

Legal Network International

IP and trade mark news – November 2022

A monthly update on global IP and trade mark news from the member firms of the Legal Network International (LNI).



China

On December 1, 2022 the Supervision and Administration Rules for Trademark Agencies issued by the State Administration for Market Regulation will take effect.

The number of trademark agencies jumped from more than 100 in 2003 to almost 70,000 now resulting in some poor quality service and lack of management by many agencies. These Rules intend to improve supervision of trademark agencies and the quality of the entire industry. One major change is to standardise the trademark agency recordal system by introducing a renewable 3-year validity to improve effective supervision.



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France

The Paris Court of Appeal has recognised the infringement of an artwork parodying the painting *Mona Lisa* with a Playmobil figurine. It was inserted in a new artwork created by a different artist.

The Court of appeal held that the parody was original given “*arbitrary and aesthetic choices (...) notably the representation of the face, the bodice, the arms, the hair, the position of the character*” and then protected by copyright legislation.

It has also set aside the parody exception given that the new artwork has inserted the “Playmobil *Mona Lisa*” without any modification and was in fact parodying the genuine *Mona Lisa*.



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India

The Delhi High Court has in an ad-interim application ordered the blocking of a website, ‘www.myshoeshop.in’ which was accused of selling ‘first copy’ of various popular footwear brands such as New Balance, Adidas, Louis Vuitton and Nike at discounted prices. The court also ordered the suspension of the Instagram page of the website and summoned details of its owner. The order was passed after a commercial suit was filed by New Balance Athletics Inc.



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Ireland

The Intellectual Property Office of Ireland (the “IPOI”) has released an update reminding proprietors of a granted European Patent validated in Ireland, with no address for service within the EEA that they are able to receive all renewal documentation electronically including renewal certificates. Further information on how to register for the service including the ability to receive yearly reminders to pay relevant fees is available on the IPOI’s website at www.ipoi.gov.ie.



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Italy

The Supreme Court of Cassation, through order no. 29479 of 2022, has ruled that the interest in bringing an action of negative ascertainment of infringement of a patent (or even a trademark) subsists even in the absence of an express initiative taken by the holder of the right by sending (or receiving) a notice or its involvement in judgments or proceedings, not necessarily implying the actuality of the injury of a right. It is sufficient a state of objective uncertainty, which can only be removed with the judge’s intervention.



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Mexico

The University of San Luis Potosi State invites the university community in general, the higher education institutions of the state and the city, to participate in the “*Campaign to Promote the Protection of Intellectual Property*”, requesting training for their students and work teams, these university spaces reinforce the culture of protection and respect for intellectual property. The aim is that all inventors, creators of works: artistic, literary, music; inventions, trademarks, are aware of how to protect and ensure that the time invested in work has benefits when trading or licensing their projects.



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 Singapore	Swatch AG (Swatch SA) (Swatch Ltd.) v Apple Inc. [2022] SGIPOS 13 The Intellectual Property Office of Singapore reiterates that an allegation of bad faith is a serious one which must be fully and properly pleaded and should not be upheld unless it is distinctly proved. Learn more here.	 Intellectual Property Lawyers in Singapore. Est. 2003 www.alphaandomega.com.sg
 Sweden	The Swedish Patent and Market Court of Appeal recently ruled in a case regarding unfair marketing practices of electronic cigarettes. In the case, the Swedish Consumer Ombudsman brought action against a company that was marketing electronic cigarettes on a website, in e-mails and on Facebook, using e.g. positive reviews of the products from its customers. The Court ruled that the marketing of the products constituted commercial messages in violation of the Swedish Act on Tobacco and Similar Products.	TIMEDANOWSKY www.timedanowsky.se
 UK	The UK government is currently debating the implementation of the Trade Marks (Amendment) Regulations 2022 which would allow holders of 'well-known' trade marks the right to prevent third parties from using a similar trade mark with dissimilar goods or services. The reform would bring UK law in line with EU law. Learn more here.	hamlins www.hamlins.com
 USA	The United States Patent and Trademark Office recently announced that the time for trademark applicants to respond to office actions will be shortened from six months to three months beginning on December 3, 2022. Applicants are permitted to request a single three-month extension for a US\$125 fee, so long as the extension request is filed on or before the initial deadline. Failure to respond or request a timely extension will result in abandonment of the application. This new deadline applies to all application filing bases <i>except</i> international applications filed under section 66(a) of the Madrid Protocol.	 www.norrismclaughlin.com