



BENELUX TRADEMARKS OFFICE  
BENELUX DESIGNS OFFICE

WORK IN PROGRESS



ANNUAL REPORT 2005



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SECTION 1 REPORT FROM THE MANAGEMENT BOARD



PAUL LAURENT

“No matter what happens, I believe that above all else we must remain self-assured. We are right to be proud of our achievements. We are now working more efficiently than before. These days, a single examiner is responsible for the entire registration process - as a result, registration is quicker than it used to be, and it also means we can decide quickly whether we can register a particular trademark.”

“We are naturally experiencing competition from the Community Trade Mark but we have learned to handle this, too. I think that this “opposition” is a good thing, as it keeps you on your toes. We handle a huge number of filings: 30,000 from the Benelux countries and another 8,000 from other countries. It’s very important that we keep on our toes and stay efficient. Only if we stay alert will we keep our competitive edge.”

“We work in a small organisation, so everybody knows everybody else. Introducing our new corporate identity is a big step but it’s one we have to take, as we need to raise our profile. All the same, I still take time to look around. I enjoyed the training programme “Project-based working” that I attended in 2004. I learned a lot from it, such as how to quickly discover what is and is not feasible in a project. I remember the construction industry maxim: ‘Don’t start painting the house’s walls before they are in place! Try to do things in the right order.’”

“What mustn’t change? That we remain an important point of reference within the European Union for the intellectual property rights that we register. We must continue to uphold the good reputation we have. The Benelux region is our home market where we have to deal with 27 million consumers. **This makes us a player that everyone must reckon with. We have to project this image too, so in the end this comes back to the importance of this self-assurance.**”



## INTRODUCTION

Edmond Simon  
Director

2005 saw the start of a new era - an era that will significantly shape the future of the Benelux Trademarks Office. After all, this was the final year before the implementation of the new Benelux Convention that is replacing old conventions dating back to the 1960s and that will give our business a face-lift. The convention will mean that we will be able to respond even more quickly and easily to changes in legislation. The new convention will also mean that we will be able to provide new services should governments wish us to. The advent of the Benelux Intellectual Property Office will mean that our customers' intellectual property will enjoy better and more effective protection than ever before. The new Office will be opening its doors soon, during the second half of 2006.

At the current time, our new organisational form is being looked at in the various national offices. We are very optimistic about the resulting findings. The new organisation is a worthy successor to the two Offices that are being merged into it. After 35 years, the Benelux Trademarks Office is fulfilling its role as never before. No less than 95 percent of Benelux applicants are registering their trademarks with our Office.

### WORK IN PROGRESS

As noted above, the reporting year has ushered in a period of change that we are designating the 'work in progress' period. Thanks to our thorough preparation in 2005, the new Benelux Office for Intellectual Property will be able to respond to our customers' needs even better and even more quickly. Our goal of greatly improving the efficiency of our organisation will be translated into a super-fast and professional service. In other words, there have been many changes for the better in our organisation over the past year, a development that has put us in a healthy financial position, and both the Supervisory Board and Management Board are satisfied with the progress we are making.

### AUTOMATION

As part of our automation programme, we have completed the project to set up an online Trademarks Register. The success of this project is best demonstrated by the fact that it is consulted an average of 7,000 times a day!

In 2005, we also worked on setting up a system to assess customer satisfaction and worked to improve our complaints handling procedure. In 2006 we will start reaping the fruits of these labours.

Our lawyers have done good work in 2005, including going to the Court of Appeal in The Hague to successfully defend the refusals we had issued.

The vast majority of the opposition procedures ended in an out-of-court settlement between the parties involved.



## I-FILING

At various trade fairs and exhibitions we visited in 2005, we tried to raise awareness about the need to register intellectual property rights. Our efforts proved to be effective, as more and more Benelux applicants started visiting our workshops, which were held in both Brussels and The Hague.

The Benelux Designs Office continues to focus on new products in the run-up to its incorporation into the new organisation. An example is the i-filing service that gives designers a way to record a date of creation for their ideas, designs and concepts. Demand for this service rose by 18 percent in 2005. A digital version of the i-filing service will be launched soon and will prove to be an ideal way of managing ideas within companies.

The new organisation will include a Benelux Intellectual Property Council in which the agents will play a prominent role. Their involvement will help all parties to set out their own positions more clearly. A register of agents will be set up too. This is why we have to keep ensuring that the

right vocational training is given to those agents who wish to be included in this register. A greater focus on the right training will ensure that agents continue to provide a quality service and will help to ensure a level playing field in respect of inclusion in the new register.

## INTERNATIONAL OUTLOOK

In 2005, the Benelux Trademarks Office also showed that it was a force to be reckoned with on the international stage. We received a number of foreign delegations with whom we were able to share our experiences. In return, the Office had a major presence at festivities organised by the Russian and Romanian offices. We were able to serve Luxembourg well when it held the presidency of the European Council during the first half of 2005. In December, we were given the opportunity to present our vision to the Benelux Interparliamentary Consultative Council. We took this opportunity to describe such matters as the ways in which the new Benelux organisation would be able to make a major contribution to the achievement of the European Union's goals for 2010 that were set by the European Council of Lisbon in the year 2000.

We should also mention that our campaign to get the OHIM European Trademark Office in Alicante to pay us a fee for the information that we provide on such things as trademarks was a success. Almost all EU Member States supported this initiative.

**SUCCESS**

To sum up, I can say that 2005 was our best year since the Office was founded in 1971. There was an exceptionally large increase in the number of filings, mainly due to the introduction of the domain extension '.eu'. In fact, we were almost swamped by filings from all over the world.

And what was clear for all to see? Simply that we do indeed have the quickest filing process in all Europe. Not only that, we are also enforcing one of the most up-to-date and flexible bodies of legislation in existence. We have internal services that are automated to a large degree. Combine this with the great enthusiasm and energy shown by our colleagues in tackling the challenge of the large volume of work we were faced with, and you can see why we have been so successful in 2005.

Which is why I would like to express my thanks to all my colleagues for all their effort and commitment during 2005. Thanks to their dedication, we were able to handle the enormous amount of work given to us last year. It is entirely thanks to them that 2005 was such an exemplary year for us. The figures in this report speak for themselves: for the third year in a row we posted a profit. I hope that the drop-off in our activities that we experienced after September 2001 will soon turn out to have been nothing more than a bad dream...







“In my opinion, the new convention’s greatest benefit is that we will be able to perform a wider range of tasks whilst having to follow less onerous procedures. What is certainly important too though is that a whole host of tasks and duties are being delegated to the executive level, namely to the Management Board and to the directors of the new organisation.”

“I believe that the changeover to the Benelux Intellectual Property Office will give us new opportunities for growth. We will be able to provide a broader range of services, including in the field of granting patents, an area where we have a great deal to offer. It depends on whether the politicians will allow us to achieve our ambitions. If they do, it will make our organisation even more dynamic. The fact that we are the European front-runner in the field of IT usage will only expedite this process.”



“Our employees have responded enthusiastically to the ‘new scope’ of our business. They were and are in good spirits. This good working atmosphere was already there, and so was the necessary transparency. If we had not been a transparent organisation then there is absolutely no way that we could have assumed this new organisational form, although you mustn’t exaggerate the impact of the changes: our core business will not be immediately affected.”

“I believe that the long-term future of the Benelux Office for Intellectual Property is rosy too. **Not just because of the new business that may be coming our way, but also and above all because the new convention makes us more dynamic at an operational level.**”



SECTION 2 MANAGEMENT



“In 2005, we began to reap the fruits of all the changes we had already implemented. We would never have been able to handle all the business and work created by the launch of the new .eu domain if we hadn’t let each examiner handle each file from beginning to end. All these applicants used our priority registration process. It’s a good example of how customer-oriented we are these days. We have changed from being a purely administrative organisation to one that now plays a more content-related role and concerns itself with such aspects as oppositions and refusal of trademarks. I have experienced all these changes personally, as I have been here for twenty-one years now.”

“A new convention requires a new organisation that is right for its time. **I try to bring to the fore our organisation values - flexibility, accessibility and a contemporary outlook:** not by blindly promoting them but by raising certain issues at the work meetings. And we are implementing these values in practice too: during the busy time at the end of last year, we showed how flexible we are. We are accessible too, because there is a designated contact person for each file. And our modern approach is shown by the fact that all customers can now register their trademarks via our Internet website. In December, we received no less than 5,000 applications via BMBCConnect, a figure that only last year was just over 1,000. We processed all those applications too.”

“At the end of last year, we showed that we could carry out large amounts of work. However, this was only possible thanks to the huge effort that everybody put in.”





## INTRODUCTION

Dick Verschure  
Director General Affairs Directorate

2005 was a year of transformation. Building on the foundations of our previous initiatives, in 2005 we produced results that highlighted the changeover to a new organisation. One important result of our work was the online Trademarks Register, which meant we could offer online publication of new registrations and online searching in the Trademarks Register. This also meant that we had implemented recommendations made by the efficiency scan carried out at the Offices. Our "BTO online" service has further streamlined and speeded up the registration procedure, a fact that has not been lost on the outside world. Just look at the huge increase in the number of filings we received in 2005. It was precisely because we already had these new systems in place that we were able to handle the increased workload without too much trouble.

### RELIABLE

Over the past year, System Management has implemented a whole host of new initiatives to ensure the reliability of our production environment in the future. The solutions chosen have already proved their worth. For instance, they have already resulted in substantial cost savings in both hardware and support. Furthermore, System Management has also been working on realising a fully firewalled development environment that will be completed in 2006.

Of course, 2006 will also be the year in which the Benelux Convention on Intellectual Property comes into force, and the year, therefore, in which the Offices are merged into the Benelux Office for Intellectual Property. This is why we have worked hard to create a new corporate identity and a new logo that will make the changeover to the new organisation clear to everyone."

### ORGANISATION VALUES

An investigation into the efficiency of the Offices had been carried out as early as 2004. This had far-reaching consequences, including more clearly defined priorities and the introduction of project-based working for the whole organisation. There were also other changes, such as clearer communication about our guiding philosophy. This has in turn led to the introduction of a new employee appraisal system, in which job-specific and pan-organisational competencies play an important role. Our organisation values lie at the heart of our competency management system. These values ensure that we are supporting our applicants, agents and other users in as customer-focused and efficient a way as possible. We are pleased that our organisation values have turned out to be an important source of inspiration in our day-to-day work when it comes to improving work procedures.



