

SLOVENIAN INTELLECTUAL PROPERTY OFFICE

Following the conclusions in the summary by the chair given at the sixteenth session of the SCT, Geneva, November 13 to 17, 2006, in point 9 of the document SCT/16/8, we are pleased to give the following submission.

I. INTRODUCTION

Preliminary, we would like to stress that according to the Slovenian Law on Industrial Property only visually perceptible signs shall be registered i.e. any sign capable of being represented graphically. The list of signs of which a trade mark may consist are listed as: words, pictures, figurative elements, letters, numerals, the shape of goods or their packaging, combination of colours.

Since the enumeration of types of marks is not exhaustive other types of signs are not excluded providing that they are visually perceptible and their representation is clear, precise, easily accessible and durable.

In relation to the new types of marks identified in the document SCT/16/2 as visible signs the following signs according to the national legislation and practice are accepted:

- three-dimensional
- color »per se«
- slogans
- titles of films and books

Holograms, motion or multimedia signs, position marks and gesture marks are not accepted since their representation does not satisfy the requirement of precise representation .

Among the types of marks listed as non-visible category only the following is accepted:

- sounds marks

Other types of non-visible marks i.e. olfactory, taste or texture marks are not accepted

II. METHODS OF REPRESENTATION AND DESCRIPTION OF NEW TYPES OF MARKS

In relation to the methods of representation we deal in this paper only with the types of marks that we accept.

VISIBLE SIGNS

Three-dimensional marks

According to the Slovenian legislation and practice product shape and product packaging are signs that may constitute trademark.

Applicants are required to provide a pictorial representation of the mark in the form of drawing or photographs that clearly show all features of the mark. The shape of the good

SLOVENIAN INTELLECTUAL PROPERTY OFFICE

must be shown by a single perspective view. Multiple views of the shape, if submitted, shall not be published. An indication that the mark is a three-dimensional sign should be indicated in the application form. A written description of the features of the mark is not required and shall not be published if submitted.

In case of the three-dimensional marks additional costs for IP office does not exist. Technically such marks are treated as a figurative marks.

Color marks

Applicants are required to indicate the information to the effect that the trademark is a color per se« mark. Otherwise the application will be examined as if it were a figurative mark. A mere sample of a colour and the designation of the colour using the common name of the colour is sufficient. If the designation of the colour is accompanied by the relevant code from an internationally recognized color identification system this code is also published.

NON-VISIBLE SIGNS

Sounds marks

Applicants are required to indicate the information to the effect that the trademark is a sound mark. Otherwise the application will be examined as if it were a figurative mark since the sound has to be represented graphically, through the musical notation. CDs could also be provided. The acceptance of the sonograms for non-musical sounds is dependent upon whether they can be properly regarded as analogous to musical notation.

In case of the sounds marks additional costs for IP office could be expected.

III. TRADEMARK PRINCIPLES TO NEW TYPES OF MARKS

All trademark principles established by the national legislation and practice must apply to new types of marks. Nevertheless, the Slovenian practice takes into consideration also the following:

Three-dimensional marks: the law provisions provides for the signs which consists of the product shapes and/or packaging cannot be registered as trademark if the shape results exclusively from the nature of goods themselves, or if it necessary to obtain a technical result or if they solely serve the purpose of giving value to the goods. But, the principles of distinctiveness and public order or morality as well as the issues of public interest should also apply.

Colour »per se«: a limited number of available colours should be taken into account. Registration should be limited for reasons relating to the public interest. In general a single colour has a little inherent distinctiveness. For these reasons applicants are required to provide evidence to demonstrate that the colour has become distinctive in relation to the goods or services for which the registration is requested.

Slogans: stricter criteria are not applied. Additional features of originality or imagination are not required.

Titles of films and books: general trademark principles used in the relation with the

SLOVENIAN INTELLECTUAL PROPERTY OFFICE

traditional types of marks apply.

Sound marks: general trademark principles used in the relation with the traditional types of marks apply.