

Annual Report 2011

2011 was a turbulent but significant year, both in general and certainly for the Benelux Office for Intellectual Property (BOIP). While celebrating our 40th anniversary, we continued working hard on projects aimed at easing access to intellectual property rights for our customers. We also invested in the ongoing digitisation of our services, giving our customers access to our services interactively, anytime and any place. Another important milestone for us was the Management Board's approval of the development of a roadmap toward achieving IT-based cooperation around patents. Meanwhile, the global economic crisis raged on. This affected the BOIP as much as everyone else. But in spite of these turbulent times, we achieved a positive operating result this year and are proud of our performance in 2011.





BOIP's 40th anniversary

The BOIP turned 40 this year, and we marked this ruby anniversary with an afternoon symposium for our business partners, a great staff party, and the publication of a special book.

Our special afternoon symposium on 3 February 2011, was titled Trademarks: All about Perception? This was a festive event for our external business partners, with speakers from various disciplines sharing their visions of brand value and brand perception. We also presented a book, *In Varietate Concordia?*, to mark our anniversary, which focused on the co-existence of national and community trademarks. We are proud of the range of authors who contributed to the book, and of the contribution made by the [Max Planck Institute](#).

This prestigious institute was asked by the European Commission to study the workings of the European trademark system, and its piece in our anniversary book discusses its key findings.

Of course, we marked our anniversary internally too, with all our staff. The renowned designer [Piet Hein Eek](#) designed a set of tables, benches and a lectern specially for the BOIP. Our staff joined in with sawing, hammering nails and assembling the furniture as part of a celebratory event on 9 September 2011. It was a unique opportunity for teambuilding, communication and cooperation, and left us with lasting memories of our 40th anniversary.

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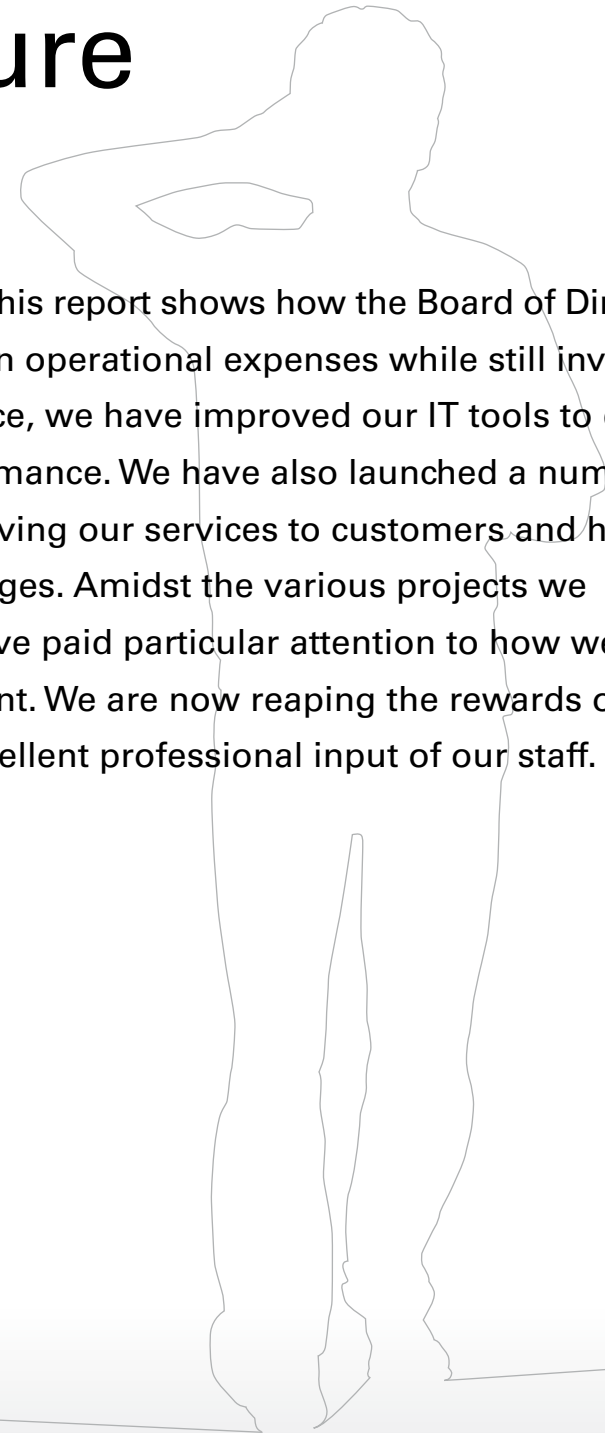
Investing in the future

We will always remember 2011 as the year that the European Union went through its most serious economic crisis. Budgets are under pressure in every member state, and governments are implementing severe austerity measures. Everyone has been affected, including the private sector, and especially the vulnerable SME sector.

