



Patents

Van Generics Ltd et al. v H. Lundbeck A/S

In *Van Generics Limited et al. v H. Lundbeck A/S*, [2007] EWHC 1040 (Pat), the Danish pharmaceutical company H. Lundbeck A/S (“Lundbeck”) was the proprietor of European Patent (UK) No 0,347,066 concerning the antidepressant drug Escitalopram. Escitalopram is the active ingredient in Lundbeck’s top selling antidepressant CipraleX that generated 59% of Lundbeck’s 2006 turnover. However, according to the claimants, three claims of Lundbeck’s patent were invalid because of lack of novelty, obviousness and insufficiency.

Escitalopram is also a component of one of Lundbeck’s earlier antidepressants: Citalopram. Although Citalopram consists of a left-handed (-) and a right-handed (+) (“Escitalopram”) molecule, Lundbeck found that its pharmacological effect was largely attributable to the Escitalopram molecule. Lundbeck invented a method to isolate the Escitalopram from the left-handed molecule and thereby claimed to have obtained a substance with advantages over its predecessor and competing drugs. In the patent, Lundbeck claimed, among other things, the Escitalopram as such, a pharmaceutical composition comprising Escitalopram as its active ingredient and a method for the isolation of Escitalopram.

LACK OF NOVELTY

The claimants disputed the validity of the claims for Escitalopram as such, and the pharmaceutical composition comprising Escitalopram. According to the claimants, the claims’ scope covered Escitalopram even if still attached to its left-handed molecule. The result being that the patent covered the non-isolated version, i.e. Citalopram, which had already been patented. Lundbeck opposed this view and argued that the patent only covered the isolated Escitalopram. The ambiguity led Kitchin J to apply the doctrine of purposive construction. Referring to *Kirin-Amgen Inc v Hoechst Marion Roussel* [2004] UKHL 46, Kitchin J concluded that a skilled person would try to find something new in the patent and understand that the claim was directed to the isolated Escitalopram. The claimants’ assertion that Escitalopram was covered by the Citalopram patent because a product is covered wherever it is found also failed as a result of the limited scope of the claims.

OBVIOUSNESS

To determine whether, as the claimants asserted, all three claims were obvious, Kitchin J applied the structured approach of *Windsurfing International Inc v Tabur Marine Ltd* [1985] RPC 59. Relying on extensive expert testimony, the judge concluded that, at the time of invention, considerable inventive activity was required to overcome the differences between Citalopram and Escitalopram. Escitalopram could therefore not be regarded as obvious.

INSUFFICIENCY

The patent claims Escitalopram and its pharmaceutical application, regardless of the method of obtainment. The method used by the claimants was entirely different from the method disclosed in Lundbeck’s patent and, according to Kitchin J, was not based in any way on the teachings of that patent. As Lord Hoffmann stated in *Biogen Inc v Medeva plc* [1997] RPC 1, in such a situation, claiming every way of obtaining a result, while disclosing only one way of obtaining it, and not disclosing a general principle for the obtainment of the product leads to insufficiency. Accordingly, Kitchin J held the two aforementioned claims to be insufficient according to the rules laid down in *Biogen*.

Comptroller can raise additional grounds of objection— Raytheon v Comptroller General of Patents

In this case, a patent application of Raytheon related to a method of inventory management by which provided two set of databases having relevant information and pictures of the inventory.

The Comptroller rejected the application on the ground that it related to a “computer program as such”. Raytheon appealed the decision and argued that Comptroller had erred; meanwhile the Comptroller not only defended its original decision, but also argued that the application should not be allowed because the invention also consisted of a method for doing business, contrary to s.1(2)(c) of the Patents Act 1977, and a presentation of information under s.1(2)(d). In response, Raytheon argued that it was not open for the Comptroller to raise additional grounds of appeal that were not maintained before the examiner. Thus, the Court had to decide two main issues: whether in an appeal, Comptroller can consider additional grounds as well as those that were made during the hearing

before the examiner; and second, whether the claimed invention was considered patentable.

Kitchin J answered the first issue in affirmative. He held that since the Comptroller has a statutory duty to refuse applications that do not comply with the requirements of the Act, it is his obligation to raise additional objections on appeal regardless of whether he failed to raise them at the first hearing. Moreover, it is in the public interest that defective applications shall not mature into a grant of patent. Thus, keeping in mind these factors, the nature of the proceedings before the Comptroller, and the fact that Raytheon had ample notice of the additional grounds of appeal, the additional grounds were allowed to be argued on appeal.

