

2009 Annual Report

It is the BOIP's ambition to be leading in its activities, by using digital services. By providing interactive services through the Internet we help entrepreneurs protect their intellectual property. Fast, easy to use and without much paperwork. We have also moved away from publishing our annual report on paper and have changed to a new digital concept that matches our vision for service provision. We are proud to present our 2009 digital annual report.



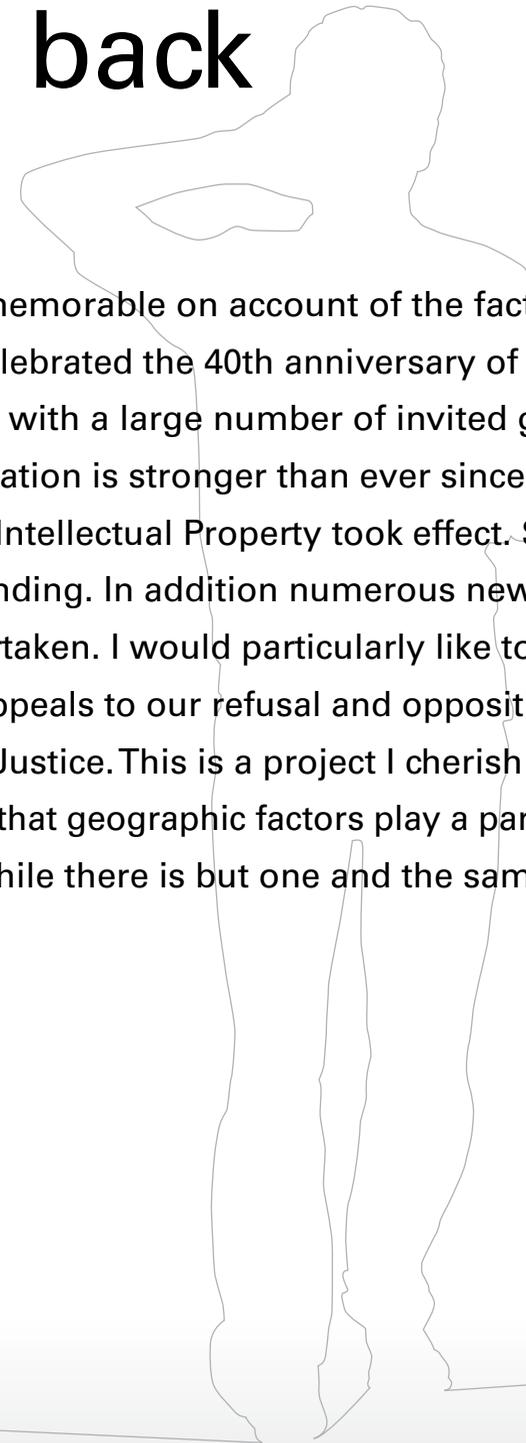
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Edmond Simon looks back

2009 was not a good year! The severe financial crisis affected the economy worldwide. The Benelux region was not spared. This is reflected in the number of patent, trademark and design filings. Yet we managed to perform better than many other EU countries. The number of design applications and i-DEPOTs filed even rose considerably.

In addition, we managed to close 2009 with a positive financial result, thanks to prudent financial management combined with stringent cost control. I am doubly pleased with that because this is not a good time to increase fees. I am most grateful to the Budget Committee and the Administrative Board for having supported the Directors on this point.

Of course 2009 is also memorable on account of the fact that on 1 July of this year, we celebrated the 40th anniversary of our Benelux trademark collaboration with a large number of invited guests in attendance. The collaboration is stronger than ever since the new Benelux Convention on Intellectual Property took effect. Services to our customers are expanding. In addition numerous new legislation projects are being undertaken. I would particularly like to point out the initiative to assign appeals to our refusal and opposition decisions to the Benelux Court of Justice. This is a project I cherish deeply. It is totally unacceptable that geographic factors play a part in acquiring a right to a trademark while there is but one and the same Benelux Convention. ➤



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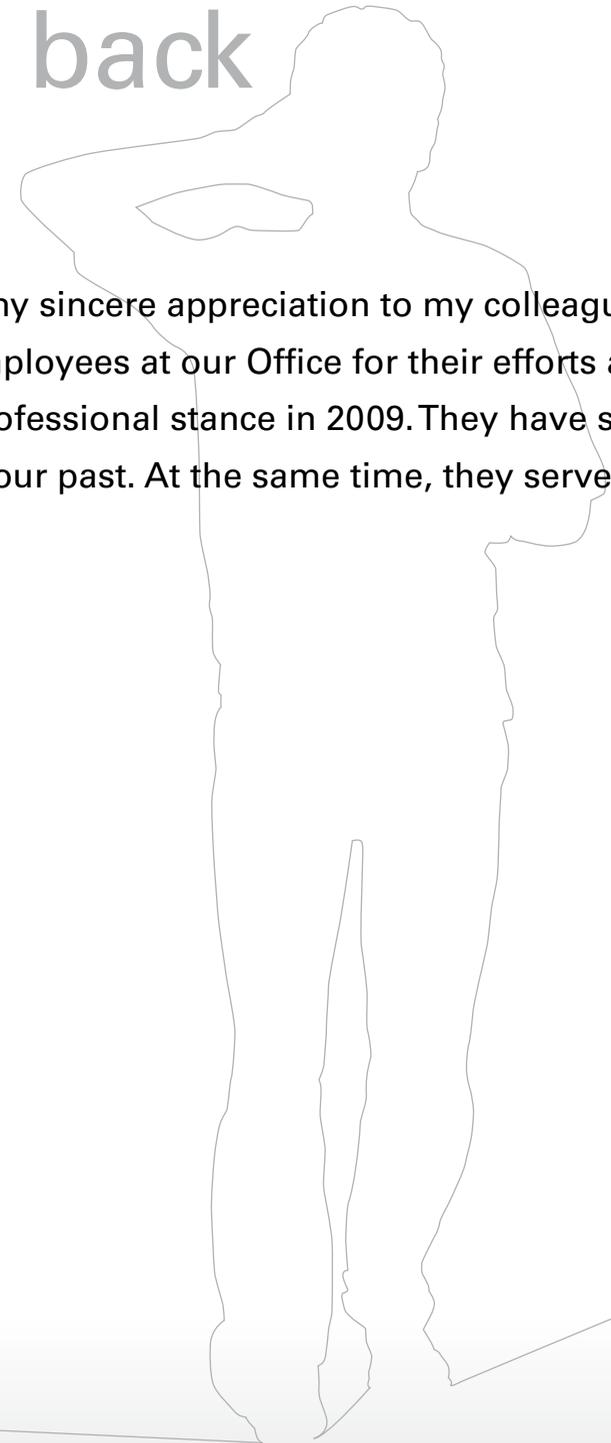
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Edmond Simon looks back

◀ In respect of the Community Trade Mark important developments were seen during the past year. Fees were lowered considerably. As a result, the balance between national systems and the Community system has come under pressure. The European Commission and the EU Member States have therefore decided to review the Community Trade Mark Regulation and to strengthen ties between the OHIM and the national offices. In this context, our Office actively participates in various large-scale projects, which will be extremely beneficial to users.

I would like to express my sincere appreciation to my colleagues the Directors, and all the employees at our Office for their efforts and their responsible and professional stance in 2009. They have shaped and given substance to our past. At the same time, they serve to guarantee our future!

Edmond Simon,
Director General



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Vision and mission

The Benelux Office for Intellectual Property (BOIP) is the executive body of the Benelux Organisation for Intellectual Property. It is the official institution in the Benelux region for the registration of trademarks and designs. In addition the BOIP can formally record the existence of an idea on a certain date.

The BOIP's mission is:

To ensure that entrepreneurs know where, why and how they can protect their intellectual property.

Awareness and reputation

The BOIP has been pursuing a policy for a number of years now to create more awareness on trademarks among Benelux entrepreneurs. This is beginning to pay off: the number of filings submitted directly by medium and small-sized businesses to the BOIP has not receded, despite the crisis. Nonetheless our Office is still relatively little known, and the importance of trademark protection is still underestimated. The BOIP works closely with various interest groups and intermediaries in the Benelux to create more awareness in this area. [➤](#)

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◀ **Enhanced services**

The BOIP continuously works on optimising their services. In this context, in 2009 we considerably reduced the term of pendency of opposition decisions. A survey was conducted to find out which parts of the opposition procedure could be improved.

