

Round-up

Round-up of European enforcement case law 2024

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Abstract

In 2024, several noteworthy decisions related to the enforcement of intellectual property rights (IPRs) were handed down, including those regarding damages when enforcing an IPR and the applicability of international treaties. The decisions of the Court of Justice of the European Union and Supreme Courts and Courts of Appeals of the European Union Member States that the authors consider important are summarized in this contribution. The judgments were rendered between 1 January 2024 and 31 December 2024. As in previous editions, the authors have adopted a practical approach, aimed at readers seeking to have an overview of the key IPR enforcement decisions of 2024.

Introduction

As we step into 2025, the world remains a landscape of evolving complexities. From geopolitical tensions and climate emergencies to the continued digital transformation across industries, the legal field—and particularly IP law—faces its own set of challenges and opportunities. The rapid development of technologies such as generative artificial intelligence, blockchain and digital twins has not only redefined the way businesses operate but also reshaped the enforcement landscape for intellectual property rights (IPRs).

This round-up reflects on key enforcement decisions from 2024, aiming to provide insights and practical guidance. We begin with an overview of significant Court of Justice of the European Union (CJEU) judgments interpreting the IP Enforcement Directive 2004/48/EC,¹ followed by a discussion of notable cases addressing specific IPRs. Where relevant, these developments are placed in the context of global trends, emphasizing their implications for European and international stakeholders.

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Enforcement Directive

Mylan—Liability for damage caused by preliminary injunction

In this referral from Finland, the CJEU was asked to rule on the interpretation of Article 9(7) of the IP Enforcement Directive 2004/48/EC. When preliminary measures are revoked or lapse or where it is subsequently found that there has been no infringement of IPRs, the courts can impose preliminary measures on the applicant to appropriately compensate for the damage caused by those measures.²

In 2017, the national court in Finland imposed a preliminary injunction on Mylan based on Gilead's supplementary protection certificate (SPC), preventing Mylan from commercializing a generic medicine in Finland. Gilead's SPC was subsequently invalidated, and Mylan claimed compensation for the damage incurred as a consequence of the preliminary injunction.

Finnish law provides for a strict, no-fault-based liability in that a preliminary injunction overturned by a later judgment gives rise to the obligation for the IP owner to indemnify for all damages resulting from the preliminary injunction. However, according to

¹ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of IPRs.

² Judgment of 11 January 2024, *Mylan v. Gilead*, C-473/22, ECLI:EU:C:2024:8.

the settled Finnish case law, the amount of compensation may be reduced on the ground that the defendant enabled the damages to occur or failed to take reasonable measures to avoid or mitigate the damages and thereby contributed to their occurrence.

Gilead claimed that the CJEU's previous judgment in *Bayer* (C-688/17)³ precludes a strict liability system like the one under Finnish law. The Finnish court, therefore, asked the CJEU to rule on whether a compensation regime based on strict liability, like the one in force in Finland, is compatible with Article 9(7) of the IP Enforcement Directive 2004/48/EC.

The CJEU considered that its previous *Bayer* judgment could not be interpreted as requiring a fault-based liability. Since the IP Enforcement Directive 2004/48/EC only provides for a minimum harmonization, Member States have a discretion as to the specific implementation of the rules governing the liability of the applicant of preliminary measures. Hence, Member States have a choice between a strict liability regime and a fault-based liability regime.

That said, irrespective of the liability regime adopted, Article 9(7) requires that the courts of the relevant Member State are able to take into account all the circumstances of the case before them, including the conduct of the parties. Any liability regime must be equitable and proportionate and not create barriers to legitimate trade while remaining dissuasive in the sense of Article 3 of the IP Enforcement Directive 2004/48/EC.

Regarding the requirement of proportionality and equitability, the CJEU considered that, with the IP Enforcement Directive 2004/48/EC, the European Union (EU) legislature sought to strike a balance between a high level of protection of IPRs and the rights and freedoms of the defendant. The Finnish liability regime does not upset that balance and is in line with the abovementioned requirements. The Finnish liability regime allows a court to take into account all the circumstances of the case, including any participation by the defendant in the occurrence of the damages, which makes it possible to adjust the amount thereof and thereby mitigate any deterrent effect for the holder of the IPR. Regarding the requirement that there be no barrier to legitimate trade, the CJEU considered that a system of provisional measures incorporating a strict liability regime does not create such a barrier as it allows liability for the damage caused by such measures.

