictions (such as Canada). However, many other jurisdictions also refuse to register trade marks where their use would be contrary to law, morality or public order. This is the current approach in the United States, where applications to register trade marks for marijuana have been routinely refused by the USPTO on the basis that the marks cannot be lawfully used in commerce.

It is therefore important to seek good legal and strategic advice before considering whether to register trade marks for medical marijuana and medical cannabis products in each market.

New rules revamp the Argentine trade mark system

Iris V. Quadrio and Juan López Mañán, partners of Marval, O'Farrell & Mairal

Early in January 2018, the Argentine government issued an Emergency decree (in Spanish Decreto de Necesidad y Urgencia No. 27/2018, the decree) aimed at reducing bureaucracy and simplifying administrative proceedings. The new rule introduced a series of changes that go from corporate, to aviation, customs, insurance and finance issues, to name a few. Most importantly, the modifications also impacted IP laws and practice and marked the revision of our Trade Mark law for the first time since 1981, with a high impact change on the unique Argentine opposition process of deciding oppositions in court and the introduction of partial non-use cancellation actions, among other changes.

The decree also contained rules to simplify formal requirements regarding Patents and introduced key changes in the Design law and practice, including non-prejudicial disclosure, multiple and divisional applications, easier rules for renewal, reinstatement of expired designs and deferred publication.

The new rules became effective on 12 January 2018 and have the force of a regular law unless and until repealed by both Houses of Congress. In the meantime, rather than avoiding repeal, the Government feels more comfortable to have the issue debated and accepted and has already sought congressional approval of the decree by passing a regular law. The draft bill has already been approved by the House of Representatives and is now under consideration by the Senate. It is expected that the IP sections will pass. At the same time, the Government is busy drafting the necessary regulations to implement the various changes introduced by the new rules.

Regarding trade mark law, although the decree was primarily conceived to simplify trade mark procedure, in fact several of its modifications also affect the substance of the IP rights involved.

New administrative opposition proceeding

The main change regarding trade marks is that the very unique Argentine system of deciding oppositions in court, now nearly 120 years old, has been replaced by an administrative opposition proceeding.

According to the new provisions, oppositions will have to be settled by the parties - applicant and opponent - within three months counted as of service of notice. Otherwise, the PTO will issue a decision on whether or not to admit the opposition with a procedure yet to be determined. The PTO's decision may be appealed directly to the Federal Court of Appeals. In cases where the applicant has been notified of the oppositions under the old Trade Mark Law (before 12 January 2018), the term for the PTO to examine and resolve such objections will be of one year.

This is expected to significantly shorten the registration process and constitutes a positive improvement with respect to the old system, where the owner of an application that had been opposed was allowed a one-year term – counted as of the Argentine Patent and Trademark Office (PTO)'s official notification – to reach a friendly settlement with the opponent or otherwise complete pre-trial mediation proceedings and, if unsuccessful, institute court action – usually lengthy and costly - to have the opposition removed.

The decree indicates that this new opposition proceeding must allow applicant and opponent to submit additional grounds and present evidence supporting their claims, but details of this new process have yet to be put into place by further administrative regulations, which we expect to be issued in the next month or two.

The PTO has in the meantime issued transitional regulations whereby applicants may either resort to the old system by filing a bill of complaint before the courts to have the opposition declared groundless, or allow the PTO to rule on the matter. On 2 February 2018 the PTO issued regulation P-026 establishing that in connection with opposition deadlines up to 12 April 2018, the PTO will continue to send to the Federal Courts the lawsuits filed in opposition cases. Most recently on 11 April 2018, the PTO issued resolution P-101 extending the abovementioned term to12 June 2018 or until the opposition process is finally implemented, whichever happens first. The PTO made clear that the implementation of the opposition process comprises its harmonization with the operating, database and fee systems.
However, if no lawsuit is filed or if the parties choose the administrative proceeding, the oppositions will be decided according to the process to be yet determined by the PTO.