The Benelux Office for Intellectual Property (BOIP) offered a helping hand to its hard-hit customers in 2011 by continuing to keep its fees at the same level (now unchanged since 2005). In a globalised economy, the Benelux cannot stand alone.

We do everything we can to prevent our customers from having to face any heavier financial burdens. That is why I'm pleased we ended the 2011 financial year with a positive financial result, and without having increased our fees.

The [financial section](#) in this report shows how the Board of Directors have kept a sharp eye on operational expenses while still investing in the future. For instance, we have improved our IT tools to ensure their longer-term performance. We have also launched a number of projects aimed at improving our services to customers and helping us to face future challenges. Amidst the various projects we launched in 2011, we have paid particular attention to how we deal with project management. We are now reaping the rewards of that, thanks in part to the excellent professional input of our staff.



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2011 was a busy year for patents, with the Management Board approving the roadmap for achieving IT cooperation in the management of patents in our member states. A tender was issued in full compliance with the European rules for government contracts.

The Board sees this new line of work as a supplementary activity, in line with Article 1.3 (c) of the Benelux Convention on Intellectual Property (BCIP). The Board also recommended that member states harmonise their national regulations around patents as much as possible. The Board is playing its part by moving forward on the

development of the IT roadmap while also limiting the costs associated with the development, implementation and operation of the community information system. We are pleased to have strengthened our relationship with the [WIPO](#) (World Intellectual Property Organization) and the [OHIM](#) (Office for Harmonization in the Internal Market). We are working together on various projects aimed at simplifying access to intellectual property rights. Finally, we will soon be including English as a third working language at the BOIP, to better serve our customers.

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One disappointment in 2011, however, was the [European Commission](#) repeatedly delaying its proposed amendments to the Community Trademark regulations. Our own Benelux institutions, meanwhile, have done excellent work in terms of statutory changes, with one of the most important results being a protocol amendment in the Treaty regarding the establishment and the status of the [Benelux Court of Justice](#). The Court will be able to hear appeals against decisions made by our office as soon as parliamentary approval has been granted in our member states.

We had an important milestone to celebrate in 2011: the 40th anniversary of trademark cooperation in the Benelux! That cooperation has had its highs and lows over those 40 years,

but overall we have made steady, lasting progress, with the new [Benelux Convention on Intellectual Property](#) (BCIP) as a crowning moment. In approving this convention, our member states have made clear their desire for ongoing and even more intensive cooperation around intellectual property.

All of my colleagues have played a part in that. Their work has, to a great extent, paved the way for the BOIP's future, and I am deeply grateful to them.

Edmond Simon,
Director General

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Results from core tasks

The number of [trademark filings](#) continued to recover in 2011 compared to 2010, though less emphatically (+ 1.8%). At 22,600 filings, the volume was still below that of 2008. One area of concern is the number of filings being declared invalid as a result of payment arrears. In terms of trademark renewals, there was actually a steep drop compared to 2010 (-12%). The number of oppositions filed remained at the same level, as did the number of filings for designs. The number of [i-DEPOTs](#) grew by more than 18%, proving it is meeting a real need for companies and designers. In 2011, we also focused on improving our services.

For instance, we have simplified the procedure for reproducing logos, removing the need to make written submissions. Another key event in 2011 was the launch of a new online portal. This delivered a major update to our website, but also laid the foundations for all the online services that the BOIP will gradually be developing. Our online portal is certainly more user-friendly already, giving users a unique log-in for online services and an online form for direct communication with the Office.

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Results from core tasks

Our legal activities also made a leap forward in 2011. The percentage of provisional refusals dropped significantly (8.6% against 10.9%) compared to 2010 (2009 figures). In 2011, the Legal Affairs department drew up 610 written arguments regarding provisional refusals, and made 220 opposition decisions.

Finally, we put a lot of work into information services for current and potential customers. This included a new customer relationship management system, designed to optimise the way we use contacts and cooperate with partners. In the autumn, we launched a successful campaign on the i-DEPOT.

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Special projects

The transition period for the trademark system in the BES (Dutch Caribbean) islands ended on 10 October 2011. Looking back, this additional task entrusted to us by the Kingdom of the Netherlands was a success, with more than 5,000 confirmed filings, an automated filing procedure, an online register and a special website. And the cooperation with the ministry and the local sectors involved has also been successful.

