BOIP

Benelux Office for Intellectual Property



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COMMON PRACTICE 16
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The European Intellectual Property Network (EUIPN) has published CP16, a Common Practice on signs describing the subject matter of goods and/or services. The communication, dated February 2026, aims to ensure a more consistent approach across participating IP offices.

In this explainer, you will find out more on:

1. Why does "subject matter" matter?
2. Where does CP16 take us?
3. The 4-step assessment method
4. Specific cases: services and subject matter
5. Key takeaway
6. BOIP & CP16

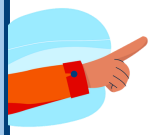
1. Why does "subject matter" matter?

Trademarks must be refused where they "*consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service,* ***or other characteristics*** *of the goods or services*". This principle reflects the general interest in keeping descriptive terms available for all businesses to use when describing their goods or services.

In many sectors, consumers choose products/services based on their content: books, magazines, digital publications, games and quizzes, education, entertainment and cultural activities…

CP16 clarifies that the "subject matter" of goods or services may constitute an "other characteristic" within the meaning of this provision.

For a broader discussion of the refusal of descriptive trademarks, see our guidelines on refusals.



2. Where does CP16 take us?

CP16 aligns offices around a common understanding of "subject matter" as referring to the thematic content of goods or services.

Examples:

- Planets for books
- Yoga for training courses

When assessing descriptiveness based on subject matter, the nature of the goods or services is particularly important. The concept mainly applies to goods or services whose nature allows them to contain, create or relate to thematic content.



If the relevant public can understand the sign as describing the specific theme/content of the goods/services, the sign is likely to be refused as descriptive.

However, CP16 only concerns thematic content, not thematic style.

Examples:

- pirate-themed hotels
- dinosaur-themed furniture

3. The 4-step assessment method

CP16 proposes a structured assessment based on four elements:

1. Relevant public

Who are the consumers concerned? (general public and/or professionals)

2. Meaning of the sign

Does the sign have a recognised meaning? (supported by reliable evidence: dictionaries, reputable sources, market use)

3. The goods and/or services at issue

Are they capable of containing or relating to a specific subject matter?

4. Direct link

Would the public perceive the sign as referring to the subject matter of the goods or services?

Practical point: the "commercial relevance" of the subject matter also plays an important role. If the market commonly categorises the offer by theme, descriptiveness is more likely.

Examples:

- Descriptive:

ROCK MUSIC for DVDs/CDs (content/theme)
FILM STARS for quiz games (questions about film stars)
ANCIENT EGYPT for cultural activities (theme of the event/activity)

- Not descriptive:

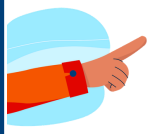
ANGRY PLUMBERS for board games (not a relevant "content category")

4. Specific cases: services and subject matter

When assessing whether a sign describes the subject matter of services, the nature of the services plays an important role.

- Class 35 Advertising services

Advertising services are usually business-to-business services provided to companies wishing to promote their goods or services. The assessment of descriptiveness may therefore depend on whether the sign describes the field or topic of the advertising services provided.



Example:
ARCHITECTURE for advertising or publishing-related services → the sign may be perceived as describing services focused on the architecture field.

- Class 38 Telecommunications

Telecommunication services typically provide the means of transmitting communication, such as networks, broadcasting or transmission facilities. They do not relate to the specific subject matter of the content transmitted, such as a television programme, film, podcast or radio show.

Therefore, a sign applied for services in Class 38 will generally not be considered descriptive of the subject matter of those services.

- Class 41 Education, entertainment and cultural activities

Services such as education, training, entertainment or cultural activities are often organised around a specific topic or theme. For this reason, signs referring to a specific subject (for example history, music or film-making) may be perceived as describing the subject matter of these services.



Example:
FILM-MAKING for education services → describes the subject matter of training related to film production.

- Class 42 Technology services

Certain technology services may also be organised around a specific field or topic.



Example:
E-SECURITY for Software as a Service (SaaS) → describes services relating to digital security or cybersecurity

5. Key takeaway

Whether a sign describes the subject matter of goods or services depends primarily on the nature of the goods or services concerned.

Goods capable of containing subject matter: certain goods are designed to store or present content, meaning their subject matter may constitute a descriptive characteristic and lead to a trademark refusal.

Examples include:

Class 9 digital goods (software, databases, CDs, DVDs)



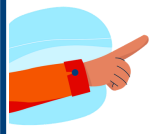
Class 16 printed publications (books, magazines, instructional materials)

Class 28 games and quizzes

Services that may be organised around a subject: some services are commonly developed around specific themes, topics or fields of activity.

Examples include:

Class 35 advertising services relating to a specific field



Class 41 education, entertainment and cultural activities

Class 42 technology services relating to a specific field (e.g. SaaS platforms)

6. BOIP & CP16:

As BOIP's current practice is already mostly aligned with CP16, the Common Practice has been implemented with immediate effect as from February 2026.

For those interested in a broader perspective on how Common Practices shape IP, don't forget this golden oldie article:

An underestimated source of knowledge: Common Practices!

And for (even) more information, please visit the Know-how section on our website.

As always, feel free to share this post with your network!

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