Partial non-use cancellation actions and midterm declaration of use

The new provisions also introduce partial non-use cancellation and a 'midterm declaration of use' and modifications regarding the decision of non-use cancellation and invalidity proceedings.

One of the key changes refers to partial non-use cancellation, which will directly impact the number of oppositions, which was quite a routine practice in Argentina as the old system favoured opponents who blocked the prosecution of applications until a settlement was reached or until the case was favorably resolved by the courts.

The new decree states that trade mark registrations will remain valid if the mark is used on the goods/services it covers or in connection with related goods/services, even in a different class. Therefore, applicants will now have to use their marks on the goods or services covered by the registration or at least with similar or related goods or services.

Under the previous system, use of a mark in connection with any goods or services in any class or even as part of a trade name was enough to repel a cancellation action for lack of use. This allowed for the existence of defensive registrations, which could be renewed by just declaring use on a single product or service, or as a trade name, regardless of the class involved.

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Argentina continued

The new system also requires the filing of of a sworn statement of use within the fifth and sixth year of the registration, although this rule is subject to further implementation. It is expected that the implementing regulations will determine if partial non-use cancellation starts to operate within a certain period of time and whether the lack of submission of this declaration will bring about consequences for the trade mark owner.

The decree did not introduce any changes to trade mark renewal, so the old system remains in place. Applicants will still need to submit a sworn statement declaring that the mark was used within five years prior to the renewal expiration date, and specifying the goods/services on which the mark was used. It is important to note, however, that according to the new rules, if the mark has not been used on the services or goods covered by the registration or on related goods or services, it will be vulnerable to partial cancellation for lack of use

The new rules call for the administrative decision of non-use cancellation proceedings and of invalidation proceedings based on absolute grounds and establish that such decisions may be appealed before the Federal Court of Appeals. However, this is also still subject to the issuance of implementing regulations. Last but not least, the decree also vests broad powers in the Argentine PTO, mostly for regulating the administrative process but also for introducing new official fees or increasing the existing ones.

How these changes will impact trade mark prosecution

Almost 5% of the new applications filed in 2017 correspond to class 5, and 60% of these applications were filed by Argentine pharmaceutical companies.

According to local regulations, a trade mark application may be filed to cover an overly broad description of goods or services which results in trade mark cluttering and a more conflicting prosecution process due to third parties' trade mark oppositions and official objections by the PTO based on existing trade mark rights.
The amendments to the Trade Mark Law are expected to reduce the number of oppositions as potential opponents will have to think twice before opposing on the basis of trade mark registrations which have not been used on all goods/services covered or on related goods/services, so as not to jeopardize their trade mark registrations, which will now be open to partial cancellation for lack of use.

In addition, the possibility of resorting to a partial non-use cancellation action will prove a useful tool for applicants to overcome citations by the PTO in a cost and time effective manner.

Final thoughts

The Government is currently working on the regulations needed to implement the various changes introduced by the new rules. The PTO faces a big challenge in the implementation process of the new system, as new examiners must be hired and trained to manage the new administrative process and at the same time reduce a foreseeable initial backlog to the minimum.

In general, the modifications introduced by the decree appear to be positive and will result in bringing the Argentine trade mark procedure in line with that of the rest of the systems worldwide, in particular as regards the new administrative process for deciding trade mark oppositions and cancellations. It will be critical however, to keep track of the quality and quantity of the necessary staff engaged in the new system and to make sure that applicants, counsel and the PTO work together to be able to go through this transition period as smoothly as possible.

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UZBEKISTAN

PETOSEVIC

On 26 March 2018, the amended Act on the State Registration of Medicines, Medical Devices and Medical Equipment entered into force in Uzbekistan introducing several important changes.

Namely, the new Act permits rights holders to import samples of medicines and medical products for research, testing and exhibition purposes without having to deal with registration formalities, which the old Act did not explicitly prescribe.