## A LOGO FOR THE BENELUX OFFICE FOR INTELLECTUAL PROPERTY

The new logo of the Benelux Office for Intellectual Property was inspired by the new organisation's corporate Identity. That identity can be traced back to our mission statement and is expressed in the organisation values.

Keywords for the development of the logo were:

Contemporary outlook: modern, forward-looking

Flexible: simple

Reliable: sound

Self-assured: distinctive

Accessible: clear, recognisable

International: Benelux

Where possible, we tried to ensure the new design was in keeping with the old logo and the old corporate identity. This had to do with a wish expressed in a staff survey carried out in 2004. Naturally the new logo has to be appropriate. It has to be easy to implement and suitable for use as a symbol of corporate identity on different carriers and in all types of formats and compositions.

## PENCILSKETCHES

And how did our new logo start out on the long road to its present form? Answer: in pencil sketches on paper, some of which we then selected to work on further, in collaboration with our personnel and in consultation with the New Convention Communication Taskforce. The logo consists of a combined brand name and logo-type that was inspired by the logo for the present Benelux Trademarks Office. The logo represents the Benelux region as the heart of the organisation and as a starting point for all its activities.

## CORPORATE IDENTITY

We have digitised the new logo and used it in various proposals for the basic corporate identity of the Benelux Office for Intellectual Property. We are working on using the logo with the different carriers of the corporate identity. We are also developing new guidelines for using that corporate identity. In addition, we will be adapting all means of communication, such as batches of brochure production runs and websites, to allow them to tie in with the visual identity of the new organisation.

Christel Verbouw  
Communication Department

Sandra Stille  
Head HR Department

In 2005, we introduced a competency management system at the Benelux Trademarks Office, after a whole year of preparatory activity. We agreed the new policy in consultation with the Employee Committee and informed the workforce about the changes. We also had to set up a new appraisal scheme and draw up some new forms. Competency management is a way of coordinating, developing and steering the quality of the organisation and its employees, thereby helping us to achieve our mission: to protect our customers' trademarks as a matter of course.

#### ORGANISATION VALUES

For an employee of the Benelux Trademarks Office, competency management means that he (or she) must always be asking himself whether the way he is working is helping us to achieve our goal of protecting our customers' trademarks as a matter of course. At all times, he must check that the approach he is taking is in line with the five organisation values of self-assurance, accessibility, reliability, flexibility and a contemporary outlook. Quality and a customer focus are naturally very important too.

In November 2005, all employees were assessed on their flexibility, sensitivity to their environment, initiative and ability to cooperate. These are the four competencies that are derived from the organisation values and that apply to each and every employee. Managers guide their employees towards gaining and retaining these competencies. If we work in a way that embodies these values, we will be able to perform better and provide better services. The Directors feel that if we wish to develop these competencies, we must invest time and money in a long-term training programme that includes permanent schooling in these competencies. We will work out further details of this policy in the coming months.

#### CUSTOMER-FRIENDLY

These days, the Benelux Trademarks Office's competitive edge is that we register each trademark 'quickly and professionally' and that we are customer-friendly and efficient. We have to uphold this positive image. Accordingly, it is important that we become an organisation with self-assured employees who possess thorough specialist knowledge and competencies. This is a win-win situation: employees enjoy their jobs because they are learning new competencies, and customers are pleased because no matter which employee they talk to, they get accurate information provided in a customer-friendly way."

Arno Rohder  
Deputy Head HR Department

In October 2005, Alons & Partners management consultants started an audit into the quantitative workload within four departments: Data Processing, the Administrative Processes Support Sector, the Registration Department, and the team that works on international and European research within the Service & Information Department.

#### WORKLOAD

Alons defines "workload" as all the work that a Department or employee has to do. In this study, Alons is looking at such things as tasks and subtasks and related level of difficulty, quality standards, desired work rate and output targets. All this results in a description and quantification of the primary and secondary activities per unit of time, along with information on how frequently we perform these tasks and the total quantity of work performed per annum.

At least two working meetings were held within each Department, at which a number of employees and a manager described the work processes step by step from beginning to end. They estimate the time taken for each task and the frequency of execution. The overall workload is calculated both from these tasks and from other factors such as leave and frequency/duration of meetings and get-togethers.

#### INSIGHTS

The participants found the meetings strenuous but realised at the same time that they were gaining new insights into their work, both regarding the number of productive days and the time they spent on indirect tasks. When you have already been carrying out certain tasks routinely for a long time, this type of audit can raise your awareness of the individual elements of your task and the time that each one takes.

These working meetings were used to draw up lists of tasks, productive days and the number of employees and FTEs (full-time equivalents). FTEs are a calculation unit that you can use both to express the scope of a job's tasks and duties and to express the size of the workforce. For example, a single FTE may consist of two employees, one of whom works at 40 percent and the other at 60 percent. This is how you calculate the effective size of your workforce. The lists were discussed with managers and directors and adjusted where necessary. We will distribute the report within the Benelux Trademarks Office during the spring of 2006.

## A YEAR OF TECHNICAL CHANGE

Jean-Marie Putz  
Head Automation Department

In order to be able to provide a broader range of services, the Benelux Trademarks Office invested heavily in technical training programmes for its workforce in 2005, allowing us to realise major technical change. We have decided that from now on we will develop our computer applications on the Java platform. This changeover will safeguard the stability and reliability of our data and work processes. 1 January 2006 saw the first result of all this work, namely the launch of the revamped Trademarks Register, which has now become the official publication.

### TRADEMARKS REGISTER

The online Trademarks Register is based on the international XML standard (TM-XML) for trademarks that the Office initiated a few years ago. Together with the WIPO, the OHMI, DPMA (Germany) and UKPO (the UK), we have been actively working on this standard, which work is now nearing completion. We have agreed with OHMI and WIPO that in future we will retrieve the information stored in TM-XML directly from their database as soon as a user requests details of a particular trademark. Users searching in the register can already find international and European trademarks there - it is just that we link directly to the WIPO or OHMI website to provide these details.

### ONLINE FILING

The Trademarks Register is the first fruit of these technical changes. We want to build a fully integrated system in which all internal and external procedures are seamlessly coordinated. In order to improve online communication with our external customers and other business relationships, we are rewriting those programmes that support internal procedures. Another of our initiatives is to draw up a new version of the online filing procedure that will make registration even easier for the user. And that's not all: we are also adding new options such as the online submission of renewals and modifications, applications or international trademarks, and a great deal more.

Jeroen Janssen  
System Administrator

In 2005, we in the System Management Department worked hard to create a dependable infrastructure that would allow us to support the innovative ideas of both internal and external services.

#### WEBSHERE

Our full participation in the Java course project meant we could make well-considered assessments of the infrastructure that is being used to support the new technology. IBM's Websphere platform was chosen as it will give us a reliable platform for new applications, one of which was used to make the Trademarks Register accessible via the Internet. This shows that this platform meets our requirements. In the near future, we will be able to integrate the various Internet applications by further developing new functionalities from the Websphere portfolio.

#### VMWARE

We looked for a reliable and flexible Internet set-up, mainly because the newly developed services were to be accessed by the general public. We brought in VMWare technology to make this possible.

VMWare allows us to respond quickly to the fluctuating demand for capacity that is part-and-parcel of Internet-based services. This technology also ensures the high availability of our system sources via the intrinsic support for the monitoring of virtual systems. The further virtualisation of our server park in the coming year will cut purchasing and maintenance costs and also reduce the need for server management work.

We have made great progress in our backup facility by introducing a new solution for the storage of business data that safeguards data integrity. In the first quarter of 2006, we will set up a system of company data replication at an external location and in this way comply with one of the stipulations laid down by the company's emergency plan.

ALIE BOSVELD



UP IN THE AIR

WORK IN PROGRESS



“I actually attended the original reception for the inauguration of the Benelux Trademarks Office. That was in 1971. At the time I was the youngest staff member - these days I’m one of the “old guard”. I was very conscious of the ongoing process of automating our processes, which started with us cutting and pasting paper computer tape and ended with us sitting at our computer monitors and not budging from our workplaces all day. What’s my job now? ‘Head of Typing Pool’, to put it simplistically. It is our job to input the new filings, modifications and renewals.”

“For four years now, we have been able to input filings digitally. In fact, we already receive about 80% of our filings online. I can definitely understand why these changes have been made and I think they are brilliant, but I do have a department staffed with nine hard-working people. We still do modifications and renewals of registrations manually but eventually this will be done via the Internet too. This is why we are working hard to develop new jobs for our department, such as database maintenance. We have a lot of trademarks in our database that are still in their original form, with the same unmodified data from the original filing years ago. In order to create an accessible register, we are concentrating more and more on the quality of the information and on providing new search options for the customer. We could also tackle the customer database, including details of all applicants. Being the customer-oriented business that we are also means improving this database and analysing it.”

“Now that we are to become the Intellectual Property Office, we will probably be given additional tasks. **But many of the future changes are still up in the air. My employees are awaiting developments anxiously too.** I am now part of the New Convention Communication Taskforce and am helping with such tasks as developing the new corporate identity.”



SECTION 3 REGISTRATION & LEGISLATION



KAMTA BOMAN

“I am the only person who has actually been at the Trademarks Office continuously since day one. In 1971 I travelled from Suriname to the Netherlands for a holiday, because friends of mine thought that the Netherlands was a nice place and had said ‘Come and see for yourself’. I saw an advert in the paper and decided to apply for a job at the Trademarks Office. I was able to start work immediately in the archive. I actually arrived in the Netherlands with a return air ticket but never went back. Apart from holidays, of course.”

“In 1973, I moved to the HR Department. While I was there, Mr Rome, Head of General Affairs and my mentor, told me that if I wanted to progress in my career I would have to study. As a result, I took and passed the work experience-based diploma courses in Bookkeeping and Modern Business Accounting. In 1981, I was able to move to the Finance Department, where I have stayed.”

