

Annual Report 2010

Customer-oriented communication and the expansion of interactive services are key to the Benelux Office for Intellectual Property's (BOIP) strategy. In line with this strategy, 2010 saw a focus on growth and partnerships. In addition to the expansion of our core activities, we also worked to develop activities in other areas. In the area of cooperation, we actively sought out new joint ventures and worked to further expand existing business partnerships. We are proud of the BOIP's accomplishments in 2010!

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Growth and partnerships

The number of filings grew in 2010. Small and medium-sized businesses in particular represented a large portion of this growth. The number of trademark filings to be submitted without the intervention of an agent saw an especially large relative growth. In the area of designs and i-DEPOTs, we even registered growth figures of ten percent or more. Due to the resulting higher income and lower operating expenses, the BOIP managed to achieve a positive annual result.

A study by the Max Planck Institute on the workings of the European trademarks system also had positive effects: see the [‘Highlights’](#) section for further details on this study. We hope the European Commission – responsible for commissioning the study – will take the recommendations in this document to heart, thus ensuring continued access for small and medium-sized businesses in Europe to both pathways towards trademark protection.

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Growth and partnerships

This Annual Report also features a review of several special projects. In 2010 the BOIP continued its successful collaboration with the Office for Harmonisation in the Internal Market (OHIM) on the EuroClass project. We also initiated various IT projects as part of the OHIM Cooperation Fund.

In addition, the BOIP received a request from the Dutch government to register trademarks for the Dutch Caribbean (Bonaire, Sint Eustatius and Saba) as of 10 October 2010. In another historic development, 2010 saw the Benelux countries sign an agreement on the development of a public i-DEPOT.

In our crowning achievement for 2010, the BOIP was named the world's best trademark office. In an [international survey](#) on the quality of trademark offices held amongst professionals from the intellectual property sector, the BOIP was ranked number one.

Sufficient grounds, in other words, for our organisation to look to the future with a sense of optimism. Speaking on behalf of the entire Board of Directors, let me take this opportunity to thank our employees for their continued hard work and express my gratitude to our clients for putting their trust in our organisation.

Edmond Simon,
Director General

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Results from core tasks

2010 was a busy year for the BOIP. The amount of work conducted as a part of our core tasks increased. In addition, a number of projects and external events affected our activities.

The number of trademark filings, design filings and i-DEPOTs also showed healthy growth >. The number of applications for renewals, modifications and subscriptions remained more or less unchanged. This also applies to the number of opposition decisions, an area in which we strove to eliminate backlogs wherever possible. We also made headway on a considerable number of key automation projects in support of the BOIP's activities.

This overview would not be complete without a mention of another outstanding achievement: [the BOIP's first place in the Managing IP ranking](#). According to professionals in the intellectual property sector, the BOIP outperforms most national trademark offices and the OHIM in all service-related areas. Naturally, this acknowledgment will help motivate our teams to successfully tackle the challenges ahead with even greater enthusiasm!

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Special projects

Over the course of 2010, our teams spent a great deal of time and energy on a number of special projects. We made considerable headway on a number of ongoing projects.

CaribIE

As of 10 October 2010, the BES islands (Bonaire, Sint-Eustatius and Saba) are officially regarded as public entities to be administered as special municipalities of the Netherlands. Working on behalf of the Rijksdienst Dutch Caribbean, the BOIP prepared the implementation of the new BES Island Trademark Act. This is the first time an individual country has commissioned the BOIP to conduct activities, an option created in 2006.

The BOIP has launched a special website for the purpose of trademark registration in the Dutch Caribbean: www.caribie.nl. CaribIE stands for Caribisch Nederland Bureau Intellectueel Eigendom (Intellectual Property Office for the Dutch Caribbean).

EuroClass

The OHIM is working with the national offices to develop a harmonised database of goods and services in all EU languages. This database will serve as an online support system for users seeking to file a trademark. In 2010, a team of BOIP classification experts worked to harmonise the approximately 88,000 Dutch trade names.

