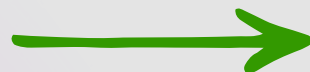
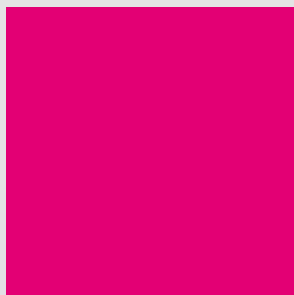
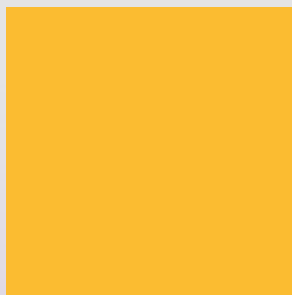




EXPLAINER: KEY TAKEAWAYS WEBINAR 2024

Discover interesting cases!



We highlighted several bad faith cases and asked the question:

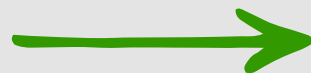
Should BOIP in bad faith cancellation cases always grant a 2nd round to exchange arguments?

And 72% answered 'yes'.

This year we also focused on cases in which the distinctive character of a sign played a significant role.

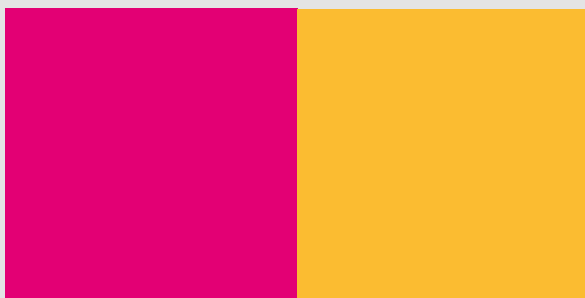


Position mark case

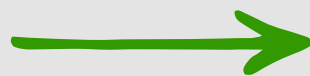


Dr Martens Position mark case

- In this case it was decided that acquired distinctiveness must be shown for the position mark in any colour.
- This requirement raises questions, for example whether it is possible to register a position mark for a colour or the shade of a colour.
- The final word has not yet been said on this! The first Chamber of the Benelux Court is currently looking at the appeal in this case.



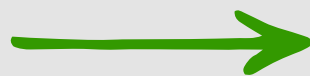
Colour marks



Colour marks (T-Mobile & Chocomel)

- Distinctive character may grow (or shrink) over time. Not being on the market in a significant part of the Benelux does not help (T-Mobile)
- Enlarged distinctive character needs to be shown/proven. Using the colour in a consistent and dominating way on the product, packaging and merchandise helps (Chocomel)

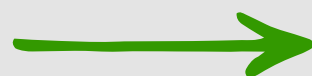
Reputation



Reputation (Max Verstappen & McDonalds)

- If you are a famous Formule 1 driver this does not automatically result in your name being a well know trademark for all kinds of products.
- The extent of the reputation also determines the scope of protection vis-à-vis similar marks offering different products (McDonalds)

Descriptive character



Descriptive character (The Bank)

- BOIP refused the word 'The Bank' for inter alia restaurant services.
- The Benelux Court overruled this decision, stating that:
 - There is no association of the indication THE BANK with qualities of the services indicated.
 - The services indicated are not intrinsically connected with banking.
 - In addition, it does not concern a quality which creates a positive feeling
- In short, the indication 'The Bank' is not descriptive for a restaurant.



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