The question was hence answered affirmatively. This CJEU judgment confirms that the Member States have quite some manoeuvring space regarding the liability regime for damages caused by provisional measures when these are later overturned by another judgment.

Copyright CJEU

Kwantum—Criterion of material reciprocity

Vitra is a Swiss-based furniture company manufacturing, amongst others, chairs designed by Charles and Ray Eames. Charles and Ray Eames were US nationals, and Vitra holds the IPRs to those chairs. Kwantum operates a chain of interior design shops in Belgium and The Netherlands. In 2014, believing that Kwantum was marketing an unauthorized copy of one of Vitra's Eames chairs, Vitra brought copyright infringement proceedings in The Netherlands.⁴

The case reached the Dutch Supreme Court (Hoge Raad), which considered that the dispute turned on the applicability and scope of the material reciprocity clause of Article 2(7) of the Berne Convention. Under that provision, works protected solely as designs and models in their country of origin are to be entitled in another country of the Berne Union only to such special protection as is granted in that country to designs and models.

The Dutch Supreme Court (Hoge Raad) considered that, although the EU is not a party to the Berne Convention, it has undertaken to comply with Articles 1 to 21 thereof and that EU legislation does not contain any provision related to the material reciprocity clause of Article 2(7) of the Berne Convention. This raised the question of whether Member States are free to choose to apply that clause with respect to a non-EU work of a non-EU author. That said, the protection of IP enshrined in Article 17(2) of the Charter of Fundamental Rights⁵ (the Charter) extends to copyright in a work of applied art. Additionally, Article 52(1) of the Charter outlines the conditions under which fundamental rights and freedoms may be limited, including being provided for by law. This raised the further question of whether a limitation on the exercise of copyright on a work of applied art based on the material reciprocity clause in Article 2(7) of the Berne Convention needs to be expressly provided for by law.

The Dutch Supreme Court thus referred five preliminary questions to the CJEU, seeking clarification on the interplay between EU law and the reciprocity clause in the Berne Convention. More specifically, the Supreme Court asked whether Member States can unilaterally apply the reciprocity rule under Article 2(7) of Berne Convention concerning works of applied art vis-à-vis other signatory countries without an EU legislative basis.

In its judgment, the CJEU held that EU law precludes Member States from applying the material reciprocity clause in Article 2(7) of the Berne Convention. The EU legislature alone can decide whether copyright protection should be limited for works of the applied art from non-EU countries and non-EU authors.

The CJEU reasoned that the scope of the InfoSoc Directive 2001/29/EC⁶ is not defined by reference to the country of origin of works nor the nationality of authors and that this interpretation is in line with the objective of the Directive, which is to foster the internal market and secure a high level of copyright protection. Conversely, limiting the scope of the InfoSoc Directive 2001/29/EC to regulating only copyright protection for works originating in a Member State or to works whose author is a national of a Member State would result in a re-fragmentation of the internal market.

The CJEU also considered that IPRs (including those in works of applied art) are recognized as fundamental rights in the EU under Article 17 of the Charter, which means that any limitation, such as by means of the application of the material reciprocity criterion, must be provided for by law per Article 52 of the Charter. By adopting the InfoSoc Directive 2001/29/EC, the EU had exercised the competence previously vested in Member States. Member States are, therefore, no longer competent to implement the relevant provisions of the Berne Convention. This power now vests in the EU legislature.

As the EU legislature has not implemented the potential stipulation of material reciprocity at an EU level, Article 2(7) of the Berne Convention, the CJEU found that EU law precludes Member

⁴ Judgment of 24 October 2024, *Kwantum Nederland and Kwantum België*, C-227/23, ECLI:EU:C:2024:914.

⁵ Charter of Fundamental Rights of The European Union C 326/391 [2012] OJ C 326/391.

⁶ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society.

³ Judgment of 12 September 2019, *Bayer Pharma AG/Richter Gedeon c.s.*, C-688/17, ECLI:EU:C:2019:722.

States from doing so. This means that Member States must grant protection to works of applied art that qualify as works under EU copyright law, regardless of the work's origin or the author's nationality.