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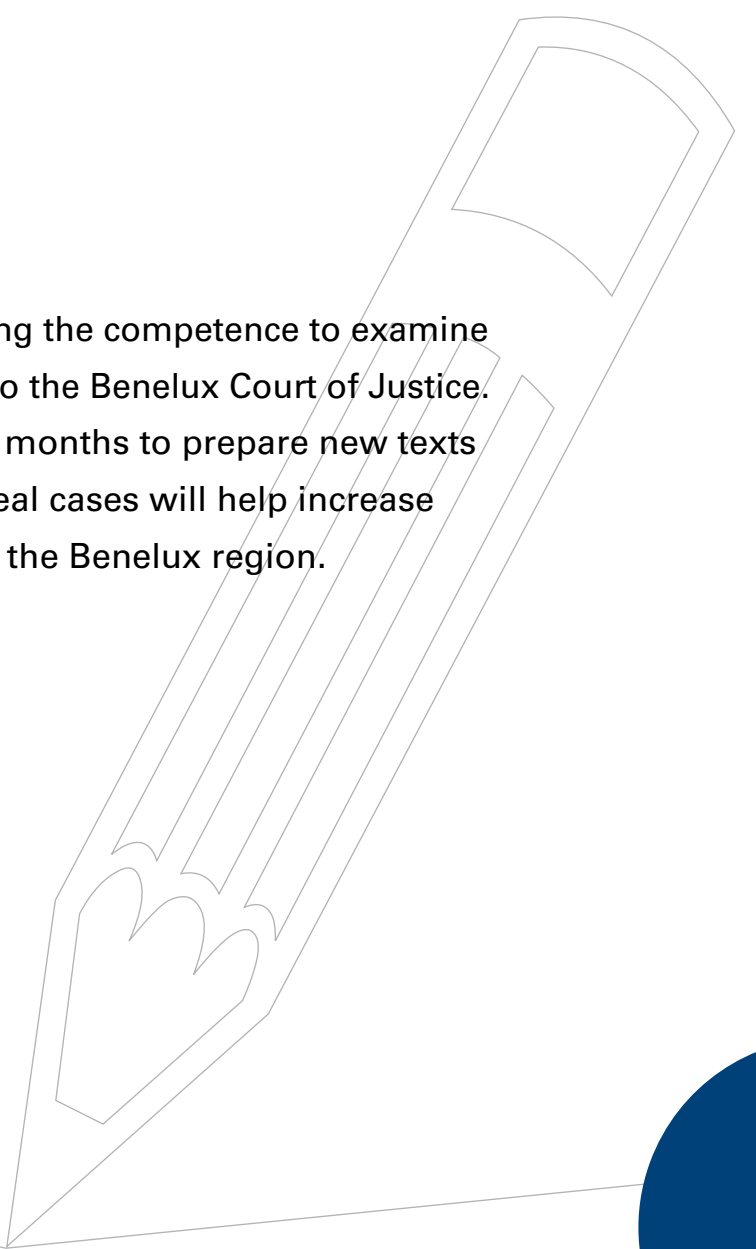
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Legal developments

Efforts were made to implement various amendments to the Benelux Convention on Intellectual Property (BCIP). The Benelux Intellectual Property Council and BOIP Management Board approved the introduction of administrative invalidity proceedings for trademarks. Permission was also granted to amend the opposition procedure. The BCIP Implementing Regulations will also be amended in specific key areas, most notably the abolishment of reclassification during trademark renewal.

Further headway was made in transferring the competence to examine appeals against decisions by the Office to the Benelux Court of Justice. Efforts have been underway for several months to prepare new texts for the Treaty. This centralisation of appeal cases will help increase the uniformity of trademark case law in the Benelux region.



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Public i-DEPOT

The BOIP received the political green light to initiate the second phase of the i-DEPOT. Once this phase has been completed, users will be able to make the contents of their i-DEPOT public if they wish to do so. If all goes to plan, an i-DEPOT module designed for this purpose should become available over the course of 2012.