In addition, initiatives were taken to expand our services and increase the legal certainty of trademark protection in the Benelux. Proposals were made to concentrate the appeals against the Office's decisions at the Benelux Court of Justice.

The i-DEPOT is an instrument for innovative entrepreneurs in the Benelux that helps them strengthen their legal status. In this context we seek collaboration with civil cooperative societies such as SABAM, the Belgian Association for Authors, Composers and Publishers.

Low costs

Our aim is to provide entrepreneurs in the Benelux access to the protection of trademarks and designs at the lowest possible costs. In 2009, despite a decline in turnover we were successful once again in balancing the budget without increasing fees.

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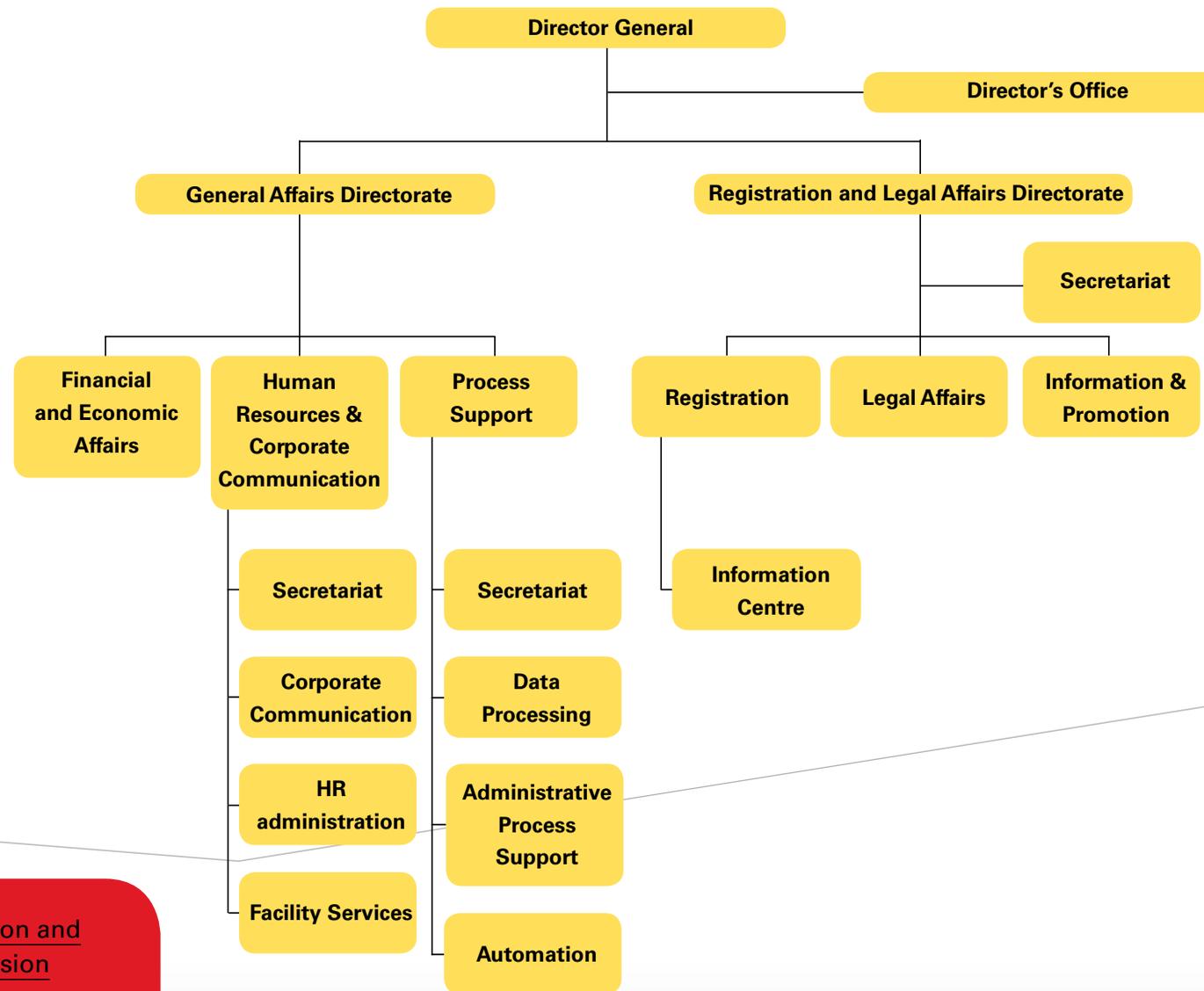
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◀ Directors and Board

The Directors are responsible for the day-to-day management of the BOIP. The Directors attend the Administrative Board meetings in which they have an advisory role. The Administrative Board supervises the Benelux Organisation for Intellectual Property.

Consultative and advisory bodies

The Administrative Board is supported by the Budget Committee, COPERA and COREMO. COPERA is a consultation committee for personnel matters, comprising representatives of the Administrative Board, the personnel committee and the management. COREMO

advises the Administrative Board on the BOIP's tasks and objectives as laid down by the Benelux Convention on Intellectual Property. COREMO is composed of representatives of the BOIP and the national offices.

The **Benelux Council for Intellectual Property** provides advice to the Benelux Organisation for Intellectual Property. Its members are composed of a broad circle of stakeholders (the industry, agents, lawyers, judges and academia) and have been appointed by the Director General in coordination with the Administrative Board.

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Our employees

Our office is located in The Hague. The BOIP has 94 employees. We work closely with the national offices in Brussels and Luxembourg.

Number of employees

	31-12-2009	31-12-2008
NL	68	68
B	22	21
L	3	3
Fr	1	0
Total	94	92

Male	Female	Full-time	Part-time
42	52	57	37

National offices

National office Belgium

Federal Public Service Economy
S.M.E.s, Self-employed and Energy
Market Regularisation and Organisation Board
Intellectual Property Unit
North Gate III – Koning Albert II Laan 16
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National office Luxembourg

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Office de la Propriété intellectuelle
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Directors, composition of the Administrative Board, consultative and advisory bodies

Directors

- **Edmond Simon**, Director General (L)
- **Dick Verschure**, Deputy Director General, General Affairs Directorate (NL)
- **Hugues Derème**, Deputy Director General, Registration and Legal Affairs Directorate (B)

Administrative Board

- **Guus Broesterhuizen** (Chairman), Director, NL Patent Office (NL)
- **Robert Geurts** (Administrator), Director General, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Market Regularisation and Organisation Board, Intellectual Property Unit (B)
- **Lex Kaufhold** (Administrator), Board Advisor 1st degree, Office de la Propriété intellectuelle, Ministère de l'Économie et du Commerce extérieur (L)

- **Monique Petit** (Substitute Administrator), Attaché, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Market Regularisation and Organisation Board, Intellectual Property Unit (B)
- **Gunther Aelbrecht** (Substitute Administrator), Attaché, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Market Regularisation and Organisation Board, Intellectual Property Unit (B)
- **Claude Sahl** (Substitute Administrator), Head of the Legislation Sector, Office de la Propriété intellectuelle, Ministère de l'Économie et du Commerce extérieur (L)
- **Serge Juchem** (Substitute Administrator), Government Attaché, Office de la Propriété intellectuelle, Ministère de l'Économie et du Commerce extérieur (L)
- **Paul van Beukering** (Substitute Administrator), Advisor on Industrial Property, Director of Innovation, Directorate General for Enterprise and Innovation, Ministry of Economic Affairs (NL)
- **Derk-Jan de Groot** (Substitute Administrator), Manager Patent Application Department, NL Patent Office (NL) 

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Directors, composition of the Administrative Board, consultative and advisory bodies

◀ Budget Committee

- **Hans van der Valk** (Chairman), Head of Management and Deputy Director, Financial and Economic Affairs Department, Ministry of Economic Affairs (NL)
- **Pierre Thielen**, Government Attaché, Observatoire de la Compétitivité, Direction Générale des Etudes Economiques, Ministère de l'Economie et du Commerce extérieur (L)
- **Edward Bruyère**, Attaché, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Budget and Management Control (B)

COPERA

- **Monique Petit** (Chairman), Attaché, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Market Regularisation and Organisation Board, Intellectual Property Unit (B)

- **Derk-Jan de Groot**, Manager Patent Application Department, NL Patent Office (NL)
- **Lex Kaufhold**, Board Advisor 1st degree, Office de la Propriété intellectuelle, Ministère de l'Economie et du Commerce extérieur (L)

COREMO

- **Claude Sahl** (Chairman), Head of the Legislation Sector, Office de la Propriété intellectuelle, Ministère de l'Economie et du Commerce extérieur (L)
- **Monique Petit**, Attaché, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, Market Regularisation and Organisation Board, Intellectual Property Unit (B)
- **Paul van Beukering**, Advisor on Industrial Property, Director of Innovation, Directorate General for Enterprise and Innovation, Ministry of Economic Affairs (NL)
- **Ineke McLean**, Legal Advisor, NL Patent Office (NL)

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Trademarks and designs

Trademarks

In 2009, 21,486 trademark applications were filed. This means that the declining trend seen in 2008 continued with the number of trademark filings falling by 8.4% compared with the previous year. In 2009 14,198 renewals were submitted, almost 7% more than in 2008.