One of the projects we are devoting a lot of time and energy to is the Benelux Patent Platform. This project, aimed at IT cooperation between the Benelux countries on patents, saw real progress in 2011. Following the work on a roadmap for this project, the Benelux countries gave the go-ahead for starting actual work in terms of drawing up specifications and issuing a tender.

The Management Board has entrusted the Office with providing the lead for this project. We have also put ourselves forward to host the shared IT platform that will be created for the patent systems in the three countries.

In 2011 we also focused on IT issues within the Office itself. This included the completion of several large IT projects – [Carible, TM View](#), the online portal – as well as the launch of some new projects including the electronic payment application and the reorganisation of the IT security system. We also had a full audit performed of the IT department. This delivered valuable results, which will enable us to optimise the significant investments that the Office plans to make in this area over the coming years.

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International cooperation

In 2011 the BOIP finalised the Dutch translation of the [Goods & Services Manager](#) lists, a WIPO classification instrument. From 1 January 2012, all users in the Benelux have had access to this instrument through our online filing system (BOF). Our cooperation with the WIPO was a great success. The BOIP is part of a pilot group for the IRPI project which is focusing on the automation of the procedure for applications for international trademarks through the WIPO.

The BOIP is also taking part in three projects in the OHIM's [Cooperation Fund](#). Two of those, *Architecture* and [TM-XML](#), were concluded 2011. The third project, Image Search, is scheduled to be completed in 2012. The BOIP has also indicated to the OHIM that it is

interested in implementing no less than nine projects that are due to be delivered in 2012 through the Cooperation Fund. We are also participating in the convergence programme launched by the community office, which is working on the further harmonisation of practices in offices around Europe.

Finally, we also organised a number of international seminars in 2011 at our own premises in The Hague. These included a seminar on the drawing and design system in China as part of the *IRP2* project, organised in cooperation with the OHIM and the European Union. Another noteworthy event was the symposium on the international protection of designs (the *The Hague system*) which we organised with the WIPO, [ECTA](#) and [BMM](#).

It has been a busy year for the BOIP in terms of legislation. In July

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Legal developments

2010, the Committee of Ministers signed the BCIP's final protocol amendment. This protocol amendment still needs to be approved by the national parliaments. Meanwhile, following a mandate from the Management Board, the Office began the task of creating two new protocols in 2011. The first of these is the protocol for transferring competence to the Benelux Courts of Justice for hearing appeals against decisions made by the Office.

The second is the protocol for the introduction of administrative invalidity proceedings for trademarks and the amendment of the opposition procedure. In 2011 we also worked on various changes to the BCIP's Implementing Regulations.

These include the addition of English as a third working language at the BOIP and the introduction of additional fees for 'paper' services. Both amendments were officially published in line with the applicable regulations and are expected to come into force no earlier than 2013.

The advisory body to the BOIP's Director General, the [Benelux Intellectual Property Council](#), met three times in 2011. The Council's meetings were particularly useful in relation to the public i-DEPOT.

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National trademark and Community Trademark (EU)

The [Max Planck Institute's](#) report was published in the first quarter of 2011. Soon after, the European Commission began its revision of the regulations. The commission has announced its intention to propose regulatory amendments in relation to the Community Trademark and the directive. The important amendments expected as part of this include the redistribution of 50% of the renewal fees for the Community Trademark among national offices.

The issue of balance between national trademarks and the Community Trademark arose in another context too. In March 2011, in the Onel case, the Court of Appeal in The Hague posed four preliminary questions to the European Court of Justice. This case relates to the territorial use of the Community Trademark. The arguments in this case were heard in April 2012, and the Advocate General's conclusions are expected in early July 2012. A decision is expected sometime in 2013. The final written and verbal arguments appear to point to a confirmation of the decision made by the BOIP in February 2010.

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The BOIP in 2012

In 2012 the Office will be reaping the rewards of expansion programmes started in 2011. Electronic payments for our services will be possible by the summer, for example, starting with trademark filings and the i-DEPOT. In mid 2012 we will be finishing the first phase of the long-awaited electronic register of designs (the [Benelux Industrial Designs Gazette](#) is already available online as a pdf). After the summer the application for the renewal or extension of electronic i-DEPOTs will be available. IRPI, the system for the electronic filing and monitoring of applications for international trademarks, should be up and running by the end of the year, according to the WIPO. And with the financial module now completed, we will be able to put the finishing touches to the automated system for opposition management.