DEBITS AND CREDITS

WORK IN PROGRESS

“These days you have to be flexible in the financial accounts department too. I mainly work on accounts payable but if need be I will take on work from other colleagues too. That never used to happen in the past - you would come back from holiday to find your desk piled high with files. Everything happens more quickly these days: it used to take a week before we got the bank statements, whereas these days we just download them every day onto our computers. It’s so easy.”



“Changes brought about by the new convention? Well... our department won’t even notice most of them: credits will still be credits, debits will still be debits. The biggest change will be that in eighteen months’ time I’m going to retire and spend my winters in Suriname - I’m already looking forward to that!”

## INTRODUCTION

Paul Laurent  
Director Law Enforcement Directorate

In 2005 we worked hard on new initiatives designed to improve our service. It was work that had to be done, as the number of applications for trademarks stagnated at the beginning of the year and the number of applications for drawings and designs fell sharply. Thanks to the above initiatives, we were able to turn the tide: during the year the number of trademark applications rose. We reached the limit of our output and then even exceeded it. We had to shift more and more resources into our day-to-day output. We ended up the 'victims' of our own success, finishing the year with a work backlog. Not surprising, seeing as how we are the only institution that can register a trademark in less than a week...

### INITIATIVES

In our 2005 work schedule we emphasised such values as simplicity, ease of use, quality improvements, promotion, proximity, preparing for the new convention and a project-based approach. We achieved progress on all these points. I will give you some examples:

We made our standardised letters and forms easier to understand and/or use. We also drew up a code of conduct that draws a clear distinction between informing, which is after all our job, and advising. We devoted a lot of time and effort to training our personnel in quality control issues and to procedural improvements. We intensified our cooperation with the national offices, in order to make procedures uniform and to complete agents' training, also in respect of access to online data.

Preparing for the new convention required a great deal of work. We have drawn up a register of agents. We worked on scrapping the mandatory investigation and the consequences of this move, such as the creation of the online Trademarks Register and on the scrapping of mandatory confirmations. We drew up the new Implementing Regulations and the internal rules for the Management Board and the auxiliary company bodies. We also looked at the statute for the new organisation in the light of the conventions that have been signed.

## OUTPUT

In 2005, 30,867 trademark applications - to be very precise - were submitted from the Benelux region, an increase of 35.6 percent on the figure for 2004. The average output per examiner is a little under seven files per day. These days, we can guarantee that a trademark application that is OK will be registered in less than a month, which time can be cut to a week in the case of a priority registration. This new fast-track procedure really came into its own during the so-called "sunrise period" for the '.eu'-domain. The number of priority registrations has risen by 150 percent over the past year. In contrast, the fall in the numbers of Benelux applications for drawings or designs was confirmed in 2005. The sale of almost 750 i-filing envelopes confirmed the relative success of this new formula. We are also preparing to launch an online version of the i-filing procedure, which will give this service the chance to become even more popular.

## LEGAL MATTERS

The provisional refusals represent about ten percent of the filings. The increase in this percentage is in line with the increase in the number of trademark applications. The same applies to the 800 letters we sent out giving our reasons for rejecting the arguments that applicants submitted to try to overturn a refusal that we had issued. In 2005, the Benelux Offices had 26 cases that were pending at the national Courts of Appeal in connection with a final refusal. The Courts of Appeal have issued five final rulings and sent nine cases to the Community and Benelux courts. The Oppositions Department has issued its first decisions. We have also drawn up various legal texts such as the new Implementing Regulations, our observations on the new convention, the code of conduct and the internal rules for both the Management Board and its auxiliary bodies as well as for the future consultation bodies.

Jessye Norman's credo for her stage performances is: 'I give everything and do this with so much pleasure.' At the Christmas reception, I complimented my colleagues on their achievement in making this maxim their own.



#### ON SETTING UP

#### AN INTERNATIONAL ORGANISATION

The decision by the Benelux governments to agree a new convention to replace the existing ones has led to a true revolution. The Benelux Intellectual Property Office will transform all aspects of the original organisation that dates back to 1971, with consequences both within and outside the Benelux region. In order to ensure a smooth changeover, a taskforce drawn from the Offices' staff is plotting the various changes that will be made and ensuring that all necessary steps are being taken. Four separate taskforces have been set up under the wing of this New Convention Taskforce; each of these will concentrate on one of the following areas:

- the consequences for international conventions
- the consequences for the workforces of the Benelux Trademarks Office, the Benelux Designs Office and the Benelux Office for Intellectual Property
- the amendment of the rules governing the Office's various bodies, and
- communications regarding the new Benelux Office for Intellectual Property

#### SNAGS AND CATCHES

There have been a lot of unexpected snags and catches involved in the setting up of an international organisation. All sorts of things that aren't an issue in a normal organisation have to be considered in the case of an international organisation. In this case, it's not a classic mistake to re-invent the wheel - it's a necessity. Take for instance the social insurance scheme for the workforce. We cannot simply adopt the system used by an individual country, so what's the alternative?

In the end, we decided - and not just for the above reasons - to opt for the Dutch social insurance system, as the Netherlands will be the location of the registered office of the Benelux Office for Intellectual Property.

And the other snags? Well, consider the legal protection offered to the workforce: which country's labour law applies and which court is to have jurisdiction? And what about the position of the new Office in respect of treaties and conventions: does the Benelux clause from the Madrid Protocol still apply? Also consider the workforce's existing rights: are the contracts simply transferred to the new organisation and is a particular document a contract or not? And think of suppliers' rights: have they made agreements that are no longer worth the paper they're printed on?

#### IN THE STARTINGBLOCKS

However, the most obvious change is that we are now focused on the user. We want you to keep coming back to us. And it is precisely those people who will not read this but who need to have their intellectual property protected who will have to know where to find us when the new convention comes into force, as will all those people already using our Offices' services. The Communication Taskforce has already warmed up and has taken its place in its starting blocks, ready to set off on its journey to inform everybody in the coming months of the setting up of the Benelux Office for Intellectual Property and of the tasks and responsibilities assigned to that Office.

Camille Janssen  
Stafflawyer Legal Affairs Department



Karin Winkel  
Head Registration Department

In the second half of 2005, we had to deal with a massive increase in the number of filings. This growth was mainly due to the 'sunrise' period resulting from the introduction of the '.eu' domain names. Between 7 December 2005 and 6 February 2006, holders of a registered trademark were given preferential status in the registration of their domain names. Many applicants leapt at the chance to have a priority filing. Thanks to the hard work of all our employees we succeeded in processing the huge inflow of filings quickly and accurately. As a result, applicants received their registration numbers quickly, within just a few days. Our priority registration process has already proved its worth.

#### TRADEMARKS REGISTER

The launch of the new online Trademarks Register this year is an important milestone. The Trademarks Register allows you to view all up-to-date filing and registration data, along with the additional information such as the status of a filing or registration. Extensive search options are included too. However, the most far-reaching change to the Registration Department is the daily online posting of all official publication times in the filing and registration procedure. This not only allows us to complete the filing procedure more quickly but also - and even more importantly - shows the outside world how quick our procedures are. From 1 January 2006, the examiner will be able, for example, to go to the online Trademarks Register to find the reference number for a particular priority registration process as soon as registration has commenced. When setting up the Trademarks Register, we gratefully called on the know-how of our Department's employees. For more information, please see Henriëtte Soonius's contribution.

#### ACCESSIBILITY

However, providing information on our way of working is just one of our important tasks and objectives: providing good service is no less important. Example: we feel that clear communication with our customers is very important. The coming into force of the new convention creates

a number of changes, such as the scrapping of the mandatory examination. This is also why we undertook a review of all our standardised letters. At the same time, we are trying to make our letters easier to read, to bring them more into line with our goal of becoming an accessible organisation. During 2006, we will revamp the letters so that they fit in with our new corporate identity. We are accessible on all fronts. We have reviewed the elements of our decisions to refuse applications on absolute grounds and also made that text clearer and easier to read. This is in line with the relevant statutory provisions.

#### KNOW-HOW

Over the past few years, we have changed from being a purely administrative office to one with a more content-related focus. In such an organisation, the demands that we ask of our employees are changing. This is why we devote so much time and energy to training, cooperation and the exchange of know-how. We use internal training programmes to increase our knowledge of the content-related tasks of the registration process. Our project-based approach has given us a broader view of the relationships between our work processes. All our employees can attend seminars and workshops. We also discuss and consult in our consultation organs, where we exchange practical and legal information. We are preparing thoroughly for the challenging future that awaits us.



THE TRADEMARKS REGISTER AS SEEN  
THROUGH THE EYES OF THE EXAMINER

We now have an excellent and practical Trademarks Register. It's the result of a project-based approach for which we made full use of our Departmental examiners' know-how and experience. The entire workflow was revised and important questions were asked, such as: What are the barriers to having a reliable Trademarks Register? What changes do we have to make to achieve daily publication of the data? This last point item in particular proved a major challenge.

DAILY

After years of publishing data on a monthly basis, we changed over to daily publication of the filing data. The previous system was geared towards filing away all the work done for this monthly publication. These days, however, we can publish as soon as a number of elements of the work have been approved. This data is published immediately in the online Trademarks Register. At the same time, we send a notification about the publication to the agent or applicant. This saves a lot of time, which means that in many cases the opposition period can commence earlier, on the first day of the month following the publication of the filing. After further processing of the filing, the organisation of the work processes means that registration is possible just a few days after the end of the opposition period - provided that we have been given all necessary information, of course. Naturally, we then send out the registration certificate immediately.

WE'RE QUICK

The first stage in priority registrations is to assign a registration number. We can do this extremely quickly. In all departments of the Benelux Trademarks Office, we do everything we can to start processing a priority registration immediately. This includes the inputting of data, the settlement of the payment and the related communications. The registration number assigned can be viewed immediately in the online Trademarks Register. We send out the registration certificate as early as the very next day.

Nowadays we can also refer more users to the Trademarks Register. All data modifications that we make during the processing of the filings can be viewed there immediately. In this way, a customer can check whether amendments that he has submitted have been carried out, whether a response to a regularisation has been processed, and the degree of progress we have made on the filing. We display a modification to a registration immediately, online, and are extremely pleased that everybody can now see exactly how quickly we work.