On the second issue, Kitchin J held that where the alleged technical contribution does not fall wholly within any one of the excluded categories, but falls within a combination of two or more excluded categories, it would still not be a patentable invention within the meaning of s.1 of the Patents Act. Considering the technical aspects of the claimed invention, he held that synthesising the image of a rack from individual parts of the rack, and displaying these images in response to a click from the user, was an aspect of the technical contribution that could be classified as a “computer program as such”, and hence excluded from patentability. On the other hand, replacing textual descriptions of inventory items by visual graphics could not be held unpatentable just because the only practical way to achieve the result was to use a computer program. However, this aspect of the contribution was a method of doing business, or presentation of information, and thus it fell within the excluded category. Therefore, the invention fell within the excluded categories and hence, the application can not be granted.

This decision is interesting as it provides a further indication of the court’s approach to inventions which incorporate computer programs or comprise business methods.

Trade Marks & Domain Names

Consent, trade mark infringement and passing off: Anglo-Dutch Ltd paint themselves into a corner

On 2 May 2007, the English High Court handed down an interesting decision concerning the issue of consent in trade mark infringement and passing off claims, in *Gary Fearn’s (trading as Autopaint International) v Anglo-Dutch Paint and Chemical Co Ltd and others* [2007] EWHC 955 (Ch).

The claimant, Mr Fearn’s, was the proprietor of UK trade marks for the words AUTOPAINT INTERNATIONAL and a device mark which included those words and operated an unincorporated business under that name, selling paint and associated products for use on cars. Mr Fearn’s had his own

paint shops and franchisees, and for this purpose he bought paint from various companies, for which Anglo-Dutch was the distributor in the UK.

The complaint arose when, in 2004, Anglo-Dutch began selling paint directly to Mr Fearn’s franchisees under the AUTOPAINT brand. Mr Fearn’s commenced proceedings alleging trade mark infringement, passing off, copyright infringement, breach of contract and malicious falsehood. He also claimed that the defendants had acted intentionally to inflict economic harm on him by unlawful means.

The defendants, on the other hand, contended that they were acting at all times with his consent. On the evidence, the Deputy Judge Christopher Floyd QC found that the parties had indeed agreed that the defendants could sell directly to franchisees where the claimant was unable to supply them. However, by extending the sales to any product which the franchisees were able to obtain from Autopaint, Anglo-Dutch had gone further than the agreement permitted them to do and they had committed trade mark infringement and passing off.

On the other hand, copyright infringement in respect of the design and logo appearing on the Autopaint tins was not established. By virtue of section 52 of the Copyright, Designs and Patents Act 1988, there was only limited copyright protection (25 years). The court concluded that the paint tins could not be regarded as “printed matter primarily of a literary or artistic character” and could not therefore benefit from the exception to the rule.

With regard to the alleged intention to harm by offering the entire range of products, the court held that since the franchisees had a choice as to whether to proceed with Autopaint or Anglo-Dutch, the defendants’ acts had not caused the loss complained of. The court also found a breach of an agreement governing the manufacture of Autopaint branded tins, to the extent that they were supplied other than to the order of the claimant. Finally, the malicious falsehood claim failed, as it was not based on satisfactory evidence.

Obviously, the claimant based his action on various different causes, because he wanted to make sure that it was successful. However, the Deputy Judge focused on the issue of consent and its scope and characterised it as “critical”. It is thus clear that a party to an agreement should not embark on acts not covered by that agreement and should limit itself to its terms, in order to be able to claim consent as a defence.

Clear identification of trade marks in Oppositions considered by CFI

The Black & Decker Corporation (BD) applied to register Community Trade Marks in yellow and black figurative marks, and three-dimensional representations of the yellow and black

electronic power tools for “manually operated portable electric power tools”. Once the trade mark applications were published in the Community Trade Marks Bulletin, Atlas Cobco AB (AC) of Germany filed notices of opposition based on Art 42(1)(c) of Trademark Regulation No 40/94. This provision allows opposition to be made by the proprietor of earlier marks or signs of more than mere local significance used in the course of trade against the published applications. The notices of opposition were sent by fax within the opposition period followed by the originals which were sent by ordinary mail two to four days after the opposition period had expired.