An important event in 2012 will of course be the Benelux Patent Platform project. The public tendering procedure for this will be closing in August 2012, and the Office will then be selecting a supplier to integrate the systems. We will also know at that point whether the platform will be housed at the BOIP. The actual technical work can then be started, and will be executed following a tight schedule: the aim is to launch the system in the spring of 2013 in one Benelux country to start with (this will be Belgium).

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The success of the i-DEPOT campaign led to a plan to launch a promotional campaign for trademarks in the second half of 2012. We will be conducting a survey into the BOIP's brand awareness to get a sense of whether it has improved over the past five years. Also, if the parliamentary calendar for member states permits, we will be starting work on phasing in the BCIP's protocol amendment. As well as amendments to the Implementing Regulations, this will require various changes to our working methods.

So our diary for 2012 is already full to bursting – entirely in line with the ambitious goals that we as an organisation continue to set ourselves, as we work to improve our services and maintain our strong reputation!

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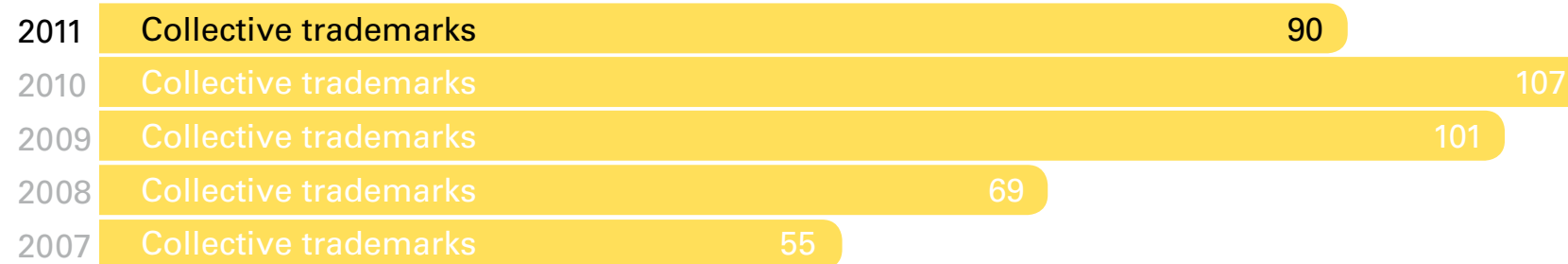
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Breakdown of Benelux filings by country of filing

	National office Belgium	National office Luxembourg	BOIP	Total
2011	124	6	22,482	22,612
2010	191	23	21,990	22,204
2009	204	30	21,252	21,486
2008	314	36	23,104	23,454
2007	319	26	24,314	24,659

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Breakdown of Benelux filings by country of origin

	2011		2010		2009		2008		2007	
Benelux										
Netherlands	15,037	66.5%	14,546	65.6%	14,341	66.8%	15,777	67.4%	17,077	69.3%
Belgium	5,287	23.4%	5,444	24.6%	5,262	24.5%	5,384	23.0%	5,321	21.6%
Luxembourg	810	3.6%	857	3.9%	533	2.5%	679	2.9%	566	2.3%
United States	305	1.4%	208	0.9%	292	1.4%	328	1.4%	414	1.7%
Japan	71	0.3%	32	0.1%	25	0.1%	36	0.2%	58	0.2%
Other EU	643	2.8%	652	2.9%	629	2.9%	759	3.2%	710	2.9%
Other	459	2.0%	465	1.9%	404	1.9%	491	2.0%	513	2.0%

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Number of trademarks published

	Individual	Collective	Total
2011	18,836	77	18,913
2010	18,131	90	18,221
2009	18,130	75	18,205
2008	19,817	48	19,865
2007	20,107	45	20,152

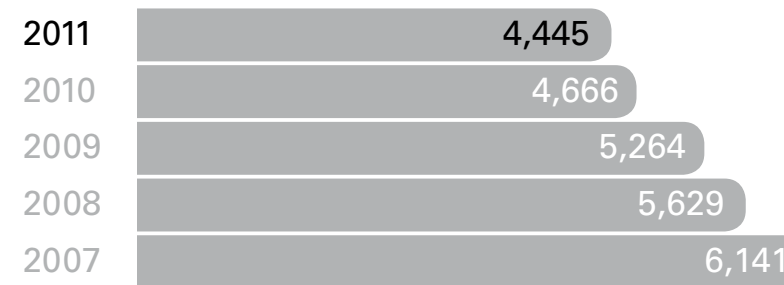
International registrations applied for via the BOIP