The number of international applications based on a Benelux registration fell considerably: 1,949 applications compared with 2,708 applications in 2008. A total of 5,264 international registrations with designation of the Benelux were received through the World Intellectual Property

Organization (WIPO). The percentage of opposition requests amounted to approximately 5% of the number of applications filed. A total of 1,065 oppositions were filed.

Designs

The number of design applications totalled 987, almost 150 more than in 2008 (844 designs), a 17% increase.

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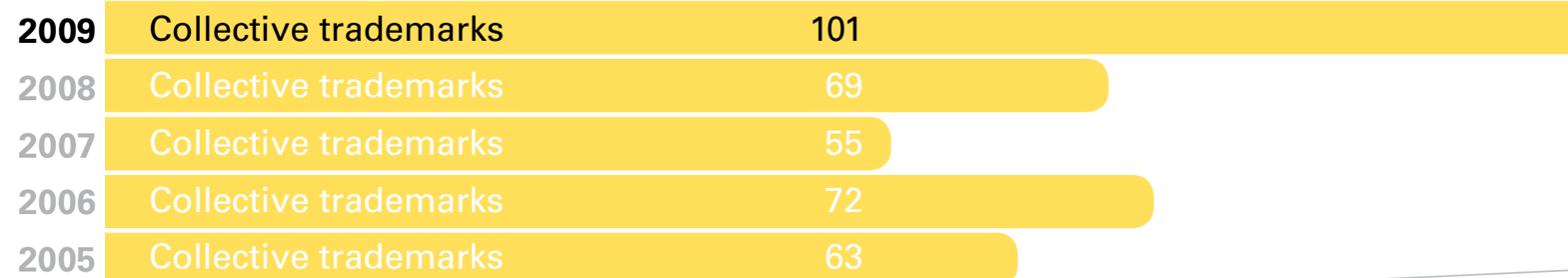
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Breakdown of Benelux filings by country of filing

	National office Belgium	National office Luxembourg	BOIP	Total
2009	204	0	21,282	21,486
2008	314	0	23,127	23,441
2007	319	0	24,327	24,646
2006	301	0	26,920	27,221
2005	398	25	30,266	30,689

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Breakdown of Benelux filings by country of origin

	2009		2008		2007		2006		2005	
Benelux										
Netherlands	14,341	66.8%	15,777	67.4%	17,077	69.3%	18,259	67.2%	20,385	66.5%
Belgium	5,262	24.5%	5,384	23.0%	5,321	21.6%	5,168	19.0%	5,707	18.6%
Luxembourg	533	2.5%	679	2.9%	566	2.3%	578	2.1%	526	1.7%
United States	292	1.4%	328	1.4%	414	1.7%	814	3.0%	859	2.8%
Japan	25	0.1%	36	0.2%	58	0.2%	74	0.3%	70	0.2%
Other EU	629	2.9%	759	3.2%	710	2.9%	1,697	6.3%	2,524	8.2%
Other	404	1.9%	463	2.0%	482	2.0%	579	2.1%	574	1.9%

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Number of trademarks published

	Individual	Collective	Total
2009	18,130	75	18,205
2008	19,817	48	19,865
2007	20,107	45	20,152
2006	34,488	79	34,567
2005	19,874	59	19,933

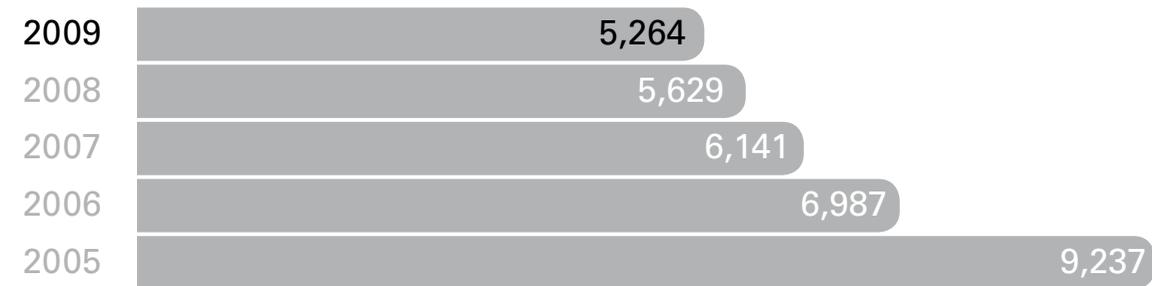
International registrations applied for via the BOIP

	Protocol	Agreement	Agr. + Prot.	Total
2009	1,942	274	273	1,949
2008	1,056	433	1,214	2,708
2007	508	581	1,438	2,531
2006	453	654	1,503	2,615
2005	361	783	1,398	2,563

Requests for renewal

	Individual	Collective	Total
2009	14,130	68	14,198
2008	13,244	56	13,300
2007	13,248	54	13,302
2006	12,424	33	12,457
2005	13,215	60	13,275

International registrations valid in the Benelux region



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Refusals on absolute grounds – 2008 Statistics¹

	Number	%
<i>Benelux filings</i>		
Total ²	21,978	
Filed by trademark proprietors	7,246	33.0%
Filed by agents	14,732	67.0%
<i>Provisional refusals</i>		
Total	2,394	10.9%
Full	2,334	10.6%
Partial	60	0.3%
Filed by trademark proprietors	1,317	18.2%
Filed by agents	1,077	7.3%
Filings resulting in registration despite provisional refusal ⁴	203	0.9%
Filings withdrawn by request/cancelled priority registrations	346	1.6%
Filings excluded from further processing	35	0.2%
Objection period still underway (Regulation 1.15 Implementing Regulations)	4	0.02%



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◀ Refusals on absolute grounds – 2008 Statistics¹ (continuation)

Final refusals

Total ⁵	1,806	8.2%
Of which cancelled priority registrations	155	
Full	1,779	8.1%
Partial	27	0.1%
Filed by trademark proprietors ³	1,167	16.1%
Filed by agents ³	639	4.3%
Objection was lodged	293	
No objection lodged	1,513	
Appeal lodged (Article 2.12 BCOIP) ⁶		
In Belgium	5	
In the Netherlands	3	
In Luxembourg	0	

1 The statistics for 2009 are not yet available due to the time frames prescribed for this procedure.

2 The inadmissible filings are not counted in the total number of filings. The percentage of refusals is therefore slightly higher than it would have been using the old calculation method.

3 These refusal percentages are calculated according to the number of filings submitted by trademark proprietors/agents.

4 This mainly concerns provisional refusals that were reversed following a response from the trademark proprietor/agents, e.g. when the filing became limited or acquired distinctiveness was provided.

5 The percentage of final refusals is considerably higher than in previous years. This can be explained by reasons such as changes to the registration procedure, which prevent filings from being excluded from further processing.

6 In contrast to all other figures in this table, whose totals are calculated according to the filing date in the relevant year, the number of appeals is calculated according to the date on which the appeal was submitted.