National case law

Czech Republic

Nejvyšší soud—remuneration through levies imposed on smartphones

In December 2024, the Czech Supreme Court ruled in favour of Ochranný svaz autorský, the Czech collective rights management society for musical works, in its dispute with Vodafone regarding copyright levies on imported smartphones. The Supreme Court held that authors and related artists are entitled to remuneration through levies imposed on smartphones capable of storing, sharing and copying music. This marks a significant shift, as mobile phones were previously exempt from this obligation in the Czech Republic.⁷

France

Valve Corporation—non-exhaustion of rights of video games

US company Valve Corporation, via its platform called Steam, offers an online video game supply service. Under its terms of use, subscribers are prohibited from reselling and transferring subscriptions. Following an action brought by a consumer protection association, the Court of Cassation (Cour de Cassation), upheld the decision of the Court of Appeal, holding that a video game is not a computer program but rather a complex work in that it includes software components as well as numerous other elements such as graphics, music, sound elements, a scenario and characters. As a result, the InfoSoc Directive 2001/29⁸ covers video games. As such, the exhaustion of rights rule does not apply, and Valve Corporation may prohibit reselling dematerialized games.⁹

Germany

Manhattan Bridge—online marketplace liable for copyright infringement

The German Supreme Court (BGH) ruled that online marketplaces are liable for copyright infringements, similar to video sharing and shared hosting platforms¹⁰ This ruling is based on the principles of EU law and the case law of the CJEU that apply to platforms such as *YouTube and Cyando* (C-682/18 and C-683/18).¹¹

The plaintiff, a photographer, discovered that his 'Manhattan Bridge' photograph was being used on amazon.de. The photograph appeared on the screen of a television that was being offered for sale by a third-party provider on Amazon's platform. After the plaintiff issued a warning to the marketplace operator, the photograph reappeared in a different offer. The BGH held that Amazon was liable for that reappearance since it had to ensure that the photograph was not used again on the platform.

⁷ Czech Supreme Court, 24 December 2024.

⁸ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society.

⁹ Court of Cassation, First Civil Chamber, 23 October and April 2024, no 23-13-738.

¹⁰ Bundesgerichtshof, 23 October 2024, case no I ZR 112/23.

¹¹ Judgment of 22 June 2021, *Google and YouTube c.s./Cyando*, joined cases C-682/18 et C-683/18, ECLI:EU:C:2021:503.

The Netherlands

Anne Frank—Communication to the public

This case concerns the publication of a new scientific online edition of Anne Frank's diary. Copyright on parts of this diary is still owned by the 'Anne Frank Foundation' in The Netherlands. For this reason, the website makes use of geo-blocking, making the website inaccessible from a Dutch IP address. However, a geo-block can be circumvented by using a VPN. This case questions whether, under these circumstances, a communication to the public in The Netherlands is made via the website within the meaning of Article 3(1) of the InfoSoc Directive 2001/29/EC. This would constitute an infringement of the copyrights of the 'Anne Frank Foundation'. The Supreme Court (Hoge Raad) referred the case to the CJEU, asking the following three preliminary questions:¹²

- (i) Should Article 3(1) of the Copyright Directive be interpreted as meaning that a publication of a work on the Internet can only be classified as a communication to the public in a particular country if the publication is addressed to the public in that country? If so, what factors should be considered when assessing this?
- (ii) Can there be communication to the public in a specific country if, through (state of the art) geo-blocking, it has been ensured that the website on which the work is published can only be reached by the public in that country by circumventing the blocking measure with the help of a VPN or similar service? Is the extent to which the public in the blocked country is willing and able to access the website in question via such a service relevant in this regard? In answering this question, does it make any difference whether, in addition to the geo-blocking measure, other measures have been taken to hinder or discourage access to the website by the public in the blocked country?
- (iii) If the possibility of circumventing the blocking measure entails communication of the work published on the Internet to the public in the blocked country within the meaning of Article 3(1) of the Copyright Directive, is such communication made by the person who published the work on the Internet, although knowledge of that communication requires the intervention of the provider of the VPN or similar service in question?

At the time of writing, the CJEU referral is in progress.