	Protocol	Agreement	Agr. + Prot.	Total
2011	1,940	187	186	1,948
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

Requests for renewal

	Individual	Collective	Total
2011	12,860	59	12,919
2010	14,583	60	14,643
2009	14,130	68	14,198
2008	13,244	56	13,300
2007	13,248	54	13,302

International registrations valid in the Benelux region



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Refusals on absolute grounds – 2010 Statistics¹

	Number	%
<i>Benelux filings</i>		
Total ²	20,397	100.00%
Filed by trademark proprietors	7,663	37.57%
Filed by agents	12,734	62.43%
<i>Provisional refusals</i>		
Total	1,746	8.56%
Full	1,705	8.36%
Partial	41	0.20%
Filed by trademark proprietors	965	12.59%
Filed by agents	781	6.13%
Filings resulting in registration despite provisional refusal ⁴	164	0.80%
Filings withdrawn by request/cancelled priority registrations	295	1.45%
Filings excluded from further processing	16	0.08%
Objection period still underway (Regulation 1.15 Implementing Regulations)	12	0.06%

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Refusals on absolute grounds – 2010 Statistics¹ (continuation)

Final refusals

Total ⁵	1,259	6.17%
Of which cancelled priority registrations	99	
Full	1,235	6.05%
Partial	24	0.12%
Filed by trademark proprietors ³	864	11.27%
Filed by agents ³	395	3.10%
Objection was lodged	219	
No objection lodged	1,040	
Appeal lodged (Article 2.12 BCOIP) ⁶		
In Belgium	0	
In the Netherlands	0	
In Luxembourg	1	

1 The statistics for 2011 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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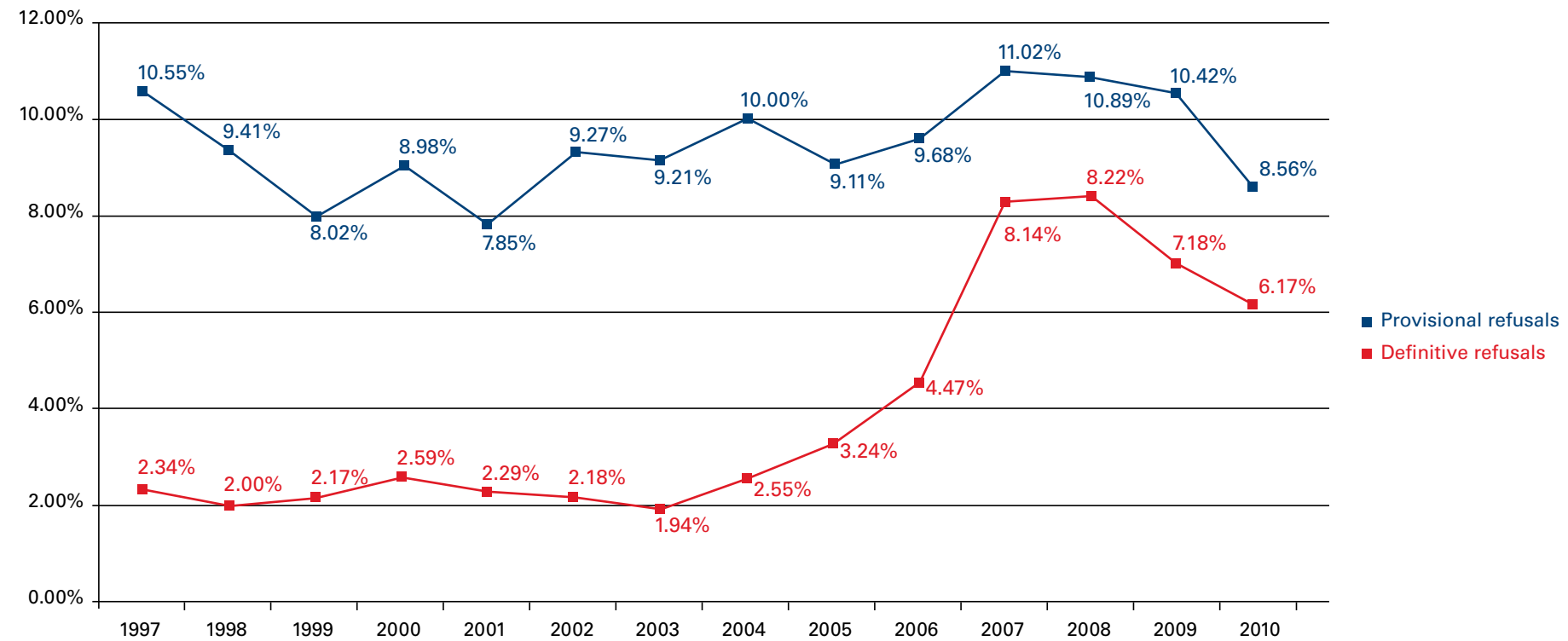
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Development of refusals on absolute grounds versus the number of filings