The opposition was rejected by the Opposition Division at first instance since the documents sent by fax were in black & white rather than in their original colour and they were insufficient to clearly identify the earlier marks and signs used in the course of trade on which the opposition was based. However, the Board of Appeal reversed the decision. BD brought an action to the Second Chamber of the CFI who joined 14 other cases which had the same common issue.

In substance, the CFI held that:

- Rule 80(2) of the Implementing Regulation should be interpreted according to the intention of the legislature. Therefore, although AC submitted the original notices of opposition on their own after the opposition period had expired, such a situation was deemed to be covered under the Regulation that allows for extension of time. In such cases, the date of reception of the originals was to be deemed as the date when AC submitted the notices by fax, and hence the same was within the period of opposition;
- Rule 18(1) of the Implementing Regulation provides that the earlier marks or signs must be sufficiently and clearly identified in the notice of opposition for the admissibility of the opposition. AC provided identification of earlier marks and signs which consisted of several shapes and models of various power tools including various colour images which were mainly a combination of yellow and black in connection with its goods. Furthermore, there were also reference numbers and specifications in a tabular form in the attachment. Consequently, the attachment was sufficiently clear to identify the earlier marks or signs in the notices of opposition.

Trade marks used as a basis of opposition must be clearly identified and if so, fax copies are acceptable. However, faxed notices of opposition will only be admissible if appropriate original documents are submitted diligently.

Trademark Dilution – the UK Approach

On 15 May 2007, Jacob LJ opined on several important questions regarding s5 (3) of the Trade Mark Act 1994 and Art 4(4)(a) of the Trade Marks Directive in the case of *Intel Corporation Inc v CPM United Kingdom Ltd* [2007] EWCA Civ 431. The appellant was Intel Corporation Inc. (“Intel”)

whose products relate to communication and computing. Intel had a large number of trade marks including the word “Intel”. Its “Intel Inside” advertising campaign had made it a household name. The respondent was CPM United Kingdom Ltd (“CPM”), a specialist in field marketing and telemarketing. It had a registered trade mark consisting of the word “Intelmark” short for Integrated Telephone Marketing.

The decision turned on whether the appellant’s earlier mark (Intel) had a large reputation, whether the earlier mark was unique, and whether the earlier mark would be brought to the mind of the average consumer when he or she encountered the later mark (Intelmark).

In the judgment, Lord Justice Jacob asked three questions and answered them as follows:

1. For the purposes of determining what a famous mark is, was it important to establish (i) “a link” within the meaning of paragraphs [29] & [30] of *Adidas-Salomon AG v Fitnessworld Trading Ltd*. (C-408/01) [2003] ECR I-12537 and/or (ii) unfair advantage and/or detriment?

The judge held that trade mark law did not need to be very oppressive and a “link” required a much stronger association between the two marks. If a trade mark was truly distinctive it would be robust enough to withstand a mere “bringing to mind” by the average consumer.

2. What factors should be taken into account in order to determine whether there was a “link”?

The judge thought the important factors were (a) whether the average consumer would consider that there was an economic connection between the owners of the two marks, and (b) whether the distinctiveness of the earlier mark for the goods or services was really likely to be affected.

3. What was required in order to satisfy the condition of “detriment to distinctive character”?

The judge decided that it depended on a realistic global appreciation of the position, and the following factors should be considered:

- whether the “pulling power” of the earlier mark was really likely to be affected by the use of the later mark;
- whether the user of the later mark was likely to get a real commercial advantage from using the mark due to the reputation of the earlier mark;
- whether, if the earlier mark is unique, it really matters that it is used for the dissimilar goods or services of the later mark;
- where the two marks are not the same, what difference will this make on the average consumer and in particular whether there is merely a calling to mind of the earlier mark;

- whether the economic behaviour of the average consumer in relation to the earlier mark is likely to be affected;
- how inherently distinctive the earlier mark is;
- how strong the reputation of the earlier mark is.

Thus, because of the complexity of the commercial nature of a trade mark, there are several comprehensive factors in the global appreciation test which need to be considered.

A question of distinctiveness of three dimensional marks

On 23 May 2007, the Court of First Instance (the “CFI”) handed down judgment in *Procter & Gamble Company v Office for Harmonisation in the Internal Market (“OHIM”)*.

In 2000, Procter & Gamble Company (“Procter & Gamble”) submitted applications to OHIM to register nine three-dimensional shapes, consisting of square white detergent tablets bearing a central coloured four, five or six petalled floral design. In 2004, the OHIM examiner dismissed the applications for registration. Procter & Gamble appealed the decision.

