

# SCIT.ATR.TM.2003.HU

## Annual Technical Report 2003 on Trademark Information Activities submitted by Hungary (SCIT/ATR/TM/2003/HU)

Where URLs are requested below, it is preferred that either URLs which are likely to remain stable over time (three years or more) are provided, or home (main) page URLs are provided with a short explanation of how to access the corresponding information.

### I. Evolution of registration activities

#### PREPARATION OF INTELLECTUAL PROPERTY LEGISLATION AND APPLICATION OF LAW

##### 1. PREPARATION OF LEGISLATION

The Trademark Act's text currently in force reflects to a high degree the substantive law provisions of Council Directive No 89/104/EEC to approximate the laws of the Member States relating to trade marks (as far as the conditions of the registration of marks, rights conferred by, and revocation of, a trade mark are concerned), therefore the Act contains only a few amendments in relation to this Directive.

Upon accession to the European Union, Hungary will be integrated into the so-called Community trademark system established by Council Regulation (EC) No 40/94. This integration will entail that the effect of registered Community trademarks will also extend to the territory of Hungary. Consequently, Hungarian national trademarks constitute a ground for refusing the registration of a sign as a Community trademark; at the same time Community trademarks must be taken into account as earlier rights when examining national applications filed in Hungary. Alignment with Council Regulation 40/94 made it necessary to bring about interface rules relating to Community trademark applications and Community trademarks which create the relation between the Community and national trademark systems working in parallel.

The amendment also afforded an opportunity to create Hungarian interface rules relating to the application of the Madrid Agreement Concerning the International Registration of Marks and of the Protocol Relating to the Madrid Agreement. It has also become possible that professional opinions and experience gained since the creation of the Trademark Act be reflected in the amendment.

The part of the Act amending the Trademark Act's provisions on geographical indications is aimed first of all at creating the legal conditions of accession to the European Union by introducing provisions that have become necessary because of the Community legislation in this field, i.e. Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs. Similarly to the trademark field, the Act established the rules necessary for the application of the international cooperation (in this case the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration) and made the changes deriving from practical experience.

#### OFFICIAL EXAMINATION AND PROCEDURES IN INDUSTRIAL PROPERTY MATTERS

##### 1. NATIONAL AND INTERNATIONAL APPLICATIONS

The growth in industrial property applications filed via the national and international routes experienced over the past few years slowed in 2003. The number of applications filed in the national way decreased, while that of applications via the international route slightly increased. The decline may be attributed first of all to the fact that due to our accession to the European Patent Convention the number of patent applications filed by foreign applicants with the HPO either in the national way or within the framework of the PCT system decreased according to the forecasts.

Table 1.: Figures of national and international applications (1999–2003)

In 2003, the number of applications filed in the national way was less by 1363 than in the previous year – due first of all to the fact that the number of patent applications filed by foreign applicants with the HPO either in the national way or within the framework of the PCT system decreased. The number of applications filed in the national way slightly decreased with respect to almost all titles of protection (patents, utility models, trademarks, designs), with the exception of geographical indications.

Table 2.: Breakdown of national industrial property applications by titles of protection (1999–2003)

More than 51% of applications filed in the national way are of Hungarian origin. One third of them came from individuals and two thirds from enterprises. As far as the titles of protection are concerned, the origin of applications – Hungarian or foreign – is quite varied. In the case of patent applications, the ratio of domestic applicants to foreign applicants is 1:6, while domestic applicants are dominant in the case of trademark applications (77%), utility model applications (96%) and design applications (77%).

The number of applications designating Hungary under international treaties has shown an increasing tendency in the 90s.

Hungary was designated as a possible target country in 7000 to 9000 international patent applications every month (EURO-PCT) and the number of applications filed directly with the European Patent Office (EPO) in which Hungary was designated as a Member State of the European Patent Convention amounted to 3000 to 4000 per month.

The decline of patent applications seemed to be an international phenomenon in 2003. A 4% decrease in international patent applications was forecast by WIPO for 2003. No considerable decrease was experienced in the number of the entries into the Hungarian national phase of international patent applications, although this was previously forecast as a consequence of our accession to the EPC. In 2003, the HPO processed 3251 international patent applications entering the national phase and further 686 international applications are expected to enter the national phase. The HPO performs the tasks of a receiving office within the prescribed time limit.