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Number of oppositions

Admissible	1.086	96%
Inadmissible	41	4%
Total	1.127	
<i>Cancelled in 2009 (admissible oppositions)</i>		
Total	560	52%
<i>Still under consideration (admissible oppositions)</i>		
from 2011	526	48%
<i>Preferred language (admissible oppositions)</i>		
Dutch	840	77%
French	246	23%
English*	437	40%

Opposition filed against (admissible oppositions)

Benelux right	1.009	93%
International right	77	7%

Opposition based on (admissible oppositions)**

Benelux trademark	417	38%
European trademark	665	61%
International trademark	246	23%

* English can be used freely in the exchange of arguments, alongside the official languages of proceedings, French or Dutch.

** Multiple types of rights can be invoked for each opposition.

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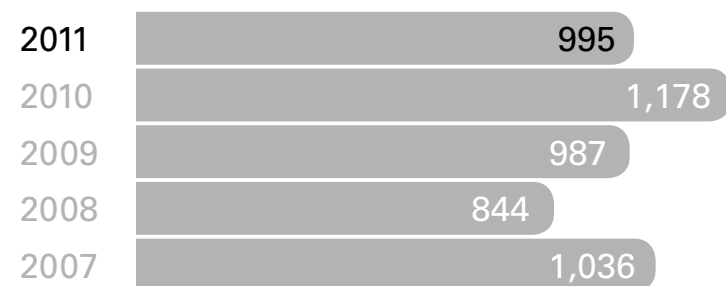
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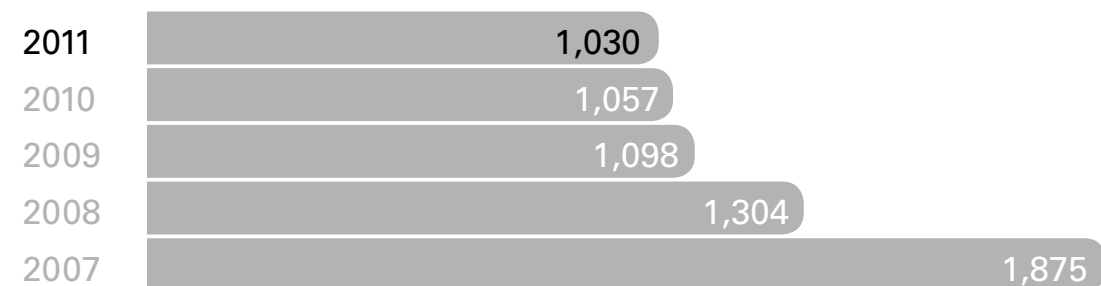
Number of designs published



Breakdown of Benelux filings by National office

	National Service Belgium	National Service Luxembourg	BOIP
2011	81	2	912
2010	124	7	1,046
2009	79	0	908
2008	100	0	743
2007	159	1	867

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

	2011	2010	2009	2008
Belgium	1,804	1,668	1,396	850
Netherlands	2,805	2,040	1,834	1,270
Luxembourg	115	140	74	41
Other	82	59	37	19
Total	4,806	3,907	3,341	2,180