Henriëtte Soonius  
Sectorhead Registration Department

Saskia Smits  
Staff Lawyer Oppositions Department

The Oppositions Department, launched in 2004, handled its first opposition procedures from beginning to end in 2005. Although these procedures mainly concerned administrative decisions, we were still able to take the first two opposition decisions. Time for a mid-term review, then.

**LIVELY**

In 2005, most of the administrative issues involved in the opposition procedure were discussed. Things that looked logical on paper turned out to be complicated in practice. For the Oppositions Department, ‘work in progress’ is a theme with relevance. We had and have lively discussions about the interpretation of articles of law or about the Implementing Regulations. We do not just argue back and forth amongst ourselves - we involve the stakeholders in our discussions too, via the sounding board group’s consultation with the Benelux Association of Trademark and Design Law. A new convention requires a new set of Implementing Regulations. The Oppositions Department has taken the opportunity to get rid of a number of ambiguities in the regulations. In 2006, we devoted time in our workshops to this matter.

From 1 January 2005 onwards, the second group of goods and service classes were opened up for oppositions. From this date, an opposition may be submitted against any filing in the classes 6, 8, 12, 15, 17, 19 and 21 made after this date. From 1 January 2006 onwards, an opposition may be submitted against filings in any class.

Goods and service classes where an opposition is permitted:	Opposition may be submitted against trademarks filed after:
02, 20 and 27	01-01-2004
06, 08, 13, 15, 17, 19 and 21	01-01-2005
1, 3-5, 7, 9, 10-12, 14, 16, 18, 22-26 and 28-45	01-01-2006

**DECISIONS**

In 2005, the Office received a total of 65 oppositions. Of the 56 allowable oppositions, 30 were still being processed at the end of 2005. Seventeen oppositions were suspended by joint request, and a further three due to official intervention. 2005 was the year in which we took our first two opposition decisions. We granted one opposition and refused the other. If you want to know what such decisions look like, please go to our website, or, for a little taster, see the boxes.



FIRST OPPOSITION DECISION

ETEX VERSUS



On 29 June 2005, we issued our first decision, which was in the Etex case (based on Benelux registrations 575501 and 710019) brought against the brand name and logo combination Etec (filing number 1047211). The opposition was instituted against goods and services in the classes 2, 17, 19 and 37 and was based on goods in the classes 17 and 19.

Our final decision ran as follows: 'Given the high degree of similarity between the marks on both a visual and phonetic level, and given the identity and similarity that has been established between the goods and services concerned, there can be said to be a risk for confusion for the classes 2, 17, 19 and 37.' (legal ground 80)

In other words, the Office granted the opposition. No appeal was submitted, and the appellee owes the opposer a sum of one thousand euros.



## SECOND OPPOSITION DECISION

### FIRST VERSUS

On 5 September 2005, we issued our second opposition decision. This was in the case FIRST (based on Benelux registration 401146) brought against the brand name and logo combination ... (international registration number 829911). The opposition was instituted against goods in the classes 14 and 34 and was based on goods in the class 34.

Our final decision ran as follows: 'Given the differences between the marks in a visual, phonetic and conceptual sense, the high level of interest shown by the relevant public, and the fact that the earlier right has no substantial distinctive force, there is no risk of confusion for the goods in classes 14 and 34, even though the goods are identical and similar respectively.' (legal ground 67)

In other words, the Office rejected the opposition. The trademark against which opposition was instituted is an international registration, so we informed the WIPO about our opposition decision. No appeal was instituted. The opposer owes the appellee a sum of one thousand euros.

Camille Janssen  
Staff Lawyer Legal Affairs Department

Since 1996, we have seen constant change in the assessment of trademarks on absolute grounds. The proportion of applications for which provisional and final refusals were issued is stable. The past year again produced no unpleasant surprises.

#### APPEALS

In respect of appeals against our decisions, we are seeing that an existing trend is becoming more pronounced; the proportion of appeal cases in Brussels is many times greater than you would expect on the basis of the statistics. In 2005, five new cases were brought in both Brussels and The Hague, along with a further two in Luxembourg. This means the 'Brussels share' of the outstanding appeal cases is 71 percent. Given that only about 20 percent of all filings are instituted in Belgium, this means that in Belgium parties are excessively inclined to litigate.

And the possible explanation for this? Well, we have seen that the courts in Brussels and The Hague are interpreting the criteria for refusal contained in the Benelux Trade Mark Act differently. In the Netherlands, we have won all the appeal cases so far, whereas in Belgium we have lost about 60% of all such cases since 1996. Regrettably, it appears that the uniformed Benelux and European law can still lead to differences in interpretation that have led to a situation where companies in the different Member States are having to deal with different judicial realities.

One positive note is that in three cases in 2005 the Court of Appeal in Brussels submitted questions of interpretation to both the Benelux Court of Justice and the European Court of Justice. These institutions can issue instructions that will give all courts in the Benelux region clear guidelines on the way in which the Benelux Trade Mark Act is to be interpreted. In 2005, we submitted our own appeal in cassation in a Belgian case in which the appellant had won his appeal against our decision. We also intend to do this in the other cases but are awaiting the responses from the Benelux Court of Justice and European Court of Justice to the questions put to them. We will then take a decision based on the new position.

#### JURISPRUDENCE

The following question has been submitted to both the Benelux Court of Justice and the European Court of Justice: in which part of the Benelux region does a mark have to be used in order to become established? Closing speeches have already been made to both courts. In 2006 we are expecting the ruling, which is one that will have an impact on the activities of the Benelux Trademarks Office. Note that we are also seeing an increasing amount of jurisprudence emanating from Luxembourg: both the European Court of First Instance and the Court are creating a structured body of jurisprudence that is providing clear guidelines for the interpretation of the Trademark Directive and the Benelux Trade Mark Act.

Patrice Clément  
Head Drawings & Designs

In 2005, the Benelux Designs Office further expanded the range of services it offers in connection with the i-filing envelope. The envelope's form has already been changed several times since its launch in January 1999. For example, since January 2004 it has been possible to submit filings on new data carriers such as CD-ROM and DVD.

Note that the number of filings at the Benelux Designs Office has fallen again, due to competition from the Community design.

The Benelux Designs Office continues to protect its customers' know-how effectively in many different ways.

#### ONLINE

In 2005, an i-filing envelope valid for a period of ten years was launched - a feature that has made the envelope even more attractive. The number of envelopes ordered rose steadily throughout 2005, including for the envelopes with a ten-year 'shelf life'. The next step is to design a digital version for Internet use.

MISCHA BOSSEN



PROTECTION

WORK IN PROGRESS



“I’m looking forward to the future that the new organisation will bring, one in which we can offer an ever greater range of services to registered customers. However, we must not forget that if we continue to push back our frontiers in this way we will have to pay attention to security and other issues, including firewall management and the prevention of spam and viruses on our network.”

“I believe that the changeover to virtual servers is a huge step forward. We used to have a whole rack of servers but in 2005 we started working on a virtual server park, a project that we have devoted much time to. In future, we will be offering more and more services via the Internet. This is why some of my colleagues have taken a course in Java, a programming language, which we will be using to develop new applications. This will encourage our customers to file their trademarks online.”

“The key objective is and continues to be offering the optimum level of protection. We are continually working to further improve such protection, which is absolutely in keeping with the core business of the future Benelux Office for Intellectual Property Office. It’s just that the fight that we are fighting is tougher. **As soon as we have found a solution to one danger, another one rears its ugly head. In this respect, the work we do is always ‘work in progress’.** I always say: Just as long as we keep ahead of the crooks. And we can do this, as we have proved many times over. For example, we were one of the very first to offer a virus filter on our mail server. It’s no surprise, therefore, to see that the customers of the Trademarks Office are putting more and more of their trademark business our way.”



SECTION 4 COOPERATION & EXCHANGE OF KNOW-HOW



“I mostly work on all aspects of the employment conditions package and on payroll processing, both in terms of policy formulation and policy implementation. It is a lot of work with numerical data but I have a numerical bent. I like researching all types of issues related to employment conditions down to the last detail, and using the knowledge I have gained to put appropriate arrangements in place for our employees. It’s good for both the employees and the organisation. I’ve only been here two years but was able to start working straight away with all types of arrangements that are being changed. Our Employees Statute is being changed too - at the same time as the new convention.”

“The employment conditions are very good here – still! However, new legislation and financial necessity have made it imperative to trim off some of the fat, although naturally we won’t be scrapping any entitlements already granted. I call it the ‘modernisation drive’. We have to adapt to the rest of society. As an organisation we are self-supporting but must naturally answer for the way in which we spend the funds we have earned. Despite the cutbacks, we still offer a good pension, as well as a personal development plan that gives everybody the opportunity to retire early, take a sabbatical or take more time to bring up their young children.”

“Everyone now has a range of options to choose from in respect of the health insurance package, the salary savings scheme or personal development plan, and many other things besides. You do see people getting confused with all the changes, which is when they can come to me for advice. I try to help everybody but I hardly ever say: Do this or that. **I simply set out the advantages and disadvantages of the different options. It’s still their decision.**”



## INTRODUCTION

Christel Heremans  
Head Service & Information Department

The Benelux Offices' public information and promotional policy has an important goal, namely to make businesses more aware of the importance of registering trademarks and designs. In 2005, our communication activities were given a clear structure for the first time. We focused in particular on business start-ups and on businesses from Belgium and Luxembourg.

### KNOWLEDGE NETWORK

In order to reach more businesses, we have been working with a number of partners who are helping us to 'spread the word'. This programme of cooperation again bore fruit in 2005. A great example of this was the display case 'Real or counterfeit?' that we set up at Luxembourg Airport during Luxembourg's presidency of the EU.

At the same time, we are trying to further extend our knowledge network. Our search for potential partners has led to closer contact with the Chamber of Commerce in the Netherlands and to a joint venture with Unizo in Belgium. We also strengthened our ties with UCM in Belgium and Luxinnovation in Luxembourg.

We use workshops, presentations and other initiatives to inform our partners about the latest developments in legal proceedings, jurisprudence and changes relevant to their own work. The digital newsletter was launched this year and has proved a great success. This year sees the coming into force of the new convention, along with all the associated changes, a development that will ensure that our newsletter will continue to be an absorbing read. We also got into direct contact with those in the SME sector, via our stands at trade fairs and via presentations.