On appeal, the CFI held that the criteria for gauging the distinctive character of three-dimensional marks consisting of the appearance of the product itself was no different from those applicable to other categories of trade marks. However, one had to take into account the fact that the perception of the average consumer was not necessarily the same in relation to a three dimensional mark consisting of the appearance of the product itself as it is in relation to a word or figurative mark consisting of a sign which was independent of the appearance of the product it represented. The CFI found that the average consumer would not make assumptions about the origin of products on the basis of their shape or packaging in the absence of any graphic or word element.

Regarding the public’s perception about the distinctiveness of the marks, the CFI upheld OHIM’s finding that the goods in question were everyday products directed at all consumers and the average public paid little attention to their shape, pattern and pricing. Procter & Gamble had not provided sufficient evidence to establish that the consumers habitually perceived the appearance of a detergent tablet, especially one that did not comprise any verbal and figurative elements, as an indication of its trade origin.

The square or cubic shape with slightly rounded edges was obvious for products in question. With regard to the colours and the central inlay of the tablets, the CFI considered that the relevant public were used to seeing different colours in detergents and associated them with the presence of various active ingredients and not as an indication of their origin. The

addition of the floral design to the tablets did not confer distinctiveness as it was one of the obvious solutions for combining the various active ingredients. The shape and design of the tablet in question consisted of ‘two basic geometric shapes’ or ‘a basic geometric shape and an unusual inlay’, rather than a distinctive floral design which would be recognised as such by a consumer.

The CFI dismissed the appeal as the overall impression of the marks in question was a variation of the normal presentation of the product concerned. It did not assist the average consumer to identify the trade origin of the product.

In conclusion, this case demonstrates the challenges of registering a three-dimensional trademark, in particular the stringent requirement that a shape is sufficiently distinctive to indicate trade origin.

E-Commerce

The licensing of online gambling

The Gambling Commission has recently published statistics on participation in remote gambling. It conducted a survey on the prevalence of remote gambling and found that in 2006 nearly 8% of adults took part in some form of online gambling in the previous month.

The new Gambling Act 2005, having received Royal Assent on 7 April 2005, will finally come into force on 1 September 2007. The Act requires that online gambling operations, such as online casinos and online betting operators acquire the appropriate licenses from the Gambling Commission. This means that operators will have to obtain a remote gambling product licence and a personal licence for the persons responsible for running the operation. In addition, operators will have to make sure that the software they are using is licensed.

The Gambling Commission published its new License Conditions and Codes of Practice in November 2006, which are available on their website. This contains provisions on personal licenses and qualified persons, technical standards and equipment specifications, the financial robustness of operators, protection of customer funds, the provision of credit, provisions to promote fair and open gambling, protection of children and other vulnerable persons and marketing. There are also particular rules on remote gambling, covering such matters as policies and procedures to prevent underage gambling and protection of problem gamblers.

The new regulatory regime under the Gambling Act 2005 will put online casinos on a statutory footing in the UK for the first time. Furthermore, it will allow online casinos to advertise their services, provided certain conditions are met, but prohibits

advertising by non-European Economic Area foreign operators, unless they are established in a jurisdiction which has been put on a White List. The licensing regime will only apply to operators who have at least one piece of equipment on UK soil, excluding the user's computer or other device for accessing the remote gambling website. In other words, UK residents are not prohibited in any way from accessing and taking part in online gambling provided it comes from another jurisdiction, nor will a foreign company be in breach of UK law (provided they have no equipment in the UK and are not advertising here). This approach to jurisdiction is interesting as it does not rely on the usual targeting test (i.e. did the operator target customers in the jurisdiction?), but is more akin to a country of origin rule.

The UK approach to licensing criteria which may at first instance appear to be an illegal restraint of trade is, in light of recent EU and WTO case law, unlikely to be deemed a trade restriction. In the EU, in the recent *Placanica* case, (Case C-338/04-Judgment of 6 March 2007), the European Court of Justice found that the exclusion of companies quoted on the Italian stock exchange and the restrictions on the numbers of licences was not justified and that the Italian authorities should issue new betting licences following a non-discriminatory tender process. However, the Court found that restrictions imposed by a licensing regime can be justified if they are proportionate, such that for a regulatory regime to accord with the freedom to provide services, it has to be consistent and it must not have an economic objective (such as increasing tax revenues).

