

LEGAL DIVISION E-BULLETIN



USPTO signs patent agreement with JPO and KIPO

The US Patent and Trademark Office (USPTO) has signed patent search agreements with the Japanese Patent Office (JPO) and the Korean Intellectual Property Office (KIPO) on the sidelines of the General Assembly of the World Intellectual Property Organization (WIPO). The programme is designed to provide American patent examiners with the best prior art by combining the search expertise of patent examiners at the USPTO and JPO or KIPO before issuing an office action in the patent application.

BBC in copyright infringement row over Bill Cosby documentary

The producers of “The Cosby Show”, the Carsey-Werner Company has sued the British Broadcasting Corporation (BBC) for copyright infringement. According to the suit filed at the US District Court for the Central District of California, the BBC aired the infringing works in a documentary called “Bill Cosby – Fall of an American Icon”. The documentary was created by Sugar Films. As per Carsey-Werner, BBC used eight audiovisual clips and two music cues without permission. According to the claim, the total cumulative running time of the infringed works was 234 seconds, which represented 6.5 % of the total running time of ‘Fall’. The Carsey-Werner Company has sought damages in excess of \$75,000, an account of profits and a jury trial.

RCEP negotiations at critical stage

The Regional Cooperation Economic Partnership Agreement (RCEP) negotiations have reached a critical stage where the ministers of the member states reviewed its progress on the sidelines of the ASEAN summit held on November 10th and November 11th, 2017 in Manila, Philippines. The RCEP is a proposed mega-regional Free Trade Agreement (FTA) between the ten member states of the Association of South East Asian Nations (ASEAN) and six other countries with which ASEAN has free trade agreements. Termed as a viable alternative to the Trans Pacific Partnership Agreement (TPP), the RCEP contains a separate mandatory chapter on intellectual property. With respect to broadcasters’ rights, it calls upon the RCEP member states to accede to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

Key IP provisions suspended in CPTPP

In the newly renamed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) key IP provisions were suspended. The Trans-Pacific Partnership Agreement was renamed to CPTPP on November 11th, 2017. Some of these provisions included copyright extension to 70 years after an author or artist’s death and the provisions on the term of protection granted to data exclusivity rights for biological drugs. Other suspended provisions included safe harbour provisions for internet service provisions and provision on countries banning the manufacturing of boxes for decoding encrypted satellite signals, technological protection measures and rights management information. The primary reason for the suspension was US’ withdrawal from the TPP. Many advanced provisions of the IP chapter were added on the insistence of the US negotiators and were quite unpopular in the original agreement amongst the key countries.

NFL successfully opposes “Superbowl” trademark at UKIPO

The National Football League has successfully opposed a trademark application at the UK Intellectual Property Office (UKIPO) for the term “Superbowl UK” filed by QL Partnership. NFL opposed the mark on grounds that it infringed its trademark for the same name registered in the EU. As per the ruling handed down by UKIPO, QL Partnership’s trademark application was “visually similar to a medium degree, aurally at least highly similar and conceptually similar to a high degree”. It further ruled that the services offered by QL Partnership were also visually similar which could lead to customer confusion. Both QL Partnership and NFL were ordered to pay attorney’s fees due to “equal measure of success”.

35th Standing Committee on Copyright & Related Rights concludes

The 35th Standing Committee on Copyright & Related Rights (SCCR) took place from November 13th till November 17th, 2017 at the World Intellectual Property Organization in Geneva, Switzerland. During the course of the week, the proposed treaty on protection of rights of broadcasting organizations, limitations and exceptions for libraries and archives and limitations and exceptions for educational and research institutions and for persons with other disabilities were discussed. A proposal for analysis of copyright related to digital environment and a proposal from Senegal and Congo to include Resale Right (droit de suite) in the agenda of the future SCCR was also discussed. Substantial progress on the Broadcasters Treaty was also made.

The E-Bulletin of the ABU Legal Division is a fortnightly initiative to bring news and other updates to members.

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