Trade marks

CJEU

HP/SENETIC—Burden of proof in the context of an exhaustion of rights defence

This case deals with the burden of proof in the context of an exhaustion of rights defence against a trade mark infringement claim.¹³ Normally, it is up to the defendant to prove that the allegedly infringing goods had been placed on the market within the European Union or European Economic Area (EEA) by the trade mark owner or with the trade mark owner's consent. It is also an established principle that the proof of the trade mark owner's consent must be provided in relation to each individual item placed on the market in the EEA. This can be difficult to prove as certain information is only available to the trade mark holder. That is why

¹² Hoge Raad, 8 November 2024, *Anne Frank Fond tegen Anne Frank Stichting c.s.*, ECLI:NL:HR:2024:1603.

¹³ Judgment of 18 January 2024, *HP/SENETIC*, C-367/21, ECLI:EU:C:2024:61.

the burden of proof can sometimes be reversed, especially when the alleged infringer can show that there is a real risk of foreclosure of national markets if he himself would have to prove the consent of the trade mark owner. Depending on how it is organized, the trade mark owner's distribution system may have such an effect. These principles go back to the CJEU's judgment in *Van Doren* (Case C-244/00).¹⁴

The facts of the present case can be summarized as follows. Hewlett Packard owns the 'HP' trade mark rights, including in the EU, and operates a selective distribution network for the marketing of its computer equipment. Each HP product has a serial number that allows identification, and HP has an IT tool that includes a database listing all the items and the market for which they are intended. However, there is no marking system for the products, which alone would make it possible to identify whether a specific item was intended for the EEA market.

Senetic distributes HP-branded computer equipment in Poland. This equipment was purchased from EEA-based sellers outside of HP's distribution network after having obtained assurance from those sellers that marketing the goods in the EEA would not infringe HP's trade mark rights. Senetic also sought, to no avail, confirmation from HP's authorized agents that the goods could be marketed in the EEA. HP filed an infringement claim with the Polish courts, and Senetic claimed that Hewlett Packard's trade mark rights in the goods were exhausted.

This initially led the Polish court to refer two preliminary questions to the CJEU.

The first question was inspired by a particularity of Polish courts, which, in the operative part of their decisions upholding an EU trade mark infringement, use a formulation that is so broad that it creates the risk of the defendant incurring penalties and being confronted with a seizure of all goods, including non-infringing ones. In combination with the fact that in Poland, the defendant to an infringement action has only limited procedural possibilities to successfully contest the imposed measures, there is a risk of restriction on the free movement of goods. The Polish court, therefore, asked a preliminary question on the compatibility of this national court practice with the principle of free movement of goods. However, it withdrew this question after the CJEU decision in *Harman International Industries* (C-175/21),¹⁵ where it was held that this practice is lawful provided that the defendant, in the context of the enforcement procedure, has the possibility to require a court to examine and decide which goods have in fact been placed on the market in the EEA with the trade mark owner's consent.

The second and remaining question was whether, in circumstances such as the ones in which Senetic found itself (ie, no marking system, refusal by the trade mark owner to carry out a verification and reluctance of the suppliers to reveal their supply source within the distribution network), Article 15(1) of the EU Trade Mark Regulation 2017/1001¹⁶ read in conjunction with Articles 34 and 36 Treaty on the Functioning of the European Union precludes the burden of proof of exhaustion being borne exclusively by the defendant to the infringement action.

The CJEU's answer was in the affirmative. In such circumstances, the national court must qualify the burden of proof by placing on the trade mark owner the burden of establishing that the items of the products concerned were initially placed on the

market for the first time outside the EEA by him or with his consent. If such evidence is adduced, then it is up to the defendant to the infringement action to establish that those items were subsequently imported into the EEA by the trade mark owner or with his consent.

National case law

France

JC De Castelbajac

Designer Jean-Charles de Castelbajac sold the trade marks 'JC DE CASTELBAJAC' and 'JEAN-CHARLES DE CASTELBAJAC' to PMJC. At the same time, Jean-Charles de Castelbajac entered into a second agreement with PMJC appointing him as artistic director and recalling 'the necessary match between the image of the Brands and the items marketed with the image of Mr Jean-Charles de Castelbajac'.¹⁷

When this second agreement ended in 2015, Jean-Charles de Castelbajac resumed activities in his own name. PMJC considered that these activities infringed rights in the assigned trade marks and brought an infringement action in 2018. In a counterclaim, Mr Jean-Charles de Castelbajac sought to revoke PMJC's rights in the trade marks on the grounds that they had been misused after the partnership ended. PMJC opposed this application for revocation, arguing based on the peaceful possession guarantee.