Potential for cooperation on patents

Since 2010, there seems to be a new political wind in the Benelux region. In mid-2010, the three countries resumed negotiations on a potential technical partnership in the area of IT patents. An ad-hoc working group supported by the BOIP met several times, clearly expressing the political to achieve technical cooperation as soon as possible.

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National trademark and Community Trademark (EU)

Working at the behest of the European Commission, the [Max Planck Instituut](#) conducted a study in 2010 to assess the functioning of the European trademarks system. The system, which has been in place for some fifteen years now, allows applicants to obtain trademark protection within the entire European Union on the basis of a single registration. The Max Planck Institute compared the European trademark system with the various national systems. The results of the study were published in early 2011.

According to the final report, further harmonisation will be needed. The researchers also concluded that efforts must be made to further develop the Community Trademark without implementing any radical changes.

The research institute also highlighted territorial use of the Community Trademark. This conclusion was partly based on the BOIP's ['Onel' decision](#) in February 2010, which subsequently sparked lively discussions. The current debate centres on whether the use of a trademark in a single EU country justifies an exclusive right throughout the entire European Union.

The recommendations outlined in the Max Planck Institute study are a source of cautious optimism, in the sense that they emphasise the need for and coexistence of both national trademarks and the Community Trademark.

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The BOIP in the future

The BOIP has projected various opportunities and perspectives for the longer term. In 2011 and beyond, we will conduct studies to assess the potential for Benelux-level cooperation in the area of intellectual property. We will also implement continual innovations as part of our commitment to customer-oriented communication.

New perspectives for partnership

The BOIP is actively involved in various IT projects under the auspices of the OHIM Cooperation Fund. This applies to the architecture working group and the working groups focused on image research and the further expansion of [TM-XML](#).

This open XML standard for the trademark sector facilitates the exchange of information on trademarks between offices and their partners and users. 2011 saw the three Benelux countries continue

negotiations on the potential for technical cooperation (IT) in the area of patents; the BOIP could play a key role in future Benelux partnerships in this field.

Innovation and projects

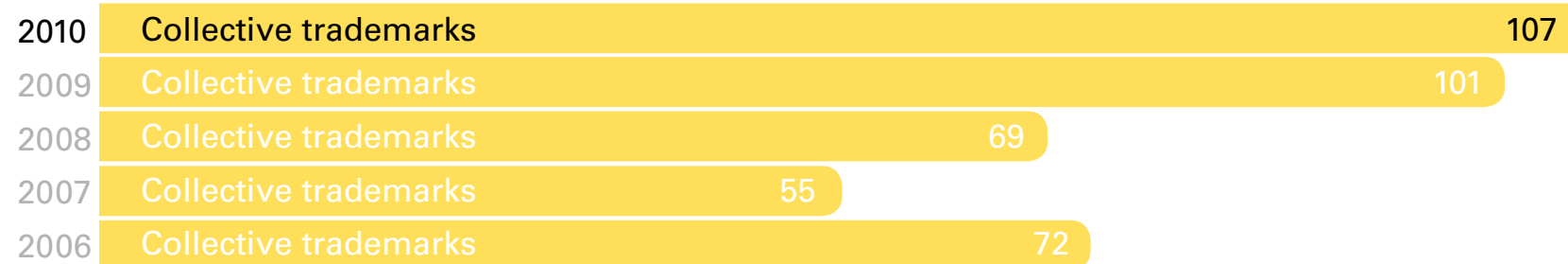
As regards innovation and projects, the BOIP's main focus in 2011 will be on ensuring continued access to adequate trademark and design protection for small and medium-sized businesses. Various electronic services are currently under development, including a BOIP portal and the launch of a new website. The aim is to expand and perfect the automation of our services and offer the users of our online services a better experience. 2011 will see continued efforts to develop a tool that will allow agents to file i-DEPOTs on behalf of their clients.

A special campaign will be launched over the course of 2011 to help increase awareness of the i-DEPOT.