### BUSINESS START-UPS

There is a special focus on business start-ups during the Starter's Days. During the Dutch Starter's Days at the Chamber of Commerce, we had stands at three different locations:

Leeuwarden, Rijswijk and Breda. Our partners who joined us on the 'Innovation & Industrial Property Rights' platform distributed information at other Dutch locations. In Belgium, we were represented both at the Unizo Starter's Days in Flanders and the UCM Starter's Days for the Walloon provinces.

In order to further optimise our services for businesses and potential applicants, we are constantly monitoring our activities to ensure that we offer customer-friendly and accessible products and services. We will also adjust these products and services if the new Benelux Convention requires this. Example: the Benelux Trademarks Office website was given a new look and equipped with revised texts and a more reliable Trademarks Register. Then the designs website was given a facelift. The website receives more than 300,000 visitors a year, so it continues to be an important means of communication.

Naturally, our website and info box are not the only places where you can get answers to your queries - you can phone them in too. Staff at our Service & Information Department answer no less than 12,000 phoned-in queries a year. Although most of these inquirers are from Belgium and Luxembourg, we did decide to set up a separate phone number for these countries. By lowering the threshold, we hope that this will make it even easier for you to get in touch with us.

In 2006, the office will continue to inform you both about the new organisation and the convention, and will also continue to inform Benelux businesses about the importance of trademark and design registration.

WORK IN PROGRESS



#### WEBSITE IN PROGRESS

Over the past few years, our website has become an increasingly important means of communication. We have also started offering online services via our website. However, we were increasingly being told that the design, navigation and options offered by our website need a more contemporary design. With this in mind, we have spent the past year completely overhauling the Benelux Trademarks Office website.

#### WHAT WAS WANTED

The Benelux Trademarks Office has had its own website since 1995. At that time, the main purpose of the website was to complement our existing means of communication. It contained a lot of information, our starting point being: 'What do we think the general public needs to know about trademark protection?'. Over the past year, we decided to give the website a contemporary design, to update the online information provision, and to gear our website texts to what our customers want, i.e.: 'What does the business(wo)man need to know to protect his/her trademarks?'.  
  
These days, the features that catch the visitor's eye more than any other are the modern layout and the well-organised navigation options. New features include the site map, the search options and the route planner. In the coming year, our new and improved website will allow us to further expand the range of online services that we offer. In mid-2006 we will be waving goodbye to [www.bmb-bbm.org](http://www.bmb-bbm.org) and saying hello to our new online home at [www.boip.int](http://www.boip.int).

#### STATE-OF-THE-ART

We have also made a great number of technical improvements. We now use Cascading Stylesheets to achieve a centrally organised and consistent typographical design and layout. The basic aspects of the website are laid down in what is known as a 'template'. If changes are to be made to the layout, all that has to be done is to make the corresponding changes to the template. All pages based on the template will then be modified automatically.

Marleen Kuiper  
Employee Service & Information Department

Bruno Vanderschoot  
Employee Service & Information Department

Starter's Days are an ideal opportunity to provide information to and to maintain contact with an important target group: start-up business(wo)men. In both Belgium and the Netherlands, these days are an annual event designed to encourage entrepreneurial activity. In Belgium it is the UNIZO (Union of Independent Businesses) and UCM (Union of Medium-Sized Businesses) who organise these events, whereas in the Netherlands it is the Dutch Chamber of Commerce. At these events, about twenty relevant organisations and services are brought together to inform the start-up entrepreneur about his/her market.

In 2005, I took part in the Walloon Starter's Day held in Liège in April, in the Flemish Starter's Day held in Antwerp in May, and in November's Dutch Starter's Day in Breda. My colleagues Christian Meyers, Guy Abrams and Jantine van Laar took turns to accompany me to these events in the Walloon province, Flanders and the Netherlands. Our preparation for these events never varied and involved dragging along piles of brochures, hanging up posters, decorating the stand, holding a briefing and then waiting for the opening ceremony.

#### TIDAL WAVE

Each time, the Day started with a tidal wave of visitors - it's like the start of the annual sale at Harrods! After five minutes, the rooms resemble a market where everybody is advertising their wares by shouting as loudly as possible. For the first hour at the Antwerp event, students were our main customers but even these young people were interested in information on trademark registration. We were kept constantly on our toes with visitors. Most of the questions really were about trademarks, although a few people did wonder who we were, and the comment that we heard most of all was "I've got an idea!" So it was no surprise that there was a lot of interest in the i-filing service. In Breda, we met a visitor who had a complaint about the i-filing, as it had led to a court injunction against him...

At these events, we spoke to almost two hundred people. These discussions usually lasted a few minutes but some went on for a quarter of an hour. For us, Starter's Days are clear proof that the Benelux Trademarks Office is able to perform its job of providing information anywhere.



Serge Juchem

Member of the Supervisory Board of the Benelux Offices

Head of the General Affairs Sector, Luxembourg Directorate of Intellectual and Industrial Property Rights

The World Intellectual Property Day is an annual event. As in previous years, the World Intellectual Property Organisation (WIPO) celebrates the day by asking its member states to organise national events. These events are designed to raise public awareness about the importance of intellectual property in daily life. By protecting this property we are honou-ring pioneers and artists for their contribution to society.

#### COUNTERFEIT GOODS

The Luxembourg government used the occasion of this world day to focus on the problems of counterfeit goods and on the importance of trademark protection. Jeannot Krecké, the Minister for Economic Affairs and Foreign Trade, was invited to host the opening ceremony for the World Intellectual Property Day held on 26 April 2005. A display case at Luxembourg Airport showed off a collection of authentic and counterfeit objects. Present at the opening ceremony were Edmond Simon, Director of the Benelux Trademarks Office and Lex Kaufhold, Director of the Intellectual Property Directorate in Luxembourg, as were representatives of the Belgian Customs & Excise Duty Office. The display case was put on show in Terminal A of the airport. Given Luxembourg's presidency of the European Union, this was an ideal location. Thousands of passers-by saw the display between February and August 2005.

#### INNOVATION

It remains vitally important to remind consumers that if they buy counterfeit products, they may cause job losses and that they will be helping to support criminal networks. Counterfeit products can also pose health and safety risks to consumers. If intellectual property rights are not respected, the level of investment in innovative industries, in research and in the promotion of culture will decline, sapping a market's vital forces. The 2004/48/EC Directive and the 1383/2003/EC Regulation show that the European Union supports effective measures to end the trade in counterfeit goods.

WILLY NEYS



WORK IN PROGRESS DEVELOPMENT

“Trademark proprietors used to have to go to court to get justice but since 2004 they have been able to come to us instead to lodge an opposition against a conflicting trademark. The Oppositions Department issues a ruling. If we rule in favour of the opposition, the Office will refuse to register the contested trademark. The opposer can submit an appeal to the court against this ruling. So far we have issued two rulings, which have not been appealed against. The outside world has applauded our decisions.”

“So far, we have only been able to issue two rulings, because the opposition procedure has been implemented step-by-step and the whole process can take as much as a year. In 2004, it was possible to submit an opposition against trademarks in any of three classes. In 2005, this was expanded to ten classes. This step-by-step approach was used in order to prevent the Office from being swamped by legal actions. Since 1 January 2006, it has been possible to submit an opposition in any class. **We are expecting a significant increase in the number of legal actions. In order to be able to process all these cases with our team of four, we will be automating the process that we have developed.**”

“In 1986, I joined the Office as an examiner. After the reorganisation I joined the new Oppositions Department in 2004. We were starting from scratch, which meant we had to be creative. In 1995 I started studying Law at the Dutch Open University and am now a qualified lawyer. We have been doing this work for some time now and the number of legal actions is increasing, so it’s no surprise that the Office needs more lawyers. We need them to take decisions about the outcome of legal proceedings. My period of study will come in useful then. The main reason why I studied was for personal development but of course you can’t ignore the practical benefits either.”



SECTION 5 FIGURES & STATISTICS



“A couple of years ago we merged four similar groups - Post Room, Archive, Operators and Register - into a single entity. The ten employees now take turns to do all the jobs. I coordinate and direct operations but also act as a ‘working overseer’. **If something needs to be done, I jump in and do it.** That’s something that happens at least once a week. I don’t mind - in fact, it gives me a better understanding of the work we do. I will also help to distribute the mail sometimes. When you do that, you get a good idea of what everybody at the Trademarks Office is doing. As to whether the employees like me doing this, I don’t know - after all, it means that for a while you’ve got your boss breathing down your neck.”

“Fifteen years ago I came here because I wanted to use my French language skills. I still like that aspect of my job. All the changes keep my work varied and interesting. These days, we receive 70 - 80% of applications via BMBConnect. **We get these applications, assign filing numbers, print them out and pass them on.** Naturally we too had to deal with the huge pressure of work at the end of the year: more than 300 applications a day as the result of the new .eu domain. It meant that for a while we were working harder and longer than the official eight hours a day. And how do you get all that work done? Well, you can postpone the archive clean-up project, or stand in for someone and do their work yourself. We have always been flexible.”

“Last year I took a course in project management. This means that in theory I am already prepared for all the impending changes. So just give us the new projects - we’re ready for them.”