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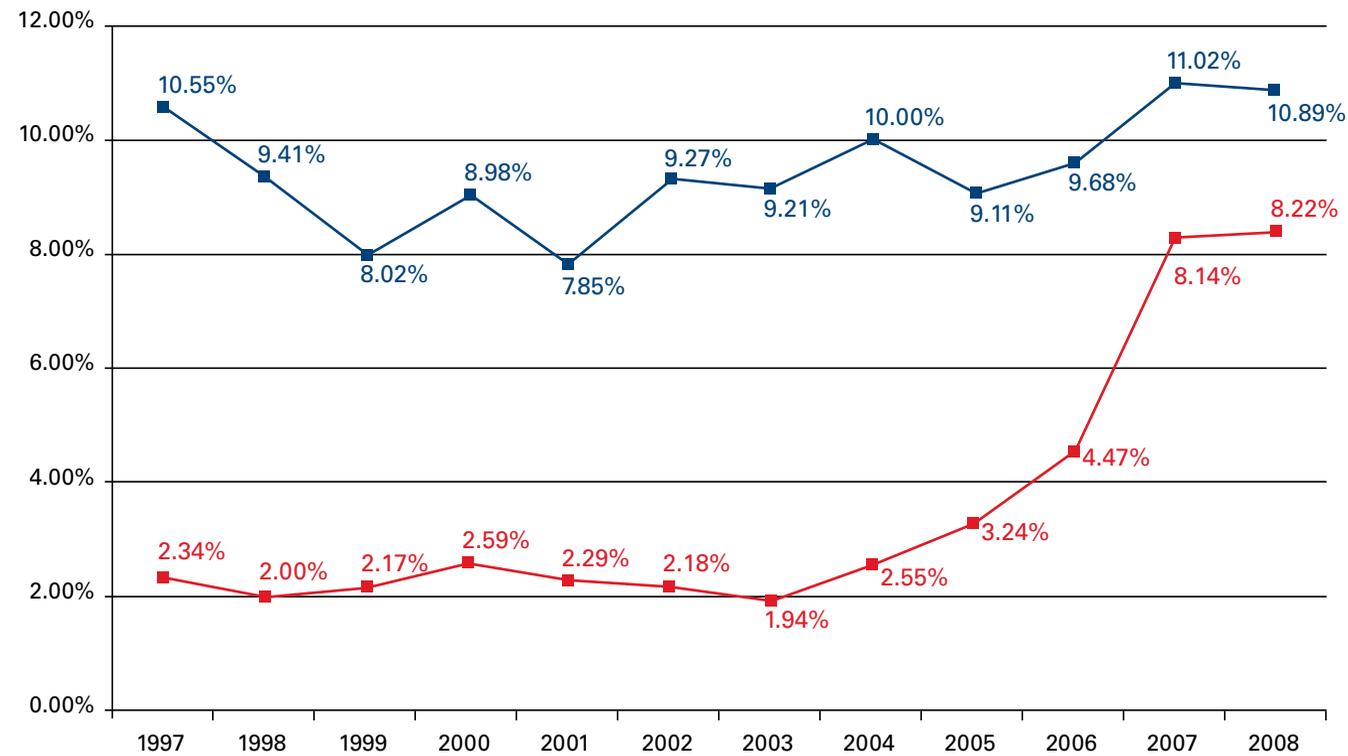
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Development of refusals on absolute grounds versus the number of filings



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Number of oppositions

Admissible	1,032	97%
Inadmissible	33	3%
Total	1,065	
<i>Cancelled in 2009 (admissible oppositions)</i>		
Total	411	40%
<i>Still under consideration (admissible oppositions)</i>		
From 2009	621	60%
<i>Preferred language (admissible oppositions)</i>		
Dutch	755	73%
French	277	27%
English*	329	32%

Opposition filed against (admissible oppositions)

Benelux right	940	91%
International right	92	9%

Opposition based on (admissible oppositions)**

Benelux trademark	402	39%
European trademark	539	52%
International trademark	243	24%

* English can be designated on a voluntary basis, in addition to one of the official languages of proceedings, i.e. Dutch or French.

** Multiple types of invoked rights are possible for each opposition that is filed.

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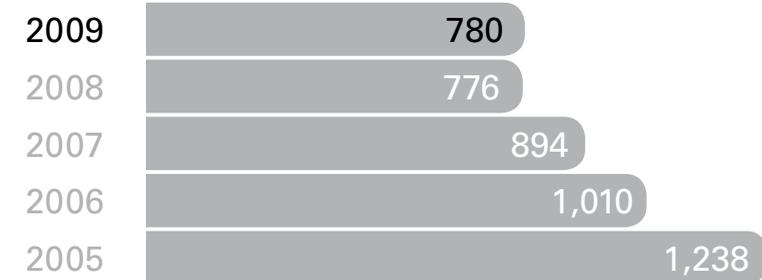
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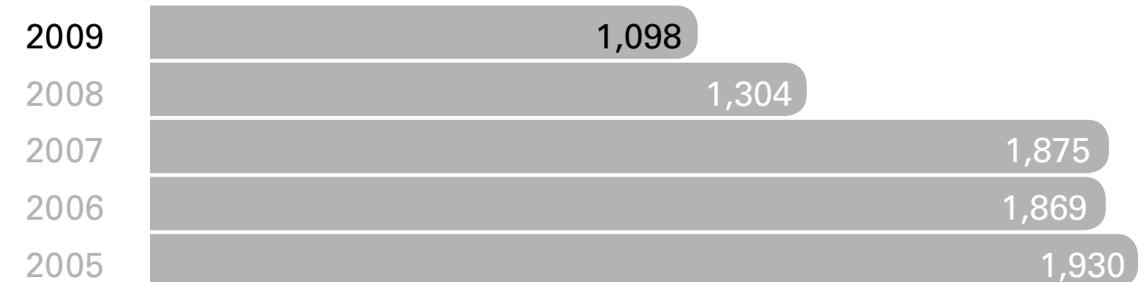
Number of designs published



Breakdown of Benelux filings by country of filing

	National office Belgium	National office Luxembourg	BOIP
2009	79	0	908
2008	100	0	743
2007	159	1	867
2006	153	2	950
2005	125	6	955

Requests for renewal



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In 2009 the number of i-DEPOTs rose to 4,092. In 2008 the number was 2,978. This increase is mainly attributable to the number of electronic i-DEPOTs submitted, which totalled 3,341. Use of the i-DEPOT envelope has remained relatively stable with 751 envelopes returned.

Online tool improved

A satisfaction survey was held among users of the online i-DEPOT. This resulted in a number of improvements, such as the unlimited possibility of downloading the certificate. Other possible changes will be included in a new version of the i-DEPOT, which will be completed in the course of 2010. The new version will gain clearer help texts and improved navigation.

Options and limitations

The Legal Affairs Department has identified in what way the i-DEPOT supports obtaining proof in design, patent and copyright procedures and suchlike. There is now a clear overview of the options and limitations of the i-DEPOT. The Information and Promotion Department has incorporated this into an internal training programme and into presentations for the various external target groups. The project to rewrite the i-DEPOT website texts began in the autumn.

Intermediary module

The development and launch of the i-DEPOT intermediary module commenced. A pilot version was made available in 2009 in collaboration with SABAM, the Belgian Association for Authors, Composers and Publishers.