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Breakdown of Benelux filings by country of filing

	National office Belgium	National office Luxembourg	BOIP	Total
2010	191	0	22,013	22,204
2009	204	0	21,282	21,486
2008	314	0	23,140	23,454
2007	319	0	24,340	24,659
2006	301	0	26,920	27,221

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Breakdown of Benelux filings by country of origin

	2010		2009		2008		2007		2006	
Benelux										
Netherlands	14,546	65.6%	14,341	66.8%	15,777	67.4%	17,077	69.3%	18,259	67.2%
Belgium	5,444	24.6%	5,262	24.5%	5,384	23.0%	5,321	21.6%	5,168	19.0%
Luxembourg	857	3.9%	533	2.5%	679	2.9%	566	2.3%	578	2.1%
United States	208	0.9%	292	1.4%	328	1.4%	414	1.7%	814	3.0%
Japan	32	0.1%	25	0.1%	36	0.2%	58	0.2%	74	0.3%
Other EU	652	2.9%	629	2.9%	759	3.2%	710	2.9%	1,697	6.3%
Other	465	1.9%	404	1.9%	491	2.0%	513	2.0%	579	2.1%

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Number of trademarks published

	Individual	Collective	Total
2010	18,131	90	18,221
2009	18,130	75	18,205
2008	19,817	48	19,865
2007	20,107	45	20,152
2006	34,488	79	34,567

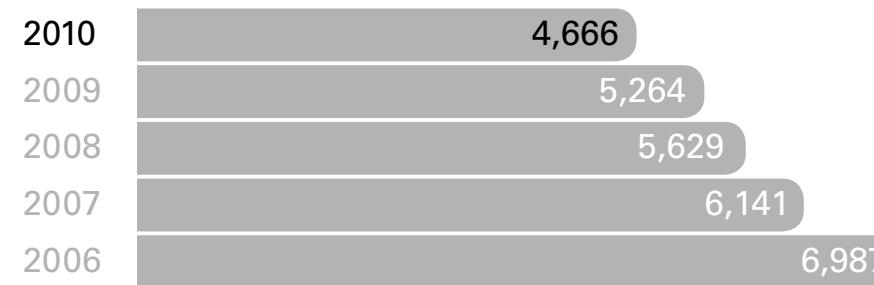
International registrations applied for via the BOIP

	Protocol	Agreement	Agr. + Prot.	Total
2010	1,950	213	211	1,964
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

Requests for renewal

	Individual	Collective	Total
2010	14,583	60	14,643
2009	14,130	68	14,198
2008	13,244	56	13,300
2007	13,248	54	13,302
2006	12,424	33	12,457

International registrations valid in the Benelux region



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Refusals on absolute grounds – 2009 Statistics¹

	Number	%
<i>Benelux filings</i>		
Total ²	20,063	100.00%
Filed by trademark proprietors	7,155	35.66%
Filed by agents	14,732	64.34%
<i>Provisional refusals</i>		
Total	2,091	10.42%
Full	2,043	10.18%
Partial	48	0.24%
Filed by trademark proprietors	1,179	16.48%
Filed by agents	912	7.07%
Filings resulting in registration despite provisional refusal ⁴	284	1.42%
Filings withdrawn by request/cancelled priority registrations	333	1.66%
Filings excluded from further processing	28	0.14%
Objection period still underway (Regulation 1.15 Implementing Regulations)	6	0.03%

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Refusals on absolute grounds – 2009 Statistics¹ (continuation)