## BALANCE SHEET AS AT 31 DECEMBER 2005

ASSETS in thousands of EUR

	2005	2004
	EUR	EUR
Tangible fixed assets		
Industrial buildings ad land	7.959	8.201
Automation	588	995
Miscellaneous machinery and equipment	198	266
	<u>8.745</u>	<u>9.462</u>
Financial fixed assets	5.203	3.573
<b>Total fixed assets</b>	<b>13.948</b>	<b>13.035</b>
Accounts receivable	1.129	1.738
Liquid assets		
Cash in hand	5.093	718
Deposits	1.992	1.142
	<u>7.085</u>	<u>1.860</u>
<b>Total current assets</b>	<b>8.214</b>	<b>3.598</b>
	<u><b>22.162</b></u>	<u><b>16.633</b></u>



in thousands of EUR

LIABILITIES

	2005	2004
	EUR	EUR
General reserve	8.980	8.980
BTO reserve fund	4.460	-1.078
BDO reserve fund	228	217
<b>Total reserves</b>	<b>13.668</b>	<b>8.119</b>
Lease liabilities	-	326
Provision for early retirement	439	466
Provision for large-scale maintenance	152	151
Total provisions	591	617
Deferred income	4.812	5.722
Other short-term debts	3.091	1.849
Short-term debts	7.903	7.571
<b>Total dept capital</b>	<b>8.494</b>	<b>8.514</b>
	<b>22.162</b>	<b>16.633</b>

STATEMENT OF INCOME AND EXPENDITURE

BENELUX TRADEMARKS OFFICE

in thousands of EUR	2005 EUR	2004 EUR
Revenue	16.203	12.463
Operating expenses		
Staff costs	8.395	9.398
Depreciation	890	913
Miscellaneous operating expenses	1.787	1.976
	11.072	12.287
<b>Operating result</b>	<b>5.131</b>	<b>176</b>
Financial income and expenditure		
Interest income	109	36
Exchange gains and losses and investment portfolio	299	27
	408	63
<b>Profit for the year</b>	<b>5.539</b>	<b>239</b>

BENELUX DESIGNS OFFICE

in thousands of EUR	2005 EUR	2004 EUR
Revenue	437	460
Operating expenses		
Staff costs	374	406
Miscellaneous operating expenses	61	86
	435	492
<b>Operating result</b>	<b>2</b>	<b>-32</b>
Financial income and expenses		
Interest income	9	15
<b>Profit for the year</b>	<b>11</b>	<b>-17</b>

**BENELUX TRADEMARKS OFFICE**

From a financial point of view, 2005 was an exceptional year. We achieved our best-ever result of EUR 5,539,000 (2004: 239,000)! After all the hard work we had put in over the past few years in streamlining our organisation, in 2005 we reaped the sweet fruit of our labours. Naturally, the creation of the new Internet extension .eu fell into the lap of the Benelux Trademarks Office, but it is to the BTO's credit that it was ready for it.

As fewer and fewer national offices were able to guarantee a registration date that would antedate the cut-off date of 7 December, agents from all over Europe (and from other countries too) made their way to the Benelux Trademarks Office. In particular, our priority registration service, under which the BTO can register applications in less than 24 hours, was in heavy demand. This led to a record number of filings in 2005 of 30,691, a record that we are sure will not be broken for some time.

At one stroke, this tremendous result has brought the reserves up to the required level. Furthermore, the number of filings in the first few months of 2006, which was 50% higher than for the same period last year, has exceeded expectations.

Revenue rose by more than a quarter to EUR 16,203,000, which is another record. It would be a fantastic performance if we could match this figure in 2006 by further reducing the level of deferred income. The next few months will reveal whether all the additional revenue we received in 2005 came from the above Internet extension, or whether the gradual economic recovery helped to boost this figure too. Naturally, the Management Board hopes the latter, as this should mean that in the coming years we would continue to receive a satisfactory number of filings.

The figure for staff costs declined further to EUR 8,395,000, partly due to pension-related windfalls. Over the past two years, the Stichting Pensioenfonds has been able to restore its reserves to the required level, which is why in 2005 it has again taken the costs of such items as the temporary old age pension scheme and index-linking for its own account. Depreciation (EUR 890,000) remained low, as a result of a restricted investment policy. These costs will rise in 2006, as the BTO has major challenges in the field of automation that must be dealt with. Miscellaneous expenses fell too, from EUR 1,976,000 to EUR 1,787,000. Here too the costs will be somewhat higher in 2006, partly as the result of the need to update all communications and promotional items to our new name: the Benelux Office for Intellectual Property.

**BENELUX  
DESIGNS OFFICE**

In 2005, the BDO unexpectedly achieved a modest yet positive profit for the year of EUR 11,000 (2004: EUR 17,000 loss). Unfortunately, this positive result is due to one-off income items, such as the further reduction in application completion times, resulting in a favourable item of EUR 67,000, so for the coming year a loss is expected again. This negative trend will accelerate sharply in 2007, as the Community design will then have been in existence for five years, leading to a sharp decline in the revenue from renewals.

**BENELUX OFFICE  
INTELLECTUAL PROPERTY**

Basically, this will be the final year in which the figures for the Benelux Trademarks Office and the Benelux Designs Office will be presented in this way in the Annual Report. Next year, a single statement of operating income and expenditure will be presented, which will improve transparency.

In the light of the current and future efficiency drives, as well as the financial buffer built up, the potential new tasks to be assigned to the new organisation, and last but not least the signs of economic recovery, the Management Board is confident of a successful future.

**AUDITOR'S REPORT**

The financial data for 2005 as recorded here was derived from the 2005 Annual Accounts for the Benelux Trademarks Office and the Benelux Designs Office in The Hague, which we audited. The financial data was prepared under the responsibility of the management of the Offices.

For a better understanding of the financial position and results of the Offices as well as the scope of our audit, the financial data should be read in conjunction with the audited annual accounts, as well as with the unqualified auditor's report that we provided for those accounts.

The Hague, April 2006  
Ernst & Young Accountants

## WORKFORCE

As at 31 December 2005, the Offices employed ninety-nine persons. In 2004, five employees celebrated anniversaries, two of 25 years' service and three of 12,5 years' service.

During the reporting year, no new employees joined the workforce. One employee left our organisation.

MEN	WOMEN
43	56

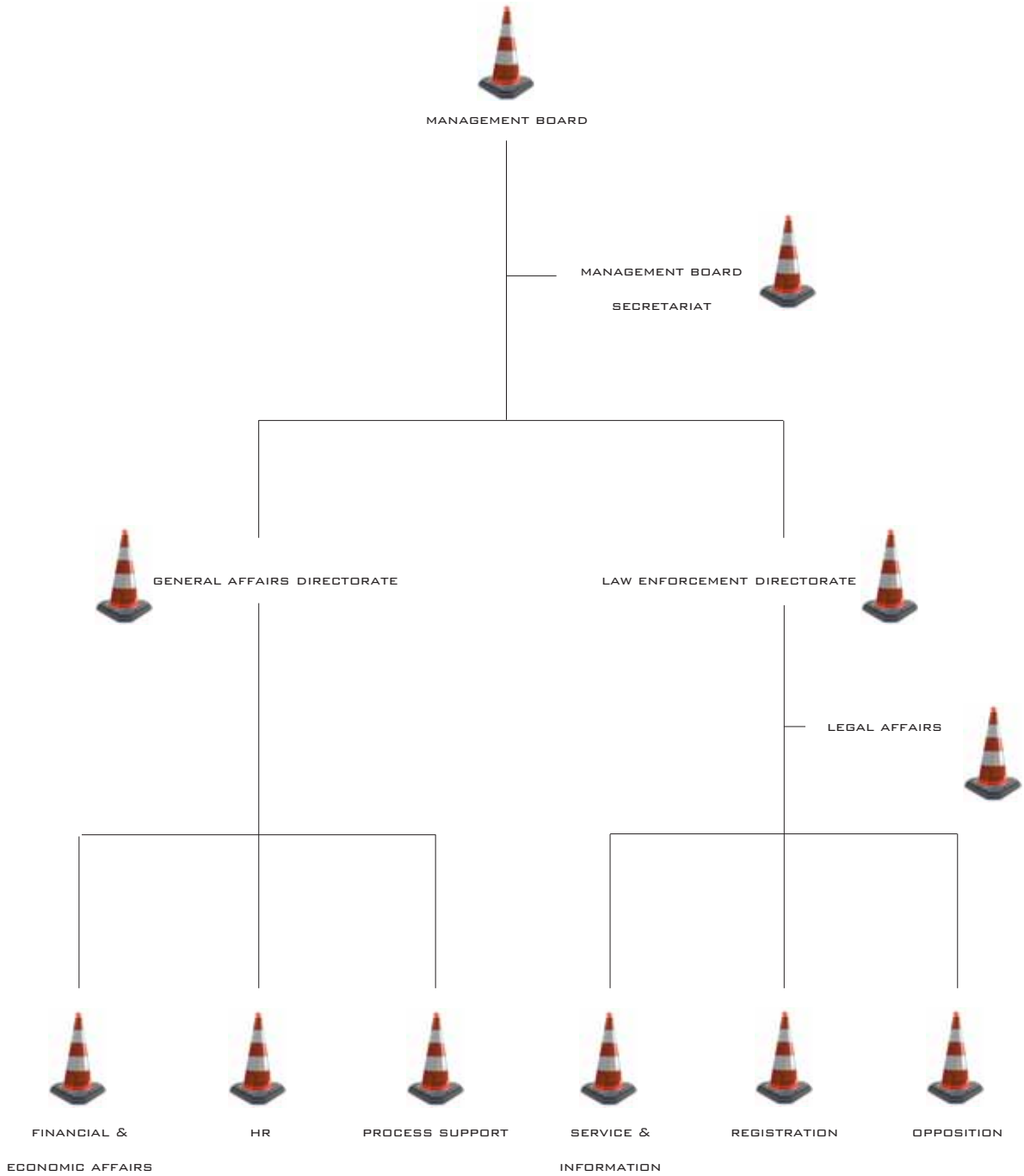
FULL TIME	PART TIME
61	38

NUMBER OF EMPLOYEES	NL	BE	LUX	TOTAL
As at 31 December 2004	76	21	3	100
As at 31 December 2005	76	20	3	99

YEARS OF SERVICE	NUMBER OF EMPLOYEES
0 tot 5	12
5 tot 10	26
10 tot 15	14
15 tot 20	24
20 tot 25	16
25 tot 30	6
30 tot 35	1

AGE CLASSES	NUMBER OF EMPLOYEES
20 - 25	0
25 - 30	2
30 - 35	6
35 - 40	25
40 - 45	25
45 - 50	24
50 - 55	12
55 - 60	3
60 - 65	2

ORGANISATIONAL DIAGRAM



## TRADEMARKS

## SEARCHES

### Benelux searches

YEAR	PRIORITY	STANDARD	TOTAL
2005	3959	23555	27514
2004	3697	18897	22594
2003	5805	21527	27332
2002	5936	17958	23894
2001	7211	22489	29700