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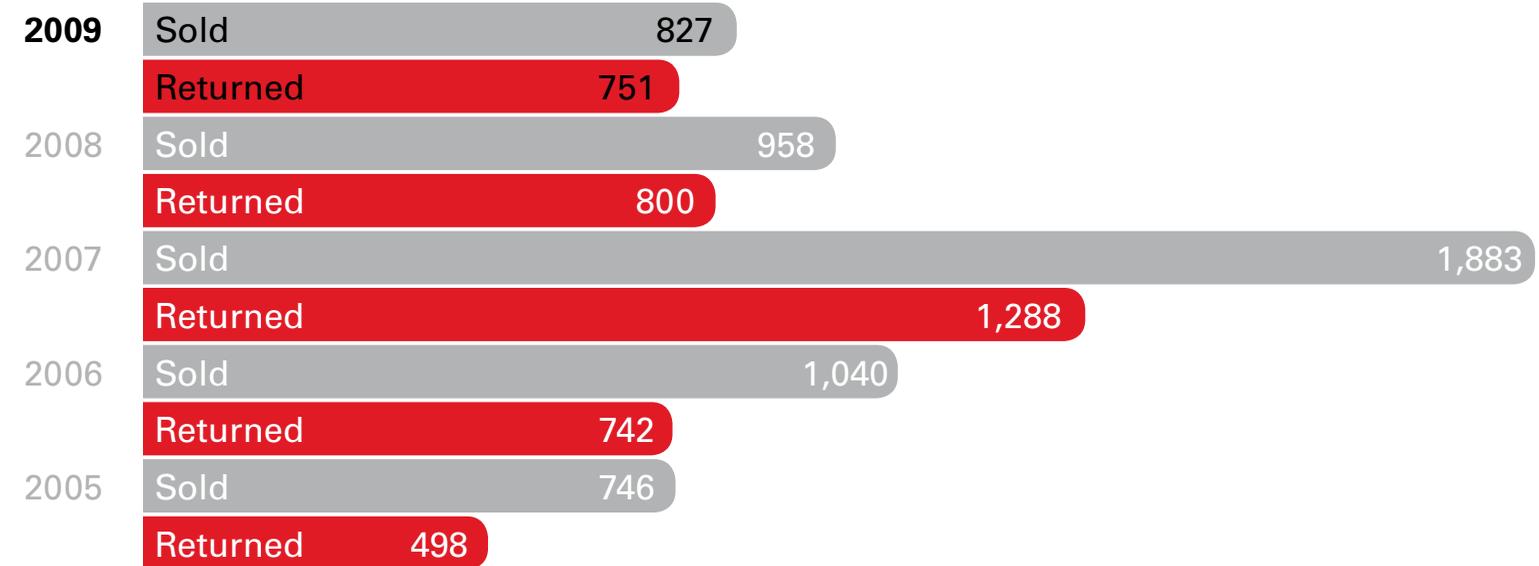
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Online i-DEPOT (launched at year-end 2007)

	2009	2008
Belgium	1,396	850
Netherlands	1,834	1,270
Luxembourg	74	41
Other	37	19
Total	3,341	2,180

i-DEPOT envelopes



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Breakdown of i-DEPOT envelopes by country

	2009	2008	2007	2006	2005
Belgium	415	436	646	409	343
Netherlands	279	347	599	296	133
Luxembourg	42	13	35	26	13
Other	15	4	8	11	9
Total	751	800	1,288	742	498

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Interactive services

i-DEPOT intermediary module

The i-DEPOT intermediary module was launched in July 2009.

An i-DEPOT intermediary is an organisation that offers its members or clients the option of applying for a discounted i-DEPOT. The module targets organisations where entrepreneurs, designers or inventors put forward their ideas. These may be registration bodies but also organisations that assist entrepreneurs or the creative industry in the process of 'bringing the idea to market' or in contests.

The new module enables intermediaries to offer discounted i-DEPOTs to their clients or members. The organisation pays a one-off sum of EUR 350 and subsequently can request an unlimited number of ID codes for its clients according to a user-friendly procedure. These codes

enable clients to receive a discount on the price of an i-DEPOT.

The intermediary that has arranged the i-DEPOT is stated on the i-DEPOT certificate.

The module was developed in collaboration with SABAM, the Belgian Association for Authors, Composers and Publishers. In the summer SABAM tested the module, which was then made available to other intermediaries. Various organisations that promote or advise young, innovative and creative businesses showed interest. In addition to SABAM, i-DEPOT applications can now be made through Wallonie Design, Adisif and Flanders DC. In 2010 we will organise workshops and information sessions together with these organisations.

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TMview

The BOIP participates in the TMview project, a database providing access to the registers of the official trademark offices. The database is a search engine that can be easily used to check whether a trademark has been registered in one of the EU Member States. To date users had to search through separate databases in different languages, each time with a different interface.

The OHIM manages the project with support from the BOIP, WIPO and the national offices in Denmark, Italy and Portugal. The BOIP participates in the Steering Group and as a result makes a significant contribution to TMview's functionalities and options.

TMview will be officially launched in spring 2010 via www.tmview.europa.eu. The OHIM, WIPO and the BOIP databases as well as the databases of the national trademark offices in Denmark, Portugal, Italy, the Czech Republic and the United Kingdom will be available during the first phase. The information from eight other trademark offices in the EU will follow at year-end 2010. The ultimate goal is to create a platform for information on trademarks in all 27 EU Member States, in addition to the information already available at the OHIM and WIPO. This would be a total of around 8.5 million trademarks.

- [i-DEPOT intermediary module](#)
- [TMview](#)
- [EuroClass](#)
- [Portal](#)



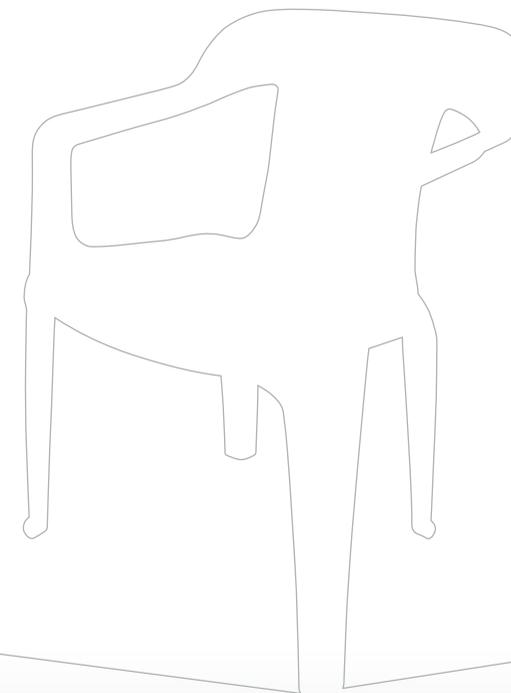
Interactive services

EuroClass



The BOIP participates in the EuroClass project initiated by OHIM (Office for Harmonization in the Internal Market). EuroClass is a collaborative effort among various European countries to develop a useful online tool to apply for a trademark registration. In short, this involves creating a multiple language classification database. The aim is to produce a common list of descriptions of 'goods and services' in several languages. The World Intellectual Property Organization (WIPO) acts as the project's 'arbitrator'. The WIPO manages the international Nice Classification of goods and services.

OHIM and the United Kingdom have meanwhile drawn up a list of around 100,000 accepted classification terms. At year-end 2009 a team of classification experts from the BOIP's Registration Department started working on approving the Dutch translation. The target completion date is the second half of 2010.



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Interactive services

Portal

Consumer behaviour is changing in the digital world, which is growing at an increasingly rapid pace. Clients and business partners expect to be able to obtain services on the Internet easily, quickly and interactively. The BOIP aims to maintain its leadership position in its activities, using digital services. We have therefore been working on developing a portal for a number of years now. A number of applications are now running on the portal, and virtually all applications will be accommodated here in the long term. The ultimate goal of the portal is to enable a BOIP client to arrange all intellectual property matters with one single sign-on.

To ensure the portal matches the client's wishes in the longer term too, it was decided to develop a business portal strategy in 2009. This strategy matches the organisation and communication objectives of the BOIP and its mission and vision. All departments and disciplines are actively contributing to developing the portal strategy. The project is being coordinated by the Corporate Communication Department. The portal strategy will be completed in the course of 2010, after which a roadmap for further development of the portal will be available.

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Evaluation of opposition procedure

When the opposition procedure was implemented in 2004, it was provided for in legislation that this procedure should be evaluated after five years. This started in 2009. The aim is to find out to what extent the procedure meets the needs and wants of users and what improvements can be made.

This subject was discussed on several occasions by experts in the Benelux Council for Intellectual Property, based among other things on an extensive status report prepared by our Office. Areas for attention include:

- the language regime for the opposition procedure
- possibly expanding the grounds of opposition
- the issue of counterclaims

- the admissibility of an opposition that has been filed under an incorrect name
- the position of the BOIP, which is not party to opposition procedures
- the so called 'cooling off' period

Various associations and consultative bodies in the three Benelux countries are also working on this subject and have taken up a position on specific issues.

An online survey is being conducted via the BOIP's website to collect the opinions of as many users as possible. The evaluation will be completed in 2010 and should produce a series of concrete proposals.