Final refusals

Total ⁵	1,440	7.18%
Of which cancelled priority registrations	84	
Full	1,433	7.14%
Partial	7	0.03%
Filed by trademark proprietors ³	990	13.84%
Filed by agents ³	450	3.49%
Objection was lodged	311	
No objection lodged	1,129	
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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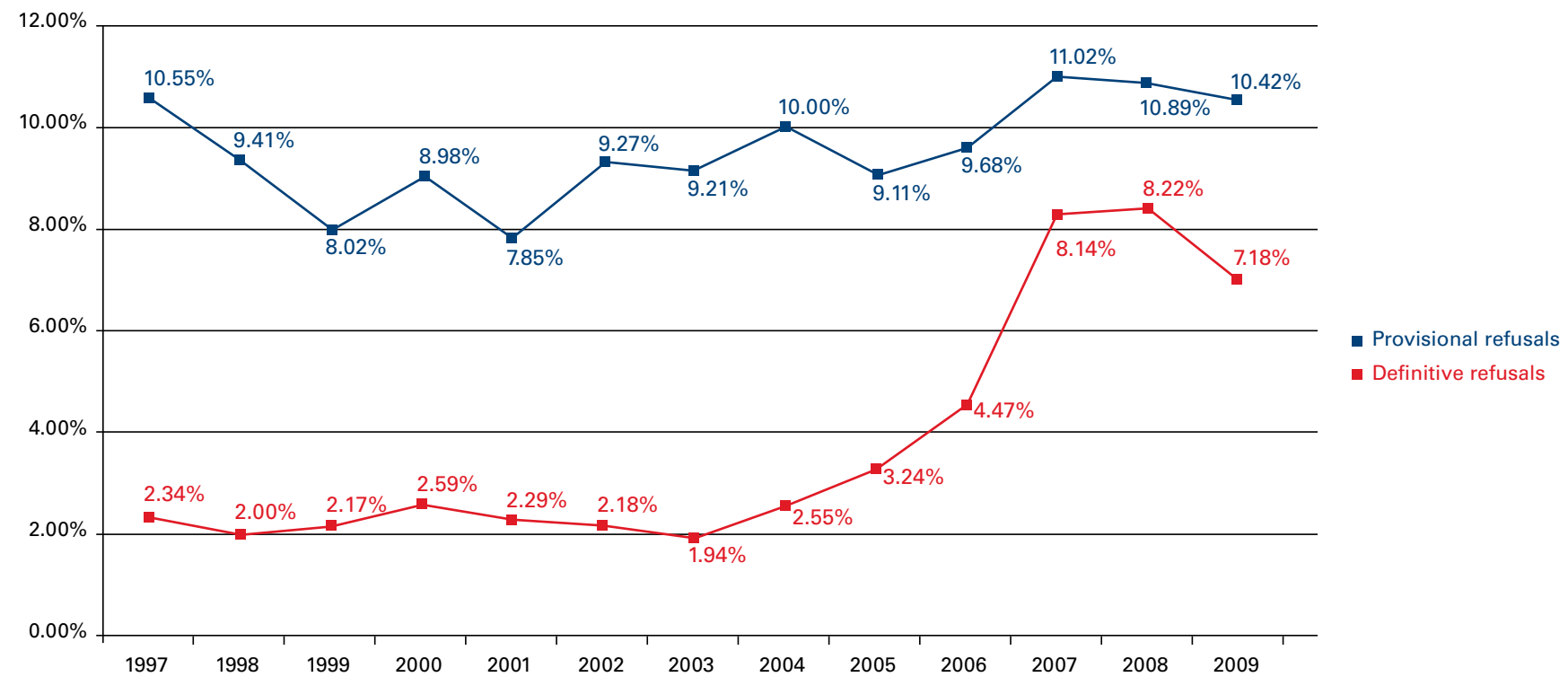
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Development of refusals on absolute grounds versus the number of filings



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Number of oppositions

Admissible	1.038	96%
Inadmissible	46	4%
Total	1.084	
<i>Cancelled in 2010 (admissible oppositions)</i>		
Total	441	42%
<i>Still under consideration (admissible oppositions)</i>		
From 2010	597	58%
<i>Preferred language (admissible oppositions)</i>		
Dutch	766	74%
French	272	26%
English*	442	43%

Opposition filed against (admissible oppositions)

Benelux right	947	91%
International right	91	9%

Opposition based on (admissible oppositions)**

Benelux trademark	402	39%
Community trademark	644	62%
International trademark	239	23%

