

SCT Secretariat

Danish Patent
and Trademark Office

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Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, SCT/26 – Submissions

Thank you for the invitation to state suggestions in relation to the work on trademarks and the Internet, including the liability of Internet intermediaries.


The Danish Patent and Trademark Office thanks the Secretariat for preparing the documents SCT/24/4 and SCT/25/3 dealing with the subject “Trademarks on the Internet”, which raises a number of interesting questions.

In paragraph 70 in SCT/25/3 the Secretariat suggest that standards for the determination of the presence or absence of secondary liability of Internet intermediaries could be developed. However, before dealing with this question the Danish Patent and Trademark Office suggest that the SCT first identify to what extent the Joint Recommendation so far has been implemented into national law and how national courts have applied the principles laid down in the Joint Recommendation. In this respect The Danish Patent and Trademark Office believe that it would be useful to focus on the implementation and application in national law and practice of Articles 2, 3 and 9 of the Joint Recommendation, and in particular on the interpretation of the terms “use of a sign” in article 2, “user” in article 3 and “bad faith” in article 9.

The Danish Patent and trademark Office believe that a better understanding of the experiences the different Member States has had with implementing and applying the principles of the Joint Recommendation will give the SCT a better basis for identifying issues and make proposals for a revision of the Joint Recommendation.

Furthermore, we can inform you that the Danish Patent and Trademark Office in October 2010 consulted the trademark users in Denmark to get their opinion on a possible review of the Joint Recommendation. The Danish trademark users have stated that they will prefer a clarification of the rules regarding trademarks on the Internet, in particular a clarification of the liability of Internet intermediaries and of the term “user” in article 3 in the Joint Recommendation.

Yours Sincerely,


Lone Frosch
Director
Trademarks/Design