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Diversifying services

At year-end 2007, the BOIP discussed at length how to improve and expand user services. Dozens of ideas were put forward. The ideas that can be realized easily were divided into two categories:

- ideas that can be implemented immediately, for which only existing resources need to be used
- ideas requiring legislation changes or consent from the Administrative Board and/or stakeholders

A large number of projects in the first category have meanwhile been implemented or launched. Examples include:

- sending a second reminder letter in order to renew trademark registrations
- improving information about the registration procedure
- specific activities aimed at expanding the reputation of our Office
- reviewing the subscription formula
- a lighter version of Datoliet

The second category concerns longer-term projects, such as:

- implementing an (administrative) invalidity proceeding for trademarks
- adding English as a working language of the BOIP
- the second phase of the (public) i-DEPOT

In 2009, the BOIP presented the Integral Document, a discussion document, to the Benelux Council for Intellectual Property. Various institutions (consultative bodies and associations) are also considering the project proposals. Substantial headway had been made in the thought process at the end of 2009. The discussion will be continued in 2010.

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i-DEPOT customer satisfaction survey

Following the i-DEPOT fora in October 2008, the BOIP concluded that the i-DEPOT should first be optimally aligned with the wants and needs of occasional users. Custom-built applications can then be developed for frequent users.

The first step was to gain insight into the needs and wants of occasional users for documenting ideas. A survey was held in June 2009 among users of the online i-DEPOT. Fourteen interviews were conducted with recent i-DEPOT users who had submitted a maximum of three i-DEPOTs during the preceding year. The survey helped gain insight into:

- the process (potential) users go through when looking for possibilities to document their ideas/creations
- the wants and needs when documenting ideas/creations
- use and appreciation of the current i-DEPOT

The main result is that the current i-DEPOT generally is satisfactory. There is room to improve and expand service provision on three fronts:

- The application can serve users better by providing them more guidance.
- Brand awareness of the BOIP can be expanded and searchability via Google can be improved. Most people submitting applications have no advance knowledge of the BOIP but can easily find the Office using a search engine.
- Service provision for specific users can be broadened, by linking up with industry associations and other organisations that engage in innovation and encourage contacts between people with similar ambitions.

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Legal framework

The Benelux Convention on Intellectual Property

In 2009 no new amendments were initiated in the Benelux Convention on Intellectual Property (BCIP). The last BCIP amendment protocol was defined at year-end 2008, signed by the Committee of Ministers and has now been submitted to the three national parliaments for approval. It includes the following:

- the implementation of a legal basis for the i-DEPOT
- a change to the calculation method of the opposition term
- simplification of the publication conditions for the Implementing Regulations
- removing provisions (that never took effect) regarding the authorised representatives' register
- the option to renew trademark registrations by only paying the mandatory fees.

Implementing Regulations

The BOIP Implementing Regulations were slightly amended in 2009 as a result of the following additions:

- the non-reimbursement of the fees for filing an opposition in the event it is cancelled after the Office has made a decision
- the introduction of special fees for i-DEPOTs submitted through intermediaries
- the introduction of a degressive scale of charges for the subscription

The first two amendments have already taken effect; the third amendment will become effective when the current subscription formula is adjusted. ➔

Legislation

Legal framework

◀ Other developments

Two interesting developments will serve to initiate major legislation changes in the coming period. The Committee of Ministers has agreed that in addition to the Benelux countries, the Benelux Organisation for Intellectual Property will itself become party to the Singapore Treaty on the Law of Trademarks. Our individual entry relates to the fact that there no longer is any national legislation on trademark law within the Benelux.

Furthermore, in 2009 substantial headway was made in transferring to the Benelux Court of Justice the competence of examining appeals against decisions made by the Office. A political decision has meanwhile been taken, but the actual legislation work for the Benelux Convention on Intellectual Property has yet to begin.

The positive advice given by the Benelux Council for Intellectual Property has served to strengthen our conviction that said transfer would be extremely beneficial, as it would help to reduce the huge difference between the jurisprudence of the Courts of Appeal in Brussels and The Hague.

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Collaboration outside the Benelux

OHIM

On an international level collaboration with the OHIM (Office for Harmonization in the Internal Market) is extremely important for the BOIP. We actively participate in [TMview](#) and [EuroClass](#) and we are also involved in developing a Cooperation Fund that is being created under the auspices of the OHIM. Discussions were initiated in 2009 with the appointment of an advisory company, Gartner, and a Management Board. Four project areas are being discussed:

- harmonization projects
- development of software packages
- information services
- activities related to the enforcement of law

WIPO

Another interesting topic is the working group engaged in developing the legal framework of the Madrid System for the World Intellectual Property Organisation (WIPO). The working group is examining whether it is possible to also incorporate the Dutch language, among other languages, into the system as a supplementary and individual, optional language for filing applications. Since this is extremely important to Benelux users, the BOIP has indicated that it would like to participate in a pilot programme that will assess the feasibility and costs.

BES islands

From October 2010, the Netherlands Antilles will cease to exist and the BES islands Bonaire, Sint Eustatius and Saba will fall directly under the Dutch government. With the consent of the Administrative Board and the Committee of Ministers, an agreement will need to be concluded between the BOIP and the Kingdom of the Netherlands regarding the role they would like to entrust the BOIP in the application of trademark law on these islands.

Our departments

Registration

In 2009 the BOIP was again successful in executing its core task – the registration of trademarks and designs – quickly and efficiently. This means that we publish trademark applications that meet the formal requirements within two weeks. All examiners received additional training on the registration of designs. By involving a broad group of examiners in this task we were able to process promptly the number of design applications submitted. Moreover the Information Centre can now help most clients with their questions or assist with practical problems that may arise when filing a design application.

Since 2008, the Registration Department has also been responsible for the administration of oppositions. We continued to develop this capability further in 2009. All examiners can now process all opposition requests submitted with ‘their’ applications. As a result, the person handling the file is the first point of contact for all aspects of a current application. In addition, the Registration Department devoted a great deal of attention on in-depth issues, including fundamental consultation with Legal Affairs and continuing the recording of policy in writing. [▶](#)

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Registration

◀ Information Centre

A varying team of three examiners in the Information Centre answers all client questions on a daily basis. They handle some 2,500 telephone calls every month. The Information Centre also answers e-mail questions, which are usually answered on the same day.

We continuously work on improving the quality of information provision and therefore endeavour to invest in staff training each year. Our employees attended a communication training course in 2009 focusing on client-friendliness as well as an English course because of the increasing importance of the English language for our services.

Internal collaboration

Within the context of our informative task, we are also involved in improving our products. During the reporting year, we focused on the i-DEPOT in collaboration with the Information and Promotion Department. The objective was mainly to assist the client in the case of technical hurdles when submitting an i-DEPOT.

Together with our IT Department we worked on improving the electronic tool for filing an application (BOIP Online Filing) and made it browser-independent. The new version will become available during the course of 2010.

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Oppositions

The Legal Affairs Department experienced an extremely busy year. Priority was given to eliminating the backlog of opposition decisions. With 266 decisions taken in 2009, great advances were made in this regard. Efforts in this area will be continued in 2010. The high work pressure does not seem to have had any impact on the quality of our decisions, taking into consideration the low number of appeals (less than 7%).

Refusals

Work on refusals also intensified. The BOIP provisionally refused 10.89% of trademark registrations and definitively refused 8.22%, a slight drop compared with 2008. The number of written objections lodged by applicants against provisional refusal decisions rose substantially (22.6% more). This increase also created a heavier workload for the Legal Affairs Department. >

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◀ Projects

In 2009 several large projects were initiated with the support of our lawyers. The Integral Document is a comprehensive study comprising over one hundred pages, offering a detailed description of five projects for amendments to the Benelux Convention on Intellectual Property, which are:

1. new competences for the Benelux Court of Justice
2. evaluation of the opposition procedure
3. introduction of a cancellation procedure
4. correction options in the register
5. the addition of English as a working language

This document was discussed in the COREMO and subsequently also with the Benelux Council.

In addition, 2009 saw the launch of a study into the public i-DEPOT (second phase of the i-DEPOT). This study focuses on the importance of optional publication of the content of an i-DEPOT in relation to copyright and the non-registered Community Design.

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Information and Promotion

It is the BOIP's aim to increase the knowledge of registration and registration options for intellectual property among start-ups and small and medium-sized enterprises. This is a lengthy process, but the annual results are showing that the efforts undertaken over the past years are starting to produce results. The Information and Promotion Department has deployed various resources for this purpose. The focus areas in 2009 were account management, the website and workshops.

Account management

We use account management as an instrument to build up a network of knowledge partners – mainly government organisations and organisations engaged in innovation. Both groups have a direct relationship with small and medium-sized enterprises. The goal is to increase their knowledge of the BOIP and to ensure that they communicate the message about the importance of registration.