### International searches

YEAR	TOTAL
2005	7805
2004	664
2003	24897
2002	4234
2001	4355

### European searches

YEAR	TOTAL
2005	87576
2004	60142
2003	41050
2002	40236
2001	49345



## BENELUX FILINGS

### Total filings

YEAR	TOTAL
2005	30691
2004	22618
2003	23344
2002	22843
2001	23428

### Collective trademarks

YEAR	TOTAL
2005	63
2004	75
2003	97
2002	99
2001	89

### Submitted online (via BMBConnect)

YEAR	TOTAL
2005	22848
2004	13893
2003	10371
2002	3671
2001	401

### Benelux filings broken down by country of origin

COUNTRY	2005	%	2004	2003	2002	2001
Netherlands	20385	66,52%	15588	16296	15484	15645
Belgium	5707	18,62%	4768	4945	5008	5037
Luxembourg	526	1,72%	452	449	406	533
United States	859	2,80%	688	497	666	736
Japan	70	0,23%	79	100	96	121
Other EU	2524	8,24%	595	604	705	792
Other	574	1,87%	428	433	474	560

Benelux filings broken down by class

CLASS	NUMBER	%	CLASS	NUMBER	%
01	1260	1,58%	24	851	1,07%
02	437	0,55%	25	3462	4,35%
03	1892	2,38%	26	249	0,31%
04	431	0,54%	27	261	0,33%
05	1903	2,39%	28	1573	1,98%
06	953	1,20%	29	1647	2,07%
07	690	0,87%	30	2161	2,72%
08	328	0,41%	31	1309	1,65%
09	5478	6,89%	32	1052	1,32%
10	566	0,71%	33	646	0,81%
11	907	1,14%	34	260	0,33%
12	803	1,01%	35	10156	12,77%
13	90	0,11%	36	3361	4,23%
14	805	1,01%	37	2217	2,79%
15	262	0,33%	38	3038	3,82%
16	4943	6,22%	39	1793	2,26%
17	481	0,60%	40	683	0,86%
18	1151	1,45%	41	7184	9,04%
19	876	1,10%	42	6008	7,56%
20	1179	1,48%	43	1522	1,91%
21	723	0,91%	44	1664	2,09%
22	832	1,05%	45	1190	1,50%
23	235	0,30%			

Breakdown of Benelux filings by national office

YEAR	BELGIUM	LUXEMBOURG	NETHERLANDS	TOTAL
2005	398	25	30266	30689
2004	607	37	21970	22614
2003	804	47	22492	23343
2002	1060	102	21681	22843
2001	1147	160	22120	23427

### Number of trademarks published

YEAR	INDIVIDUAL	COLLECTIVE	TOTAL
2005	19874	59	19933
2004	19009	88	19097
2003	23714	95	23809
2002	19697	66	19763
2001	23897	91	23988

### Requests for renewal

YEAR	INDIVIDUAL	COLLECTIVE	TOTAL
2005	13215	60	13275
2004	12710	42	12752
2003	12079	48	12127
2002	12143	34	12177
2001	12141	45	12186

### PRIORITY REGISTRATION PROCESSES

MONTH	2005	2004	2003	TOTAAL
1	205	73	-	278
2	234	110	-	344
3	270	115	-	385
4	278	183	-	461
5	247	201	-	448
6	331	179	-	510
7	271	175	-	446
8	411	208	-	619
9	543	181	-	724
10	812	240	1	1053
11	2833	196	1	3030
12	3939	252	1	4192
<b>Total</b>	<b>10374</b>	<b>2113</b>	<b>3</b>	<b>12490</b>

### INTERNATIONAL REGISTRATIONS

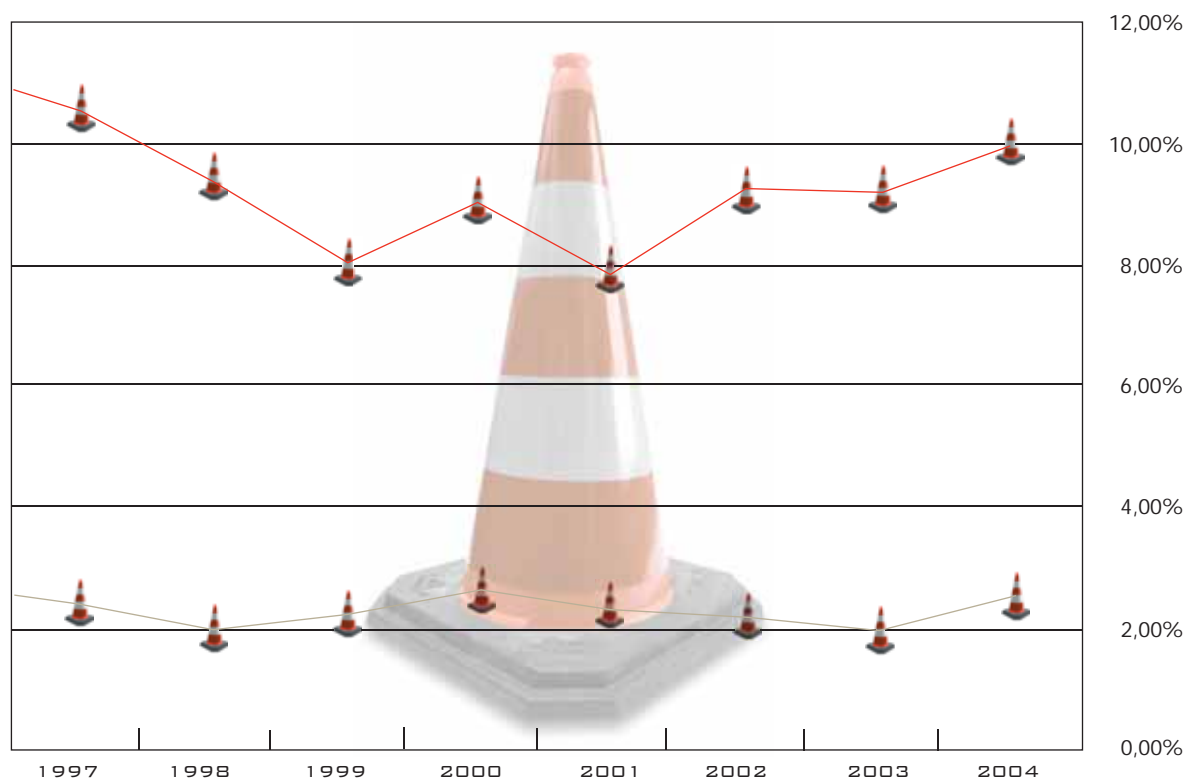
#### International registrations applied for via the BTO

YEAR	PROTOCOL	ARRANGEMENT	ARR. + PROT.	TOTAL
2005	361	783	1398	2563
2004	221	758	1385	2577
2003	115	832	1307	2343
2002	116	877	1439	2437
2001	121	988	1802	2917

International registrations valid in the Benelux region

YEAR	NUMBER
2005	9237
2004	7791
2003	8447
2002	8705
2001	10132

DEVELOPMENT OF REFUSALS ON ABSOLUT GROUNDS VERSUS NUMBER OF FILINGS



Provisional refusals



Final refusals



REFUSAL ON ABSOLUTE GROUNDS  
STATISTICS 2004<sup>1</sup>

BENELUX FILINGS	NUMBER	%
	22593	100,00%

PROVISIONAL REFUSALS	NUMBER	%
	2260	10,00%
Full	2215	98,01%
Partial	45	1,99%
Filings filed by agents	1091	48,27%
Filings filed by trademark proprietors	1169	51,73%
Filings resulting in registration despite provisional refusal <sup>2</sup>	200	
Filings withdrawn at the applicant's or agent's request or agent's request	384	
Filings excluded from further processing	1068	
Priority registrations cancelled due to a provisional refusal	27	

FINAL REFUSALS	NUMBER	%
	577	2,55%
Full	574	99,48%
Partial	3	0,52%
Filings filed by agents	370	64,12%
Filings filed by trademark proprietors	207	35,88%
After provisional refusal to which an objection was lodged	249	
After provisional refusal to which no objection was lodged	328	
Appeals lodged against final refusal (Art. 6 (3) Benelux Trade Mark Act) <sup>(3)</sup>	5	
Provisionally refused filings for which an objection may still be lodged within the specified period (Art. 4 (2) Implementing Regulations for the Benelux Trade Mark Act)	4	

(1) The statistics for 2005 are not yet available due to the deadlines specified for this procedure.

(2) This item mainly comprises registrations resulting from regularised partial provisional refusals and from the reconsideration of decisions by the BTO, for example after the submission of proof of establishment showing that a trademark has acquired distinctive character.

(3) In contrast to the other figures in this table, which have been calculated on the basis of the filing date, the number of appeals has been calculated on the basis of the appeal submission date.

## OPPOSITIONS

OPPOSITIONS	NUMBER	%
Total	65	
Allowable	56	86%
Disallowed	9	14%

FILED BY	NUMBER	%
Agent	62	95%
Private party	3	5%

BEEINDIGD	NUMBER	%
Total	23	41%
Before commencement	17	74%
After commencement	6	26%
Filing withdrawn	14	61%
Opposition withdrawn	9	39%

STILL UNDER CONSIDERATION	NUMBER	%
Total	30	54%

PREFERRED LANGUAGE	NUMBER	%
Dutch	42	75%
French	13	25%
English	26	46%

LANGUAGE OF THE PROCEEDINGS	NUMBER	%
Dutch	49	88%
French	7	13%
Agreement in English	10	18%

FILED AGAINST	NUMBER	%
Benelux law	54	96%
International law	2	4%

CLASSES ON WHICH THE OPPOSITIONS  
ARE BASED  
(TOP-5 ALLOWABLE OPPOSITIONS)

NUMBER (RIGHTS INVOKED)	CLASS
20	20
18	21
15	9
13	25
12	3
-	18

CLASSES AGAINST WHICH  
THE OPPOSITIONS ARE FILED  
(TOP-5 ALLOWABLE OPPOSITIONS)

NUMBER (OPPOSITIONS)	CLASS
20	20
14	16
12	11
11	2
-	6
-	21
-	24
-	25

## DESIGNS

### BENELUX FILINGS

#### Total

YEAR	NUMBER
2005	1086
2004	1479
2003	1955
2002	3151
2001	2909

#### Breakdown of Benelux filings by national office

YEAR	BELGIUM	LUXEMBOURG	NETHERLANDS
2005	125	6	955
2004	208	10	1261
2003	351	9	1595
2002	309	2	2840
2001	187	-	2722

#### Number of designs published

YEAR	NUMBER
2005	1238
2004	2013
2003	2074
2002	2764
2001	2439



### Requests for renewal

YEAR	NUMBER
2005	1930
2004	1755
2003	1700
2002	1614
2001	1397

### I-FILING ENVELOPES

#### Total

YEAR	SOLD	RETURNED
2005	746	498
2004	627	470
2003	742	457
2002	617	481
2001	707	471

#### By country

COUNTRY	2005	2004	2003	2002	2001
Belgium	343	302	280	302	307
Netherlands	133	156	158	164	152
Luxembourg	13	9	12	12	7
Other	9	3	7	3	5
Total	498	470	457	481	471

MARLEEN KUIPER

“We have already come up with some ideas for the party that we are going to organise to celebrate the inauguration of the new Benelux Office Intellectual Property. The only thing we don’t know yet is the date - we’re waiting for the word from Luxembourg. What sort of party will it be? Well, that will be a surprise ...”