The Court of Cassation held that the assignor of trade marks is bound by a peaceful possession guarantee and is, therefore, generally not entitled to bring an action for revocation of the assigned trade marks. However, this guarantee does not apply where the revocation action is based on the misconduct of the assignee and subsequent to the assignment. The Cour de Cassation therefore held that Jean-Charles de Castelbajac's action for revocation admissible.

The Court of Cassation further referred a question to the CJEU¹⁸ on whether Article 12(2)(b) of Directive 2008/95/EC¹⁹ and Article 20(b) of Directive (EU) 2015/2436²⁰ must be interpreted as precluding the declaration of revocation of a trade mark related to the surname of a designer on account of its use subsequent to the assignment in such a way as to give the public the actual impression that the designer, whose surname constitutes the trade mark, is still involved in creating the goods bearing that trade mark, when that is no longer the case.

Germany

W—unjustified warning of IPR

The BGH ruled that the sending of a demand letter based on alleged IPR infringement constitutes an unjustified warning giving rise to damages not only when a cease-and-desist declaration with a penalty clause is demanded but also if the assertion of the IPR by its owner can be understood as a serious and final demand, taking into account all the circumstances of the individual case. In addition, the court made it clear that warnings with regard to the infringement of the IPRs of both goods and services can trigger an obligation to pay damages.²¹

¹⁷ Court of Cassation, Commercial Chamber, 28 February 2024, no K 22-23.833.

¹⁸ Request for preliminary ruling of 28 February 2024, *PMJC SAS*, Case C-168/24, C/2024/3444.

¹⁹ Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States related to trade marks.

²⁰ Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States related to trade marks.

²¹ Bundesgerichtshof, 29 May 2024, case no I ZR 145/23.

¹⁴ Judgment of 8 April 2003, *Van Doren/Lifestyle*, C-244/00, ECLI:EU:C:2003:204.

¹⁵ Judgment of 17 November 2022, *Harman International Industries/AB*, C-175/21, ECLI:EU:C:2022:895.

¹⁶ Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification).

Volkswagen—genuine use of a mark, likelihood of confusion and due cause

This case concerns the manufacturing and sale of high-end Volkswagen Bus T1 (Bulli) model cars, the iconic VW camper van. The defendant was formerly an official licensee but continued to sell the model cars after the end of the licensing agreement.²²

Volkswagen no longer manufactures Bulli vehicles, only spare parts. However, Volkswagen owns a 3D German trade mark no 30627911 for the shape of the Bulli, both in class 12 for motor vehicles and 28 for model cars. Volkswagen sued for trade mark infringement.

The matter was heard on appeal before the BGH, which provided guidance on the genuine use of a mark, likelihood of confusion and due cause. Genuine use of a trade mark implies that the mark is used as an indication of origin rather than mere design. For 3D marks, consumers typically do not associate a product's shape with its origin unless the shape is distinctively recognized as a trade mark. When used together with other word or figurative marks, the Court must determine if the shape alone of the 3D mark is perceived as a source indicator.

The likelihood of confusion must be assessed from the perspective of the targeted audience. Here, the defendant's expensive model cars are targeted at collectors and advertising clients, not the general public. The specialized public for such goods may pay greater attention to the defendant's mark, which could have a reputation independent of the mark of the car manufacturer.

The BGH further highlighted that using a well-known word or figurative mark does not automatically constitute unfair exploitation. The replica of a car model constitutes due cause for a defendant as the mark is used merely as part of the representation of the vehicle and not in any promotional way. The same reasoning applies to 3D marks. A model car requires by necessity the reproduction of the manufacturer's trade marks. The case was remitted back to the German Higher Regional Court (Oberlandesgericht) for a new decision.

The Netherlands

DelicaSea/Bacardi—Surrender of profit only when bad faith is present

The Court of Appeal in the Hague (Gerechtshof Den Haag) issued an interim judgment in the case between DelicaSea B.V. et al. and Bacardi, in which Bacardi claimed that DelicaSea c.s. infringed its trade mark by trading bottles of liquor bearing Bacardi's trade marks. DelicaSea's business operates in the parallel trade of alcoholic beverages.²³

Rejecting Bacardi's argument, the court ruled that exhaustion is not automatically excluded for certain goods merely because the packaging or labels indicate that they are intended for markets outside the EU. Such goods may still have been placed on the market in the EU by or with the consent of the trade mark owner (Bacardi), resulting in the exhaustion of trade mark rights and allowing the goods to be freely traded further.