Around 50 workshops and presentations were held in collaboration with the Chambers of Commerce, Syntens, NewVenture, Flanders-InShape, Agence ID, Bizidee, HELMO, Colin, Luxinnovation and universities such as Avans, Howest and Hogent De Bedenkers. Not only did we reach students and entrepreneurs but also employees that are in contact with those entrepreneurs and are able to provide advice on intellectual property.

The BOIP works on projects with specific knowledge partners. The EFRO project IP-scan was launched on 1 December 2008 by the Enterprise Europe Network. The BOIP participates in the project steering group. 

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◀ In 2009, 125 IP-scans were conducted among 87 companies in Flanders. NOVU – the Dutch Association of Inventors – was founded 20 years ago. To celebrate the occasion, NOVU commissioned the development of a game themed ‘from idea to market’ (see ‘Mr Pitcher’ on www.novu.nl). The game was developed with the BOIP’s support.

Website

The BOIP’s most important communication tool is the website. Each year the BOIP sets itself the goal of making the website easier to find and increasing the number of visitors. In 2009 the number of unique visitors grew by 13.7% compared with 2008, whereas the goal was 10%. Website visitors totalled 442,401, over 45% of whom found the website through a search engine.

Workshops

The BOIP aims to familiarise professional trademarks representatives with the Office’s work procedure by hosting workshops. We organised workshops on oppositions, designs and refusals for trademarks agents and lawyers in 2009. A record of 87 participants registered for the oppositions workshop. The BOIP employees conducted most workshops; we were able to host the design workshop with the support of the OHIM and WIPO.

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Developments that had already been started were continued in 2009. Examples are extending the opposition procedure and improving the i-DEPOT, notably by building the [intermediary module](#). Also, [TMview](#) was completed.

Furthermore clear agreements were made on software architecture. Based on these agreements it was decided to purchase Lotus Connections, a contemporary intranet system based on social networking software. As an extension to this, it was decided to replace the e-mail system. Both systems fit seamlessly into our architecture.

A key project in 2009 was installing a complete system in which applications can be developed, tested and accepted irrespective of the production environment. This guarantees the quality and continuity of the applications delivered.

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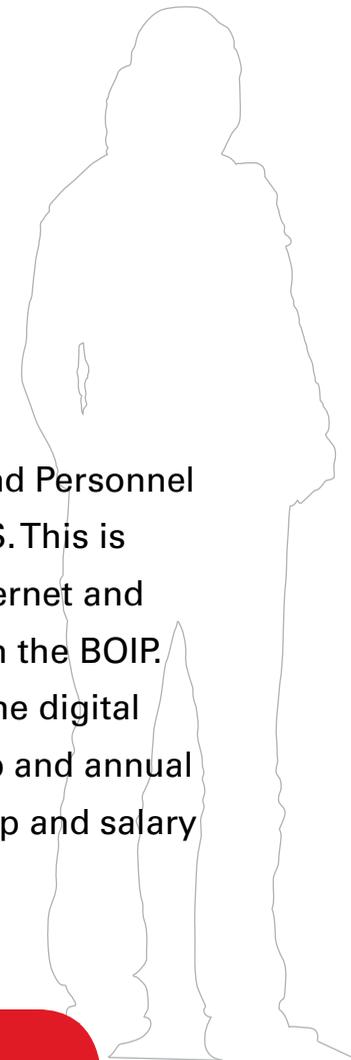
Human Resources

Our HR policy is aimed at making a contribution to the BOIP's corporate values: we aim to profile our Office as a contemporary, flexible, accessible, reliable and innovative employer. Our aim is to constantly motivate and inspire our personnel.

During the past period we took a critical look at our personnel policy and modernised a number of our operating processes. This will enable us to anticipate current events more efficiently and flexibly, further improve our communication and collaboration and offer our people innovative integrated personnel tools. Please find below an overview of a number of key initiatives carried out in 2009.

Profitweb

In October 2009 implementation began of a new Salary and Personnel Information System called Profitweb, developed by AFAS. This is a user-friendly package that is accessible through the Internet and offers integration options with other systems used within the BOIP. There are many employee self-service options, such as the digital employee file, and filing and printing the digital salary slip and annual income statement. In January 2010 the first new salary slip and salary payment will be processed through Profitweb. 



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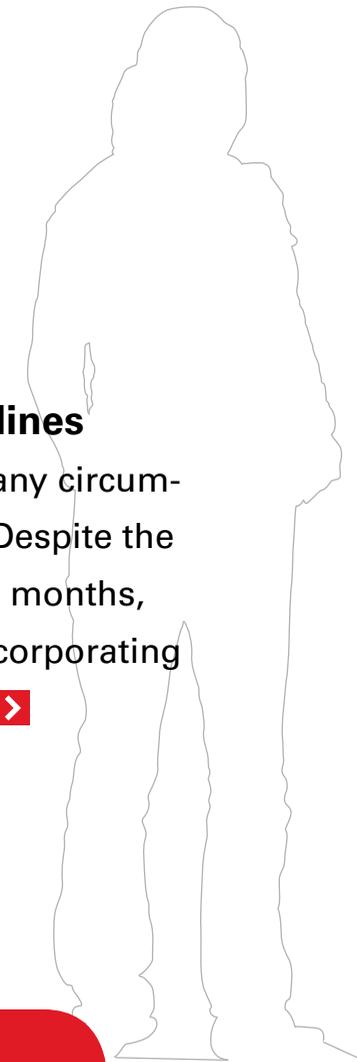
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◀ Performance appraisal application

In 2008 we began developing a web application, which will be used to conduct performance appraisals. It was expanded further in 2009. The necessary information, such as specific results on job description aspects and competencies are retrieved from various databases. The appraiser fills in the appraisal information. The appraiser, the appraisee and the appraisal authority subsequently sign the document electronically. The results are stored in a pdf document.

Teambuilding and inspiration day for managers

The BOIP's managers participate in a teambuilding activity annually focusing on collaboration, communication and how to inspire employees. In 2009 the day was themed around 'Gung Ho', a method used in China to constantly motivate and inspire employees.

Change to Social Plan and Reorganisation Guidelines

The BOIP aims to be a good and social employer under any circumstances, including reorganisations and staff reductions. Despite the outplacement term having been shortened from 18 to 12 months, an extensive outplacement procedure was developed incorporating additional support for employees looking for a new job. ▶

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◀ Risk assessment and evaluation of working conditions

A risk assessment and evaluation was conducted in 2009. The health and safety coordinator took stock of potential risks in association with a member of the in-house emergency response team based on questionnaires, a meeting with a Personnel Committee representative and an extensive tour of the building. An action plan was drawn up, following a test by the Workplace Health and Safety Department.

The main actions resulting from the above assessment which have meanwhile been followed-up are as follows:

- updating procedures and protocols
- scheduling periodic surveys
- evaluating and scheduling evacuation exercises

Risk analysis in case of emergencies

In response to a report prepared by our accountants all departments carried out a risk analysis. Human Resources drew up an action plan analysing its own specific risks and estimating the degree of likelihood and the impact. Supplementary measures were subsequently taken in the form of protocols/procedures, insurances and an emergency response policy. ▶

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< In-house emergency response team

In 2008 we set up a professional emergency response organisation and trained emergency response team members as well as drawing up a protocol. The protocol was evaluated and amended in 2009. Evacuation exercises and information meetings were held; emergency response team members underwent regular additional training as well as follow-up training and learned how to use a defibrillator. The emergency response team meets every month to discuss incidents and hold exercises.

Facilities

The library was renovated and redesigned in 2009. The main hall and the visitors' area were also given a makeover contributing to a client-focused, contemporary look and feel.

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Corporate Communication

The Corporate Communication Department is responsible for developing and executing communication policy. The department also ensures consistency of the format and content of all internal and external communication tools.

In the years ahead, the BOIP aims to continue to be leading in its activities, using digital services. In 2009 we studied new online and social media options, which has resulted in a more active media policy and a BOIP twitter account.

In terms of our online service provision, Corporate Communication furthermore made a considerable contribution to developing the i-DEPOT [intermediary module](#) and the [portal strategy](#).

We also created an intranet document page to enable information to be shared within the organisation in an easy and flexible manner.