* 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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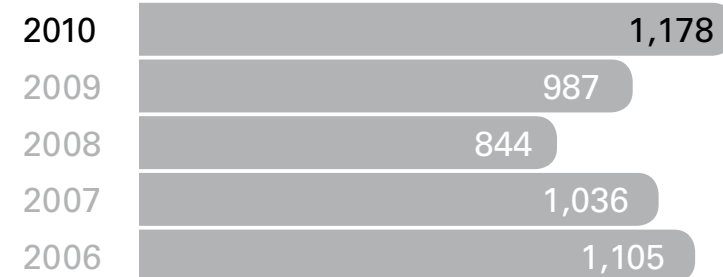
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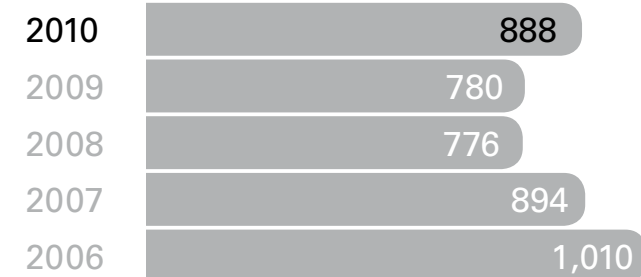
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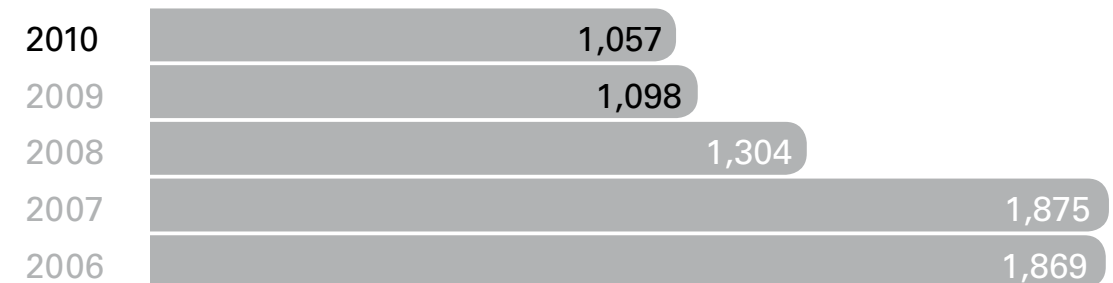
Number of designs published



Breakdown of Benelux filings by National office

	Belgium	Luxembourg	BOIP
2010	124	7	1,046
2009	79	0	908
2008	100	0	743
2007	159	1	867
2006	153	2	950

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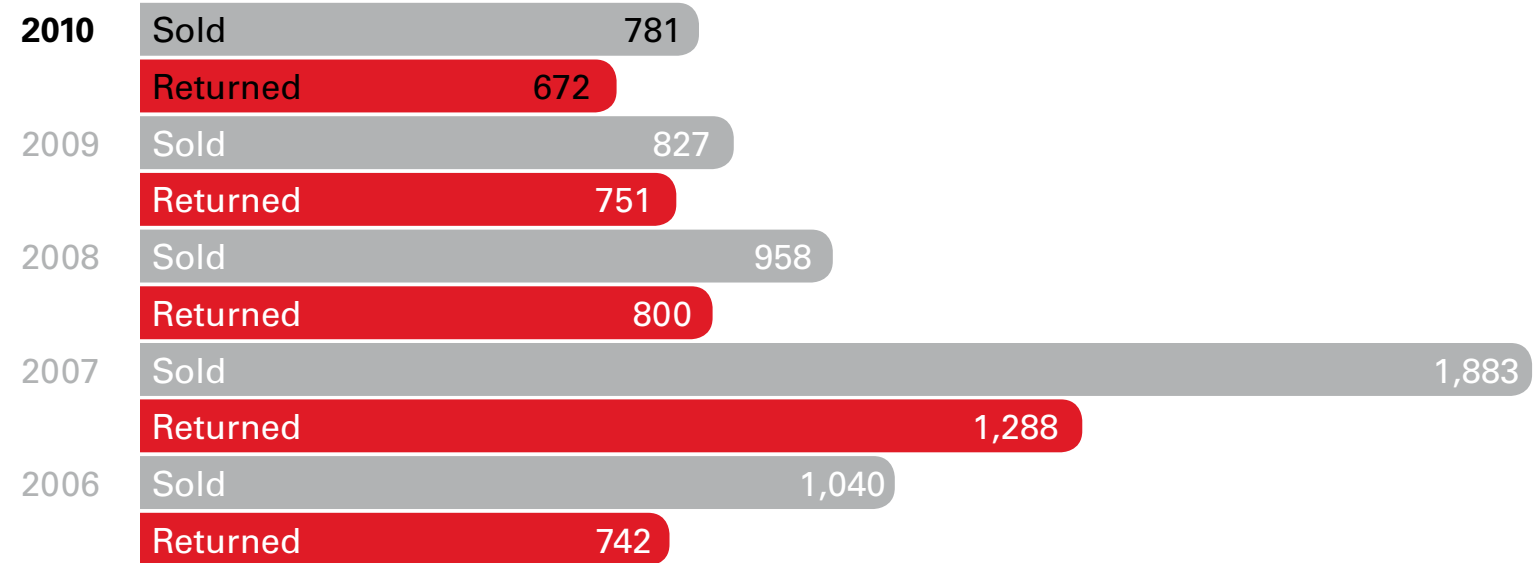
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i-DEPOT figures