Furthermore, the dispute concerned whether DelicaSea B.V.'s sale of the goods, despite a customs status, implies that the products necessarily end up on the EU market (*Class International*²⁴ criterion).

The Court of Appeal signalled the intention to refer the case to the CJEU proposing to file several preliminary questions concerning the applicability of the *Class International* criterion, including

questions in relation to the explanation of the word 'necessarily' in the criterion. Additional questions would relate to products that 'by their nature' are not intended to be sold on the EU market and in relation to the surrender of profits.

Romania

Intercars Malta Ltd—use of trade marks as technical indication

Intercars Malta Ltd sells spare parts for vehicles, putting labels on the products to indicate compatibility with particular vehicle models. Daimler AG sued Intercars Malta Ltd, alleging infringement of its Mercedes trade marks. The Romanian High Court of Cassation and Justice (Înalta Curte de Casație și Justiție) found that applying a mark on the adhesive labels of the goods cannot be considered a technical indication. Such use evokes the source of the cars for which the spare parts are designated, which corresponds to the mark's function.²⁵ To prove such use is solely informative, using an additional formula such as 'compatible with' or 'parts for' is necessary. This allows consumers to understand that the spare parts are not original pieces but compatible spare parts.

Spain

Zara—use of third-party mark in a competition

Following guidance from the CJEU in January 2024 (C-361/22),²⁶ the Spanish Supreme Court (Tribunal Supremo) found that using a third party's trade mark in a promotional campaign constitutes infringement. Buongiorno Myalert launched an advertising campaign in which subscribers to its service could win EUR 1000 cash, which was further advertised as a EUR 1000 ZARA gift card. This gift was advertised in banners reproducing the ZARA mark on a gift card.²⁷

The Spanish Supreme Court found that the use of the ZARA trade mark was not necessary to describe the destination of the gift card in the promotional campaign and could, therefore, not be considered aligned with honest practices. Zara's trade mark was used to promote Buongiorno Myalert's services. Such use took unfair advantage of the distinctive character and repute of the third-party mark.

Patents

National case law

France

Sony—entry of patents in the register

Japanese company Sony Computer Entertainment filed three European patents designating France, protecting various features of the controller for the PlayStation console. These patents were thereafter transferred to Sony Interactive Entertainment in 2010 and registered in the national patent register on 28 June 2018.²⁸

Prior to this registration, in 2016, Sony Interactive Entertainment was authorized to carry out seizure operations for patent infringement at the premises of Subsonic. Sony Interactive Entertainment Europe and Sony Interactive Entertainment France thereafter filed a lawsuit against Subsonic for infringement and unfair competition. The question related as to whether Sony Interactive Entertainment was entitled to act as the owner of a patent whose transfer had not been registered.

²⁵ High Court of Cassation and Justice, 23 January 2024, Decision no 155.

²⁶ Judgment of 11 January 2024, *Inditex v Buongiorno Myalert SA*, C-361/22, ECLI:EU:C:2024:17.

²⁷ Spanish Supreme Court, 10 April 2024, Case TS 485/2024.

²⁸ Court of Cassation, Commercial Chamber, 24 April 2024, no 22-22.999, ECLI:FR:CCASS:2024:CO00199.

²² Bundesgerichtshof, 2 May 2024, case no I ZR 23/23.

²³ Court of Appeal, 30 April 2024, *DelicaSea/Bacardi*, ECLI:NL:GHDHA:2024:1422.

²⁴ Judgment of 18 October 2005, *Class International*, C-405/03, ECLI:EU:C:2005:616.

The Court of Cassation held that if the deed of assignment of ownership of a patent has not been entered in the national patent register, the successor in title cannot rely on the rights arising from that deed and bring an infringement action. From the date of the entry in the register, the successor in title may

bring an infringement action for acts committed since the transfer of ownership of the patent and, where specified by the assignment deed, for damages occurring before the transfer. This applies even where entry in the register occurs within the court case.