Actual needs were identified during an inspiring employee session. A survey with a wish list was subsequently conducted among employees. Based on the results, a business case, the pros and cons and different scenarios it was decided to purchase Lotus Connections. This package makes it possible to create an individual profile in a user-friendly and contemporary manner, and also enables people to blog, chat and hold discussions as well as launch and share wikis and communities.

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Assets

AT 31 DECEMBER 2009 *in thousands of euros*

Fixed assets

	2009	2008
Tangible fixed assets	8,743	9,291
Financial fixed assets	11,913	11,113
	20,656	20,404

Current assets

Accounts receivable	1,685	1,839
Cash at bank and in hand	3,864	4,502
	5,549	6,341

26,205

26,745

Liabilities

AT 31 DECEMBER 2009 *in thousands of euros*

Equity

	2009	2008
Special purpose reserve	8,980	8,980
General reserve	10,916	10,809
	19,896	19,789

Provisions

595 **377**

Short-term debt

Staff cost-related	1,027	1,081
Other short-term debt	4,687	5,498
	5,714	6,579

26,205

26,745

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Financial statements

For the seventh successive year the BOIP succeeded in posting an operating profit. Fees were last increased in 2005. The BOIP managed to maintain good performance during the crisis. This is due to a combination of utilising opportunities (i-DEPOT), achieving cost savings and good investment returns.

- Tangible fixed assets comprise the premises, inventory, transport vehicles and IT investments. These are stated at the acquisition value net of annual straight-line depreciation.
- Approximately twenty percent of the financial fixed assets comprise marketable securities (worldwide index trackers) while eighty percent are bonds. These have been valued at the acquisition value or lower market value.

- The other items are stated at face value.
- Amounts are due from WIPO (Madrid Arrangement), the OHIM (collaboration agreement), the tax authorities (VAT), and from accrued interest on bonds and on prepayments and accrued income.
- Cash at bank and in hand is at the Office's free disposal.
- Provisions comprise a provision for reorganisation, a provision for jubilees, a provision for large-scale maintenance and a provision for early retirement.
- Short-term staff-cost-related debt mainly comprises a reserve for holiday pay and annual leave as well as statutory payroll tax and social security contributions due. To conclude, other short-term debt comprises creditors, deferred income and reserves for invoices to be received.

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Statement of income and expenditure for 2009

<i>in thousands of euros</i>	Budget 2009	2009	2008
Revenue			
Turnover from filings	6,106	5,765	6,355
Turnover from renewals	4,023	4,123	4,117
Other	3,313	3,299	3,562
Total revenue	13,442	13,187	14,034
Operating expenses			
Salary costs	7,670	7,545	7,230
Social security contributions	565	507	585
Pension costs	1,900	1,911	2,143
Other staff costs	751	901	620
Staff costs	10,886	10,864	10,578
Depreciation	1,020	1,095	974
Miscellaneous operating expenses	2,313	2,188	1,982
Less: Total costs	14,219	14,147	13,534
Operating result	-777	-960	500
Financial income and expenditure			
Interest income and dividend	602	489	384
Exchange gains and losses and investment portfolio	0	578	-881
	602	1,067	-497
Result	-175	107	3

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In 2009 economic recovery did not set in. Nevertheless, and contrary to expectations, the BOIP posted a profit of EUR 106,658 (2008: EUR 2,643). A loss was averted on account of two non-permanent factors (investments and work in progress). Turnover from the services is generated upon publication. If publication does not take place, turnover is considered to be generated upon receipt of payment.

Turnover

- Turnover decreased from EUR 14,034,000 in 2008 to EUR 13,187,000 in 2009. Over half of the decrease was anticipated on account of the cessation of community searches. In addition, the number of filed trademark applications declined by 8.4% to 21,486 (2008: 23,454). Lesser interest was shown in fast registrations.
- The BOIP received 14,198 renewal applications, 7% more than in 2008. On account of a non-recurring gain in 2008, the increase is not reflected in the turnover figures, which only rose from EUR 4,117,000 to EUR 4,123,000.
- The number of oppositions saw a much stronger decline (20%) compared with the number of filings (8.4%). Throughout the financial year, 1,032 (admissible) oppositions were submitted compared with 1,301 in 2008. ➤

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Notes to the statement of income and expenditure

- ◀ The percentage of oppositions fell from 5.83% to 5.25% relative to the number of trademarks open to opposition. By contrast, revenue rose substantially: from EUR 624,000 to EUR 740,000. Many decisions were made as a result of the allocation of additional capacity.
- i-DEPOT turnover increased to EUR 160,000 in 2009 whereas in 2008 the turnover figure did not exceed EUR 133,000 in 2008. Both the number of individual i-DEPOTs and the number of i-DEPOTs submitted through a credit account reflected an increase.

Costs

- Staff costs increased by EUR 286,000 to EUR 10,864,000 (2008: EUR 10,578,000). The increase is almost fully attributable to the formation of a statutory provision (EUR 266,000) for jubilees.

- Depreciation costs rose to EUR 1,095,000 (2008: EUR 974,000) mainly as a result of IT investments.
- Other costs increased by 10%, from EUR 1,982,000 to EUR 2,188,000 in the reporting year. The increase was due to rising IT and legal costs. General costs declined strongly.

Financial income and expenditure

In 2009 the BOIP was able to benefit from the regained confidence in the financial markets. The price losses suffered in 2008 were recuperated. In addition to the gains recognised in the income and expenditure statement, an unrealised gain of EUR 389,000 was posted (market value minus acquisition value).

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Introduction

We have audited whether the accompanying abbreviated financial statements of Benelux Office for Intellectual Property, The Hague, for the year 2009 (as set out on pages 46 to 50) have been derived consistently from the audited financial statements of Benelux Office for Intellectual Property, for the year 2009. In our auditors' report dated 26 May 2010 we expressed an unqualified opinion on these financial statements. The Directors are responsible for the preparation of the abbreviated financial statements in accordance with the accounting policies as applied in the 2009 financial statements of Benelux Office for Intellectual Property. Our responsibility is to express an opinion on these abbreviated financial statements 2009.

Scope

We conducted our audit in accordance with Dutch law. This law requires that we plan and perform the audit to obtain reasonable assurance that the abbreviated financial statements have been derived consistently from the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, these abbreviated financial statements 2009 have been derived consistently, in all material respects, from the financial statements. ➤



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◀ **Emphasis of matter**

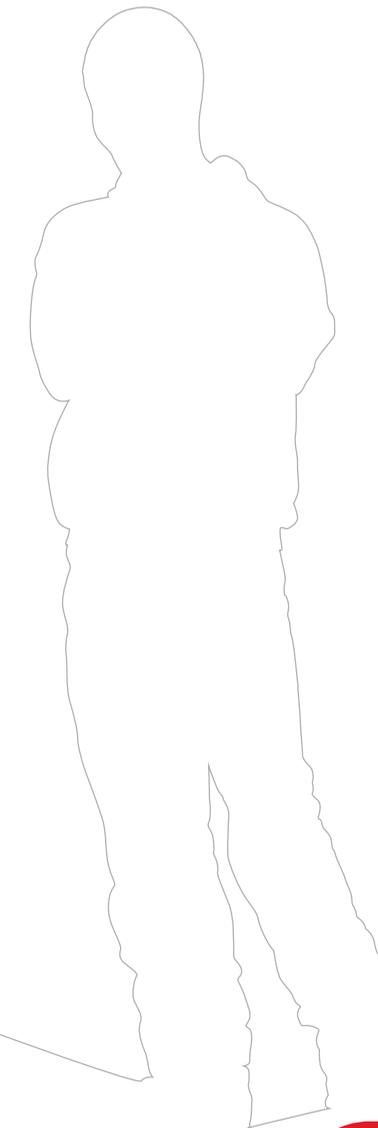
For a better understanding of the organisation's financial position and results and the scope of our audit, we emphasize that the abbreviated financial statements should be read in conjunction with the unabridged financial statements, from which the abbreviated financial statements were derived and our unqualified auditors' report thereon dated 26 May 2010.

Furthermore we emphasize that the financial statement for the year 2009 and auditors' report are intended solely for a restricted group of users, the participants in the Benelux-agreement on the Intellectual property, and are not suitable for other purposes. Our opinion is not qualified in respect of this matter.

The Hague, 7 June 2010

PricewaterhouseCoopers Accountants N.V.

Original is signed by drs. A.E. Gerritsma RA



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