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

	2010	2009
Belgium	1,668	1,396
Netherlands	2,040	1,834
Luxembourg	140	74
Other	59	37
Total	3,907	3,341

i-DEPOT envelopes



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Breakdown of i-DEPOT envelopes by country

	2010	2009	2008	2007	2006
Belgium	369	415	436	646	409
Netherlands	245	279	347	599	296
Luxembourg	37	42	13	35	26
Other	21	15	4	8	11
Total	672	751	800	1,288	742

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Employees

National Offices

Belgium

Federal Economics Service
Small and Medium-Sized Businesses and Energy
Market Regularisation and Organisation Board
Intellectual Property Unit
North Gate III - Koning Albert II Laan 16
1000 Brussels
Belgium

T + 32 2 277 52 97

F + 32 2 277 52 77

www.economie.fgov.be

Luxembourg

Ministère de l'Economie et du Commerce extérieur
Office de la Propriété Intellectuelle
Boulevard Royal 19-21
2449 Luxembourg
F + 35 2 478 41 87
F + 35 2 22 26 60
E dpi@eco.etat.lu
www.eco.public.lu

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

Number of employees

	31-12-2010	31-12-2009
NL	68	68
B	22	22
L	3	3
Fr	1	1
Total	94	94

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

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Assets

AT 31 DECEMBER 2010 <i>in thousands of euros</i>	2010	2009
Fixed assets		
Tangible fixed assets	8,046	8,743
Financial fixed assets	11,204	11,913
	19,250	20,656
Current assets		
Accounts receivable	1,478	1,685
Cash at bank and in hand	5,600	3,864
	7,078	5,549
	26,328	26,205

Liabilities

AT 31 DECEMBER 2010 <i>in thousands of euros</i>	2010	2009
Equity		
Special purpose reserve	8,980	8,980
General reserve	11,049	10,916
	20,029	19,896
Provisions	532	595
Short-term debt		
Staff cost-related	1,047	1,027
Other short-term debt	4,720	4,687
	5,767	5,714
	26,328	26,205

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The BOIP has successfully weathered the financial crisis. This can be attributed to growing international revenues, cost savings and good returns on investment. Fees were last raised in 2005.