Under the new regulation, company's registration certificate is no longer on the list of required documents, which removes another time-consuming step, especially when the applicant is a foreign company.

While the registration was previously carried out by the Main Department for Quality Control of Medicines and Medical Equipment within the Ministry of Health, it is now performed by the recently established Agency for the Development of the Pharmaceutical Industry, under the Ministry of Health.

The new regulation explicitly states that the following can be registered:

- medicines (including medicinal substances);
- new combinations of medicines already registered in Uzbekistan;
- medicines already registered in Uzbekistan but produced in new forms or dosages or by other manufacturers;
- medical products; and
- medical equipment.

The registration process has shortened. Previously, the registration certificate was to be issued within 180 days from the date of receipt of the application, and now it varies depending on the type of product, namely:

- 50 days for medicinal substances;
- 120 days for medicines in the form of pre-packaged and packaged medicinal herbal raw materials, bandage materials, contraceptives, puncture, injection, transfusion, suction, first aid and patient care products, as well as rubber, latex and polymer medical products;
- 155 days for other medicines, medical products and medical equipment.

A registration certificate is still issued for a period of five years and the official fees remain the same —the application fee is EUR €175 (USD $213) and the fee for issuing a certificate is EUR €35 (USD $43).

PROFILE: Birgitte Waagepetersen

Birgitte Waagepetersen, Budde Schou A/S, is an IP Attorney. She has great experience advising domestic and foreign clients in relation to the protection of trade marks, designs, domain names and trade names. She also has extensive experience in relation to IP rights clearance and the management of IP portfolios with particular emphasis on the European region.

She is a member of ADIPA (Association of Danish Intellectual Property Attorneys), FIR (Danish Association for the Protection of Intellectual Property), The Danish Association of Entertainment and Media Law, Danish Copyright Association, Danish Anti-Counterfeiting Group, PTMG, AIPPI, FICPI, MARQUES and INTA. She has a long standing membership at PTMG and has attended many conferences.

Where were you brought up and educated?

I was born and raised north of Copenhagen and studied law at Copenhagen University.

How did you become involved in trade marks?

While I was a law student, I worked part-time for a bank and I knew that I would not continue within this area.

My father was an expert assessor with the Maritime and Commercial High Court, so I had heard about IP cases. After I graduated I was looking for a job and had two options, but my father gave me the advice to go into the IP world, where I started with Chas.Hude A/S. I have never regretted that I went into the IP world.

What would you have done if you hadn't become involved in intellectual property?

I think that I would still have been involved in the legal field in a company, but not in a bank.

Which three words would you use to describe yourself?

Energetic, determined, friendly.

What was (were) your best subject(s) at school?

French and Art.

What do you do at weekends?

Enjoy family life and get together with friends.

What is your favourite work of art?

P.S. Krøyer, a Danish painter, 'Summer evening at Skagen Sønderstrand'.

What do you wish more people would take notice of?

Climate change / global warming.

What is the most surprising thing that ever happened to you?

When I was told that I was expecting twins.

What is the best age to be?

The age when you have graduated from university and the world is yours.

Who was your mentor or role model?

Niels Aage Jensen known for his competence within the IP world. He transmitted to me his passion for IP and for high quality work.

What is your weakness?

Chocolate.

Which book or books are you currently reading?

Biography of Knud W. Jensen, founder of the famous Danish museum 'Louisiana'.

What is your favourite children's book?

'The Little Prince ' by Antoine Saint - Exupery

Which sport do you play and/or enjoy?

I used to ride when I was younger, and I still ride, but not so often. I do aerobics once a week.

What is your all-time favourite film?

'Gone with the wind' with Clark Gable and Vivien Leigh.

What is your favourite food dish?

Italian food.

What is your favourite holiday destination?

France or Italy.

Which modern convenience could you not live without?

A smart-phone.

What do you like, even though it's not fashionable?

Red cars.

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