Other recent EU cases on the compatibility of national regulatory regimes (such as outright prohibitions, monopolies, licensing regimes) with the freedom to provide services under European law are currently proceeding through national courts, including the ongoing case between *Zeturf* and *PMU*. *Zeturf* is a French betting company which is established in Malta from where it provides online betting services in respect of real French sporting events (also on virtual sporting events, such as horse racing). *PMU* is a French interest group, which manages off-course betting on French horse races and has a monopoly in the same. The French Court of Appeal in Paris confirmed, in January 2006, that this monopoly was protecting French public order rather than following an economic objective, as the purpose of the monopoly company was to prevent bets from being a source of individual profit and to avoid the risks of criminal activities such as money-laundering and fraud. The Court found that the restrictions were justified and that hence the Court was right to impose a penalty on *Zeturf*. A twist in the tale was that the success of the public interest defence in the French courts in 2006 gave the Maltese Court in 2007 grounds to find that it need not recognise and enforce the French ruling under Regulation 44/2001, as it did not concern a civil and commercial matter, but a public law matter.

Outside the EU, similar conflicts have arisen before the WTO in respect of online gambling. In the case brought by Antigua & Barbuda before the WTO dispute settlement procedure, the US restrictions on cross-border online betting are being examined. It seems that the Federal Wire Act 1961 has prohibited some forms of state betting conducted by means of telecommunication (which presumably includes the internet). This would affect online betting operators, such as those in Antigua who argue that the US restriction is contrary to the US commitments under the GATS US Article XXI commitments, which included 'other recreational services (except sporting)'. The Panel agreed with Antigua in November 2004 and found the prohibition was a zero quota which was not justified by public policy. The Panel found that the US should have consulted with Antigua. On appeal, the Appellate Body found in April 2005 that the zero quota/prohibition could be justified, but that it was discriminatory to the extent that inter-state horse race betting was made legal by another Act (the Inter-State Horseracing Act). In February 2007, the WTO found that the US has not yet complied with the ruling.

While some jurisdictions, such as the UK, see online gaming as a new and lucrative channel for the creation of tax revenue, and are happy to have, what may be deemed "soft" licensing criteria, other states appear wary of remote gambling and continue to enforce more stringent licensing criteria. Whether or not hard-line requirements will be robust enough to survive legal challenge remains to be seen. As a result of the different economic and legislative positions, and because of the global reach of the internet, cases regarding online gaming and gambling are likely to become as popular in the courts as the services are with punters – you can almost bet on it!

Enforcement & Procedure

Damages are set in the CD WOW dispute

In *Independiente and others v Music Trading On-Line (HK) and others [2007] EWHC 533 (Ch)* decided in March 2007, the High Court held that the conduct of the defendant was in breach of a settlement agreement reached between the parties in January 2004. In that agreement, the defendant had undertaken not to engage in the illegal import of CDs and DVDs. The High Court ordered an enquiry as to damages for infringement of copyright in the period starting from the settlement agreement of January 2004. Damages were calculated not merely in relation to the 33 test purchases that the claimant brought as a proof of the defendant's conduct, but in respect of "any breaches of ... copyright disclosed by an enquiry which result from the importation into the United Kingdom by CD-WOW of any product to which that copyright extends". The judge made an order for disclosure of documents by the defendant for the purposes of this enquiry.

The enquiry was due to take place in July 2007. However, CD-WOW refused to co-operate and did not comply with the order of disclosure. As a consequence, damages were decided without delaying the matter until July. The Court set the amount of damages to be paid to the record industry at over £41 million. This is a significant victory for the industry in preventing businesses like CD-WOW from illegally importing cheap copies of CDs or DVDs into the European Economic Area (EEA). At the base of this legal suit, in fact, there is a fundamental principle of the current copyright legal framework that goes under the name of ‘regional exhaustion’.

In accordance with Article 4 (2) of the InfoSoc Directive, the Copyright Designs and Patents Act (CDPA) confirms that the owner of the copyright holds the right to issue copies of the work to the public (s.16) but this right is limited to the first sale or other transfer of ownership within certain regional borders. By using the language of the CDPA, this means that when the copyright owner proceeds with the act of putting into circulation in the EEA copies not previously put into circulation in the EEA or gives his consent, then his right of issuing copies of the work to the public is exhausted within the EEA (CDPA, s.18).

