

Information about borderlines (boundaries) between trademarks and designs

The document SCT 9/6 deals with the relation between design, copyright and trademarks. We are very interested in learning more about the various borderlines, especially between design and trademarks.

We believe that by identifying and mapping out the various borderlines between design law and trademark law, we will achieve a better understanding of both systems.

However, we would like to go even further and broader than what is stated in this document, with regards to design and trademarks. The document talks about design versus three dimensional trademarks. We believe that if we should talk about the borderlines between design and trademarks, we should try to cover them all. This means not just design versus three dimensional marks, but also include ornamentation, graphic symbols and ikons versus figurative marks, and get up versus tradedress.

We see that there are many similarities to the visual conception of these rights and at the same time there are differences with the scope of rights.

We would like to see some questions relating to these borderlines in the second questionnaire about designs (relating to substantive issues). We believe that sharing information about all the borderlines between designs and trademarks will be beneficial for us all and give us a better understanding of both systems.

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