“The Benelux governments set great store by innovation. We are helping the small and medium-sized enterprise sector to protect their innovations and inventions by registering their trademarks, drawings and designs. I’ve been working at the Benelux Trademarks Office for five years. After starting as an examiner, I moved to the Service & Information Department when it was set up - it now employs six people. We started from scratch but now have a good idea of how to approach the various target groups. Each year, we have a stand at about fifteen trade fairs, and we organise workshops and put on presentations to students and business people alike. Working at the Office can be hectic too - each year we receive more than 300 visitors and answer more than 10,000 telephone calls and 2,500 e-mails. Our main task is to make people aware of the importance of registering their trademarks, drawings and designs. Our efforts have proved successful, as can be seen from the fact that companies are using our services more and more.”

“Since 2004 we have had the Taskforce that focuses on the new convention and the new Office. We already have a great logo and a simpler domain name. We are now working hard on making our brochures easier to read - they still look a bit old-fashioned. In the near future we will also be integrating the website for designs and drawings with that for trademarks.”





SECTION 6 CONTACT INFORMATION



GUY ABRAMS



CLARIFYING THINGS

WORK IN PROGRESS

"I will soon be celebrating 25 years of service at the Office. When I started work here, I had contact with everybody at the Trademarks Office. These days, we've got a hundred people working here, so naturally you don't know the people in the other departments that well. I originally specialised as an examiner - my main job was to draw up search enquiries. These days, however, I carry out all parts of the registration process myself, which means that I am constantly learning new competencies. An example: when classifying trademarks you have to keep up-to-date with all the latest commercial Internet applications. The world is in a state of constant change."

"An application that is OK can be dealt with in thirty minutes from start to finish, and applications submitted by agents are usually 95 percent OK. However, we are receiving more and more applications from private individuals, as it is now much easier for them to submit one online via BMBCConnect. Sometimes, private individuals make a complete mess of their applications. **When that happens, it can take you a long time to clear up ambiguities by mail. Although we're just here to register applications, I do really enjoy it if I can help people.**"

"Normally, I can process eight applications a day. The new .eu domain led to a tripling of the number of filings in the last few months of 2005. On the first day alone, we received hundreds of filings for interesting saleable domain names such as 'sex' or names of cities. I did find the extra workload enjoyable because you know that the pressure of work will ease again after a while. You also get lots of positive comments from the agents. After all, we are the only office in Europe that guarantees that your trademark will be registered within two to three days."

## JOINT MANAGEMENT BODIES

Current composition

### CHAIRMAN

**Mr L. Kaufhold**

*Governmentattaché 1<sup>st</sup> degree*

Intellectual Property Directorate

Ministère de l'Economie et du Commerce Extérieur (L)

### DIRECTORS

**Mr R. Geurts**

*Managing Director*

Federal Economics Service

Small and Medium-sized Businesses & Energie

Market Regularisation and Organisation Board

Intellectual Property Unit (B)

**Mr H.F.G. Geijzers**

*Director*

*Netherlands Patents Office (NL)*

**Mr J. Debrulle**

*Adviser*

Federal Economics Service

Small and Medium-sized Businesses & Energie

Market Regularisation and Organisation Board

Intellectual Property Unit (B)

### DEPUTY DIRECTORS

**Ms M. Petit**

*Deputy adviser*

Federal Economics Service

Small and Medium-sized Businesses & Energie

Market Regularisation and Organisation Board

Intellectual Property Unit (B)

**Mr G. Aelbrecht**

*Lawyer*

Federal Economics Service

Small and Medium-sized Businesses & Energie

Market Regularisation and Organisation Board

Intellectual Property Unit (B)

**Mr C. Sahl**

*Head of the Legislation Sector*

Intellectual Property Directorate

Ministère de l'Economie et du Commerce Extérieur (L)

**Mr A. Snethlage**

*Industrial Property Adviser*

Innovation Directorate

Directorate-General for Enterprise and Innovation

Ministry of Economic Affairs (NL)



## SUPERVISORY BOARD/DIRECTORS

Current composition

### SUPERVISORY BOARD

**Mr R. Charlier**

*Honorary Managing Director*

International Economic Agreements

Special Adviser (B)

**Mr C.J. van der Valk**

*Head of Management, and deputy director*

Financial and Economic Affairs Department

Ministry of Economic Affairs (NL)

**Mr S. Juchem**

*Sectorhoofd Algemene Zaken*

Directie Intellectuele en Industriële Eigendom

Ministère de l'Economie et du Commerce Extérieur (L)

### DIRECTORS

**Mr E.L. Simon (L)**

*Director*

**Mr P.A.V. Laurent (B)**

*Director of Law Enforcement*

**Mr A.G.W.J. Verschure (NL)**

*Director General Affairs*

## NATIONAL OFFICES

### FEDERAL ECONOMICS SERVICES, SMALL BUSINESSES & ENERGY

Market Regularisation and Organisation Board  
Intellectual Property Unit  
North Gate III  
Koning Albert II laan 16  
B-1000 Brussels, Belgium

Website [www.mineco.fgov.be](http://www.mineco.fgov.be)  
Telephone +32 2 277 52 97  
Fax +32 2 277 52 77

### MINISTERE DE L'ÉCONOMIE ET DU COMMERCE EXTERIEUR

Intellectual Property Rights Directorate  
19-21, Boulevard Royal  
L-2914 Luxembourg, G.H. Luxembourg

Website [www.eco.public.lu](http://www.eco.public.lu)  
Telephone +352 478 41 87  
Fax +352 22 26 60

### NETHERLANDS PATENTS OFFICE

Patentlaan 2  
NL-2288 EE Rijswijk (ZH), The Netherlands

Website [www.bie.minez.nl](http://www.bie.minez.nl)  
Telephone +31 70 398 66 99  
Fax +31 70 398 66 06

**PUBLICATION**

Benelux Trademarks Office  
Benelux Designs Office  
Bordewijklaan 15, 2591 XR The Hague  
The Netherlands

Telephone +31 70 349 11 11  
Fax +31 70 347 57 08  
info@bmb-bbm.org  
info@bbtm-bbdm.org

**REALISATION**

The 2005 Annual Report Team  
Jeanette Balvers, Christian Meyers,  
Rebecca Nienhuis-van Blitterswijk, Christel Verbouw

**FINAL EDITING AND TESIMONIALS**

Chapeau, Rijswijk

**VISUAL CONCEPT**

Pia Mobouck, Brussels

**PHOTOGRAPHY**

Maarten Fleskens, The Hague

**PREPARATORY WORK FOR PRINTING**

Joaquim Eduardo Gonçalves G.A., Rijswijk

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**RAPPORT ANNUEL 2005,  
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Ce rapport annuel a été édité également en langue française. Pour en recevoir un exemplaire, téléphonez ou écrivez aux Bureaux Benelux. Le rapport est également disponible sur le site web du Bureau Benelux des Marques [www.bmb-bbm.org](http://www.bmb-bbm.org)

**JAARVERSLAG 2005,  
NEDERLANDSTALIGE VERSIE**

De exemplaar van de Nederlandstalige versie van het jaarverslag kunt u ook opvragen bij de Benelux Bureaus. Tevens is het verslag beschikbaar op de site van het Benelux-Merkenbureau: [www.bmb-bbm.org](http://www.bmb-bbm.org)

PIETER VEEZE

"The new convention is becoming a reality this year, and that's pretty quick work when you think about it. Normally it takes more than four years from the signing of an amendment protocol for it to come into force, and this is no amendment protocol - it's the real thing. If I leaf through the new 'Benelux Convention on Intellectual Property', I can recognise my own writing style: as one of its authors, I can assure you that we wrote many drafts..."

"Our organisation will not be significantly changed by the convention, but it will certainly become more modern and flexible. All powers will now be delegated to the level below. For example, if we have to amend the convention by means of new European legislation, it will no longer be necessary to get the approval of three parliaments - instead, all you will need is the signatures of three ministers."

"I have been here eight years now. During this time, the need for lawyers at the Trademarks Office has increased. Why? Because nowadays we also check whether a trademark is allowable, and we're responsible for oppositions too. Since 2004, we have handled all legal actions ourselves in the Netherlands in connection with cases where we refused a trademark on absolute grounds. We have won all our cases."

"We are becoming increasingly involved with legislation in the Benelux region and beyond. Ministries often consult with us, for example on whether you can register acoustic trademarks and whether you need to add a sound file to your application. We have to go to Brussels regularly to consult with EU representatives, and do the same in Alicante with the European Trademarks Office and in Geneva with the World Intellectual Property Organization."



LAWYER LEGAL AFFAIRS DEPARTMENT



WORK IN PROGRESS PUSHING BACK FRONTIERS



Benelux Trademarks Office  
Benelux Designs Office  
P.O. Box 90404  
2509 LK The Hague  
The Netherlands

On 1 September 2006 our name will change into  
**BENELUX OFFICE FOR INTELLECTUAL PROPERTY**

Bordewijklaan 15  
2591 XR The Hague  
The Netherlands

tel. +31 70 349 11 11  
fax +31 70 347 57 08  
site: [www.boip.int](http://www.boip.int)