The principle of “regional exhaustion” is often criticised because it allegedly supports the industry practice of price discrimination and prevents the establishment of competitive pricing of CDs and DVDs. The industry response to this criticism is that regional exhaustion is an essential instrument for the fight against piracy and reflects the need of markets with different structural characteristics. In full support of the industry’s reliance on regional exhaustion, the ECJ (in Case C-479/04 *Laserdisken ApS v Kulturministeriet*) recently ruled that Member States in which international (world-wide) exhaustion applied in the past cannot enjoy the freedom to maintain that approach, but have to adhere to the European principle of regional (Community) exhaustion. In the light of the CD-WOW decision and of the ECJ interpretation of the principle of exhaustion, it is clear that the scene is now set for a serious fight against illegal importers.

Parliamentary Committee calls for more creativity in balancing Copyright Law to promote Creative Industries

The Culture, Media and Sport committee, appointed by the House of Commons to examine *inter alia*, the administration and policy of the Department for Culture, Media and Sport and its associated bodies published a report in May 2007 entitled “New Media and the Creative Industries”. The committee noted that as a result of technological developments, the United Kingdom is in the midst of transformation in the way that consumers of copyright materials access and consume media content; this has led to new challenges in balancing the interests of creators against those of consumers. The report

calls for a further balancing of copyright law and a strengthening of its enforcement. The Committee made a number of observations and recommendations including the following:

1. There should be criminalisation of unauthorised copying and commercial distribution of audio-visual content projected onto a cinema screen.
2. Lawmakers should examine reports that obtaining exemplary damages for copyright infringement is difficult.
3. Copyright law should be amended to clarify existing exemptions to infringement.
4. The law should create, as a minor exemption, a new exemption permitting copying of purchased content, within domestic premises, for private non-commercial purposes.
5. There should be no levy on the hardware and/or software used in copying in order to discourage piracy.
6. The Government should press proposals to the European Commission for extension of the term of protection for sound recordings to at least seventy years from the present fifty.
7. Internet service providers (ISPs) and search-based businesses should not incur liability for providing access to unlicensed materials. ISPs should do more to prevent piracy, for example, through the establishment of a body for this purpose.
8. Internet news portals should continue to be free to provide a news indexing service. Publishing firms should continue to have the right to opt out rather than to opt in to such indexing services
9. The committee welcomed Government steps towards the implementation of section 107A of the Copyright, Designs and Patents Act 1988, which empowers local authorities to enforce copyright law.
10. Digital rights management (DRM) tools should not be used indiscriminately to prevent consumers from using existing copyright exemptions, but the damage caused by over zealous implementation is a matter for the industry and not for legislation.
11. The film industry should review the use of release windows in order to ensure a balance between the needs of cinema operators and the need to fight piracy. Cinemas would need to develop other means of distinguishing their services.
12. Organisations promoting a creative commons approach, should be clear on the need to protect copyright.

13. There should be continued informal raising of awareness of people about copyright protection.

This report captures contemporary issues of concern in copyright law and adds a further voice to calls for reform to account for rapid technological developments. It broadly supports the Gowers Report, while noting dissent expressed by some.

Legislative News

Draft Trade Marks (Relative Grounds) Order 2007

The draft Order seeks to provide that the registrar shall not refuse registration of a trade mark on relative grounds unless the same is opposed by the proprietor of the earlier trade mark or other earlier right in opposition proceedings. Accordingly, the Order makes further necessary provisions relating to prior searches of earlier trade marks by the Registrar, and section 47(2) of the Act dealing with persons by whom an application for a declaration of invalidity may be made on the specified grounds. Importantly, this would require trade mark owners to pay closer attention to the trade mark register and potentially requires those owners to file more oppositions in order to protect their rights.

Report on the Review of the Copyright Tribunal

The UK Intellectual Property Office has posted a report on its website concerning the review of the Copyright Tribunal and is now seeking comments on its proposals. The report contains a total of 30 recommendations, on procedural and practical matters with the intention of creating a better functioning Tribunal. The call for comments ends on 31 August 2007.

Indications from the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)

The 17th session of the SCT (7-11 May 2007) was the opportunity for discussion on topical issues of the trade mark discourse, namely registration of 3D marks, colour marks and sound marks, the grounds of trade mark opposition, and pre-registration and post-registration opposition procedures in SCT member states. The committee also indicated that it is going to initiate a comprehensive survey on various industrial design registration systems, and work will be done on the enhancement of certain aspects of the procedure for the protection of state emblems, and names and abbreviations of NGOs

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