- 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), OHIM (collaboration agreement) and the Tax Authorities (VAT). The accrued interest on bonds and on prepayments and accrued income is also recognised under accounts receivable.
- Cash at bank and in hand is at the Office's free disposal.
- Provisions comprise a provision for reorganisation, a provision for anniversaries, 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 2010

<i>in thousands of euros</i>	Budget 2010	2010	2009
Revenue			
Turnover from filings	5,549	5,614	5,765
Turnover from renewals	4,146	4,223	4,123
Other	3,450	3,725	3,299
Total revenue	13,145	13,562	13,187
Operating expenses			
Salary costs	7,690	7,679	7,545
Social security contributions	576	579	507
Pension costs	1,973	2,079	1,911
Other staff costs	716	562	901
Staff costs	10,955	10,899	10,864
Depreciation	1,122	1,091	1,095
Miscellaneous operating expenses	2,318	1,979	2,188
Less: Total costs	14,395	13,969	14,147
Operating result	-1,250	-407	-960
Financial income and expenditure			
Interest income and dividend	500	403	489
Exchange gains and losses and investment portfolio	0	137	578
	500	540	1,067
Result	-750	133	107

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For the eighth consecutive year, the BOIP registered a positive operating result: € 133,000 (€ 2009: € 107,000). A loss was averted due to the recovery of international activities and cost savings. Turnover from the offices is generated upon publication or upon receipt of payment.

Turnover

- Turnover grew to € 13,562,000, compared to € 13,187,000 in 2009. The growth in international turnover can be mainly attributed to the exchange rate increase of the Swiss Franc, a rise in Protocol turnover and fees for TMview.
- Depot revenues declined slightly to € 5,614,000, due to the continuing backlog of work in progress.
- Turnover from renewals rose by € 100,000 to a total of € 4,223,000.
- The number of oppositions was almost the same as last year, totalling 1,038. Revenue dropped to € 666,000. 2009 saw an incidental (accounting) rise in revenue to a total of € 740,000.
- i-DEPOT turnover increased to € 187,000 in 2010 whereas in 2009 the turnover figure did not exceed € 160,000. There was a rise in both the number of individual i-DEPOTs and the number of i-DEPOTs submitted through a credit account.

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Costs

- Staff costs remained relatively stable in 2010 at € 10,899,000, compared with € 10,864,000 in 2009. The 2.5% general wage increase (in accordance with Government standards) was offset by the initial addition to the provision for anniversaries in 2009.
- Depreciation costs also remained stable; € 1,091,000 in 2010 compared to € 1,095,000 in 2009.
- Miscellaneous expenses fell by almost 10% during the reporting year, from € 2,188,000 to € 1,979,000. The decrease was mainly attributable to legal costs (€ 73,000), automation costs (€ 65,000) and general costs (€ 43,000).

Financial income and expenditure

In 2010, the BOIP achieved a 7.5% return on market value (after deduction of costs). In addition to the investment portfolio value recognised on the balance sheet, an unrealised gain (market value minus acquisition value) of € 795,000 was posted (2009: € 389,000).

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Auditor's report

The abbreviated financial statement featured in this report - consisting of the abbreviated balance sheet as at 31 December 2010 and the abbreviated profit and loss account - was derived from the audited 2010 financial statement for the Benelux Office for Intellectual Property in The Hague. We approved this financial statement in our auditor's report of 27 April 2010. The financial statement in question and this abbreviated version thereof do not describe any events that took since the date of our report of 27 April 2011.

The abbreviated financial statement does not contain all notes required on the basis of the accounting policies specified and described by the organisation, as outlined in the notes to the financial statement. Taking cognisance of the abbreviated financial statement is thus no substitution for taking cognisance of the audited financial statement of the Benelux Office for Intellectual Property.

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Management Board responsibilities

The Management Board is responsible for preparing an abbreviated version of the audited financial statement in accordance with the accounting policies described in the notes to the audited financial statement.

Auditor responsibilities

We are responsible for issuing an opinion on the abbreviated financial statement, based on our activities conducted in accordance with Dutch law, including Standard 810 'Reporting on abbreviated financial statements'.

Opinion

In our opinion, all relevant aspects of the abbreviated financial statement are consistent with the audited financial statement for the Benelux Office for Intellectual Property over the year that ended on 31 December 2010, in accordance with the accounting policies described in the notes to the notes.

The Hague, 17 June 2011

PricewaterhouseCoopers Accountants N.V.

Original copy signed by Mr A.E. Gerritsma RA

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