

Distinctive character of trademarks and related institutes in the light of European Union law

Abstract

The topic of this rigorous thesis is Distinctive character of trademarks and related institutes in the light of European Union law.

Trademarks have become an indispensable aspect in commercial relations. Every successful entrepreneur should invest in and protect his goods or services by means of trademarks. Trademarks are a very effective tool that can provide information that enables consumers to make informed choices about the products and services that are protected by trademarks. However, in order for a trademark to be registered and thus provide the required protection, it must have sufficient distinctive character to enable it to distinguish the goods or services of one entity from those of another.

The aim of this thesis is to analyze the legal issues relating to the distinctive character of trademarks and related topics, in particular from the perspective of European Union law. In order to meet this objective, the thesis is divided into four parts.

The first part deals with the historical development of trademarks, from the ancient period through the first international agreements to the EU regulation. The second and main part analyses the distinctiveness of a trademark, explaining the difference between (i) inherent distinctiveness and (ii) distinctiveness acquired through use in the course of trade, and then discusses the various criteria for assessing distinctiveness. This is amply supported by the relevant case law, in particular that of the CJEU. The third part analyses the trademark with reputation and the well-known trademark, whose principles overlap to a certain extent, as well as related topics, namely the trademark with enhanced distinctiveness or the series of trademarks. The fourth and final part focuses on procedural issues relating to litigation proceedings through which trademark owners can defend themselves against unjustified interference with their rights.

Key words:

trademark, distinctive character, European Union