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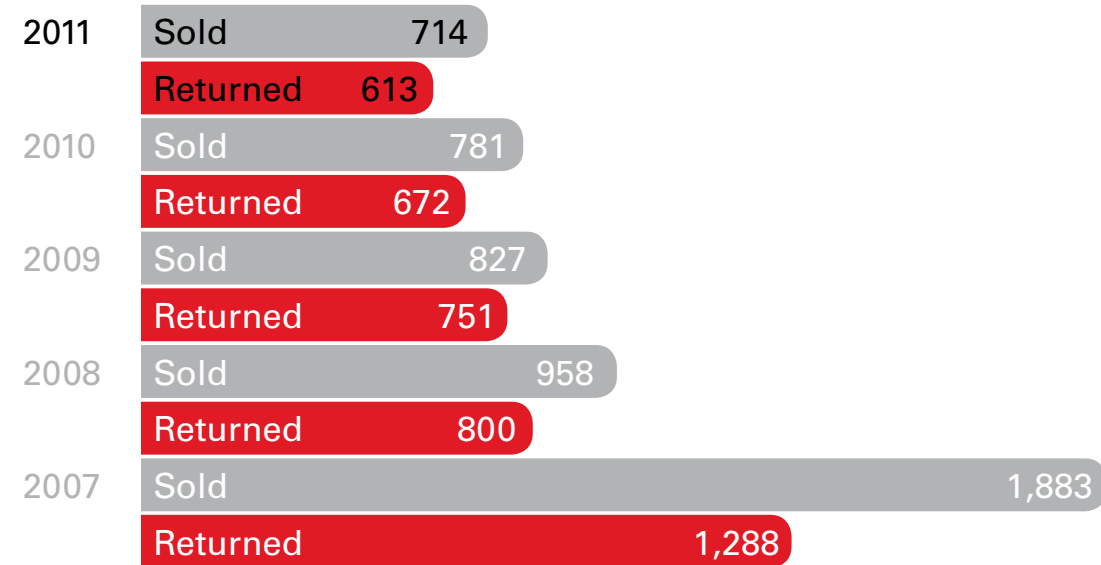
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Breakdown of i-DEPOT envelopes by country

	2011	2010	2009	2008	2007
Belgium	315	369	415	436	646
Netherlands	255	245	279	347	599
Luxembourg	36	37	42	13	35
Other	7	21	15	4	8
Total	613	672	751	800	1,288

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Employees

National Offices

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Federal Economics Service
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 Intellectual Property Unit
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Our office is situated in The Hague. The BOIP has 93 employees. We work closely with the national offices in Brussels and Luxembourg.

Number of employees

	31-12-2011	31-12-2010
NL	69	68
B	20	20
L	3	3
Fr	1	1
Total	93	92

Male	Female	Full-time	Part-time
43	50	61	32

Financial Balance sheet

Assets

AT 31 DECEMBER 2011 <i>in thousands of euros</i>	2011	2010
Fixed assets		
Tangible fixed assets	7,408	8,046
Financial fixed assets	11,342	11,204
	18,750	19,250
Current assets		
Accounts receivable	3,155	1,478
Cash at bank and in hand	4,192	5,600
	7,347	7,078
	26,097	26,328

Liabilities

AT 31 DECEMBER 2011 <i>in thousands of euros</i>	2011	2010
Equity		
Special purpose reserve	8,980	8,980
General reserve	11,067	11,049
	20,047	20,029
Provisions	482	532
Short-term debt		
Staff cost-related	1,101	1,047
Other short-term debt	4,467	4,720
	5,568	5,767
	26,097	26,328

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Notes to the balance sheet

The BOIP recorded a positive operating result of €18,004 in 2011. That may seem modest, but it's the ninth year in succession where the Office has ended the year with a positive financial result. It is worth noting that our last fee increase was 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 30% of the financial fixed assets comprise marketable securities (worldwide index trackers) while 70% 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 the WIPO (Madrid arrangement), the 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.
- Liquid cash assets are at the Office's disposal.
- Provisions comprise a provision for reorganisation, a provision for anniversaries and a provision for large-scale maintenance.
- 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.
- 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 2011

<i>In thousands of euros</i>	Budget 2011	2011	2010
Revenue			
Turnover from filings	5,672	5,743	5,614
Turnover from renewals	3,826	3,832	4,223
Other	3,672	4,222	3,725
Total revenue	13,170	13,797	13,562
Operating expenses			
Salary costs	8,000	8,190	7,649
Social security contributions	630	603	579
Pension costs	1,835	1,758	2,079
Other staff costs	680	497	562
Staff costs	11,145	11,048	10,899
Depreciation	1,029	1,023	1,091
Miscellaneous operating expenses	2,126	2,159	1,979
Less: Total costs	14,300	14,230	13,969
Operating result	-1,130	-433	-407
Financial income and expenditure			
Interest income and dividend	430	333	403
Exchange gains and losses and investment portfolio	0	118	137
	430	451	540
Result	-700	18	133

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For the ninth consecutive year, the BOIP registered a positive operating result: €18,004 (compared to €132,744 in 2010).

The recovery of international activities and cost savings both helped to avert a loss. Turnover from the services is generated upon publication or, in the absence of publication, upon receipt of payment.

