

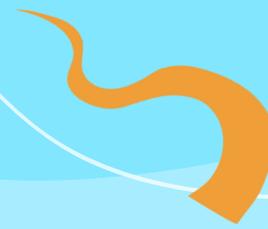
BOIP

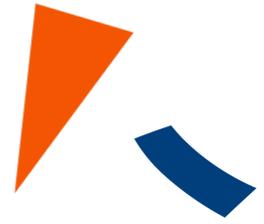


Benelux Office for
Intellectual
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KEY TAKEAWAYS OF OUR WEBINAR [NOVEMBER 2023]

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Complementarity between goods and/or services:

- Only when G&S are so interrelated that one is indispensable or important for the use of the other**
- With the result that consumers may believe that the production of both goods is in the hands of one and the same undertaking**
- Don't just claim complementarity to exist. Provide arguments to show the importance/ indispensability.**

Comparison of signs:

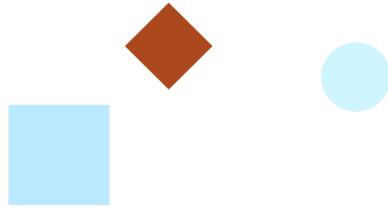
- **The position within the sign could influence the distinctive character of word elements**
- **If all word elements are descriptive, the figurative elements become of more importance**
- **A conceptual difference can be caused by the descriptive meaning of one of the signs.**





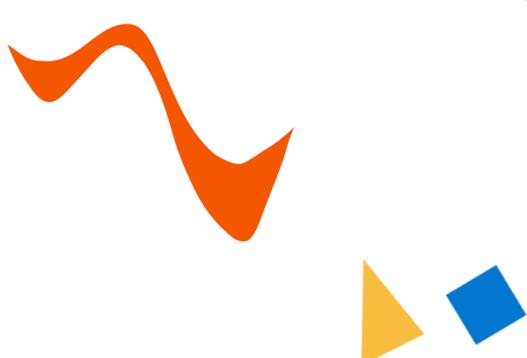
Distinctive character:

- Distinctive character may grow (or shrink) through use**
- Enlarged distinctive character needs to be shown/proven**
- Enlarged distinctive character can be invoked in an appeal.**



Genuine use:

- Make sure the list of goods and services does not contain any vague terms**
- Not every activity of a company also involves a service provided to third parties**
- In appeal, additional proof of use can be submitted**
- In case of trademarks for which genuine use is not proven, a new filing of an identical trademark could be in bad faith if no commercial logic is demonstrated.**



Procedural issues:

- Filing a 'cross appeal' after the appeal period of 2 months is (probably) not possible. An expected decision in the Nielson case of the BCJ will be conclusive on this.
- If an invoked trademark has more than one owner, one of them may file a cancellation or opposition based upon it.

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