Turnover

- Turnover grew to €13,797,000 compared to €13,562,000 in 2010. This can be attributed to turnover from Carible (implementing the BES Islands Trademark Act) and the passing on of charges related to preparing the Benelux Patent Platform.
- Depot revenues rose slightly to €5,743,000 partly due to clearing some work in progress.

- Turnover from renewals dropped sharply from €4,223,000 to €3,832,000. This was both because there were fewer trademarks to renew overall and the percentage of renewals was lower.
- The number of oppositions rose to 1,086 (compared to 1,038 in 2010). Turnover increased slightly from €666,000 to €672,000.
- Turnover for i-DEPOTs rose to €205,000 in 2011, whereas in 2010 the turnover figure did not exceed €187,000. Both the number of individual i-DEPOTs and those submitted through a credit account saw solid growth.

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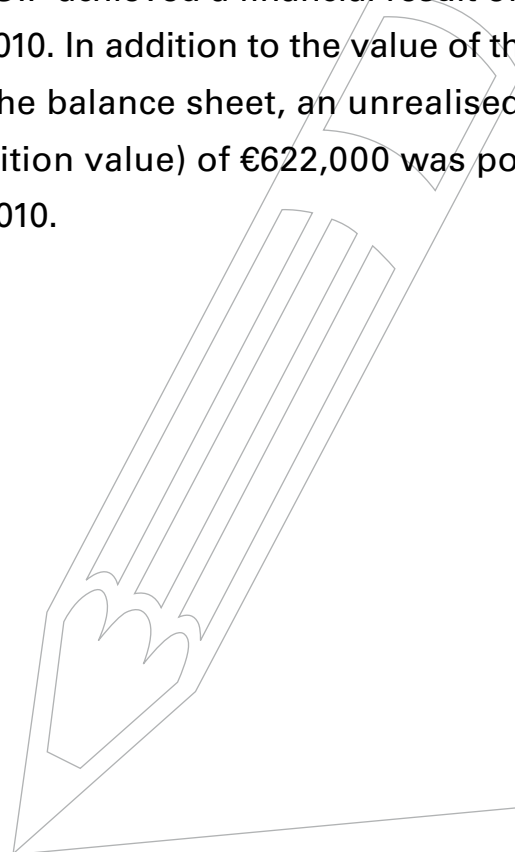
Notes to the statement of income and expenditure

Costs

- Staff costs rose slightly to €11,048,000 compared to €10,899,000 in 2010. Costs associated with our own staff decreased, but overall staff costs increased due to the need to bring in additional IT capacity for projects such as Carible.
- Depreciation costs dropped to €1,023,000 compared to €1,091,000 in 2010.
- Miscellaneous expenses increased in this reporting year to €2,159,000 as a result of the cost of preparing for the Benelux Patent Platform. Without the BPP, costs would have come in at 2% below the €1,979,000 recorded in 2010.

Financial income and expenditure

In 2011, the BOIP achieved a financial result of €451,000 compared to €540,000 in 2010. In addition to the value of the investment portfolio reported on the balance sheet, an unrealised gain (market value minus acquisition value) of €622,000 was posted, compared to €795,000 in 2010.



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The abbreviated financial statements featured in this report, consisting of the abbreviated balance sheet as at 31 December 2011, the abbreviated profit and loss account for the year then ended, and related notes, are derived from the audited financial statements of Benelux Office for Intellectual Property for the year 2011. We expressed an unqualified audit opinion on those financial statements in our report dated 27 April 2012. Those financial statements, and the abbreviated financial statements, do not reflect the effects of events that occurred subsequent to the date of our report on those financial statements.

The abbreviated financial statements do not contain all the disclosures required by the accounting principles selected and disclosed by the entity as set out in the notes to the financial statements. Reading the abbreviated financial statements, therefore, is not a substitute for reading the audited financial statements of Benelux Office for Intellectual Property.

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Directors' responsibility

The directors are responsible for the preparation of an abbreviated version of the audited financial statements in accordance with the accounting policies described in the notes to the audited financial statements.

Auditor's responsibility

Our responsibility is to express an opinion on the abbreviated financial statements and the related explanatory notes based on our procedures, which we conducted in accordance with Dutch Law, including the Dutch Standard 810 "Engagements to report on abbreviated financial statements".

Opinion

In our opinion, the abbreviated financial statements derived from the audited financial statements of Benelux Office for Intellectual Property for the year 2011 are consistent, in all material respects, with the audited financial statements, in accordance with the accounting policies described in the notes to the audited financial statements.

The Hague, 15 June 2012

PricewaterhouseCoopers Accountants N.V.

Originally signed by A.E. Gerritsma RA

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