Table 3.: Breakdown of applications filed under international treaties (1999–2003)

In the first year after our accession to the European Patent Convention, Hungarian applicants filed 5 European patent applications through the intermediary of the HPO, while further 9 applications were filed directly with the EPO. In 124 cases Hungarian applicants chose the EURO-PCT way to file their international applications through the intermediary of the International Bureau of WIPO. In 2003, of the proprietors of European patents 61 were of Hungarian origin.

##### 2. TRADEMARKS

Among the titles of protection, trademark activity is the most sensitive to world economic developments and to changes in the domestic market. This is reflected in the number of national and international trademark applications in 2003.

In 2003, 5677 national trademark applications were received, which is down by 4.5% or 267 applications compared with the 5944 applications in 2002. 77.3% of the applications were of Hungarian origin and 77.6% of the latter were received from enterprises. As regards foreign applicants, the first place was taken by the USA (574 applications), followed by the United Kingdom (88), Jordan (72) and Germany (68).

During the year under review, 100 new national cases to be decided by a board were received and 11 were renewed (the court referred the case to the HPO to start a new procedure). 74 cases were settled. The pendency time is about 10 months on an average. At present, 102 national cases to be decided by a board are pending, of which 79 relate to cancellation and 23 to a decision on lapse.

In 2003, 8065 international trademark applications were received; this figure represents a 7.9% improvement from 2002. During the year 59 new international cases to be decided by a board were received, which is less by 9 than in the previous year. The average pendency time continues to be 12-14 months, since the regular information of foreign proprietors is a lengthy procedure and in some cases it is necessary to appoint a trustee. 66 international cases to be decided by a board were settled, of which 12 related to cancellation and 54 to a decision on lapse by reason of non-use. The number of pending cases is 74, of which 8 relate to cancellation and 66 to a decision on lapse. (At the end of 2002 81 cases were pending, of which 16 related to cancellation and 65 to a decision on lapse.)

On the basis of the Lisbon Agreement, 12 new applications for registration of appellations of origin were received in 2003, the registration procedure is pending in one earlier case.

Within the framework of the Madrid Agreement, 337 international trademark applications filed by Hungarians were forwarded; this figure is 13% up over the previous year. The number of pending cases is 93, which represents a decrease compared with the 159 cases of 2002.

During the year under review, 6 new applications for registration of geographical indications were received, which 8 cases were completed. The number of pending applications is 11.

Table 4.: National trademark applications (1999–2003)

Table 5.: International trademark applications (1999–2003)

Table 6.: Figures of trademark procedures (1999–2003)

Table 7.: Valid trademarks (2001–2003)

### 3. NATIONAL REGISTERS

#### Valid trademarks

On 31 December 2003, the number of valid national trademark registrations amounted to 46,399. Of these, 52.7% belong to foreign proprietors. 94.3% are owned by enterprises. On an average, the registrations relate to two classes of goods and services.

About 650 valid trademark registrations are older than 50 years, and 9 registrations are more than 100 years old. In the years following the change of regime, in parallel with the incursion of market economy, the number of trademark applications has risen sharply. This is reflected in the fact that 72.5% of trademark registrations valid on 31 December 2003 are 10-year old or younger.

Table 8.: Breakdown of valid national registrations by lifetime

Since trademark protection has to be renewed every 10 years, a large number of renewals is expected in 2004 and 2005. The renewals may affect approximately 12 000 registrations.

Table 9.: Top ten countries having the largest number of valid national trademarks

The classes of goods and services most frequently designated in the valid trademark registrations are the pharmaceutical and sanitary preparations, advertising, business management, instruments for scientific purposes, other services and goods made from paper.

Table 10.: Top ten by classes

### 4. INDUSTRIAL PROPERTY ADMINISTRATION

#### COURT PROCEEDINGS IN INDUSTRIAL PROPERTY MATTERS

A summary of industrial property proceedings in industrial property matters follows, grouped according to titles of protection (the figures of 2002 are indicated in parentheses)

#### TRADEMARKS

Number of requests for review forwarded to the Metropolitan Court: 426 (354).

Number of cases returned by the Metropolitan Court with a final decision: 214 (247), of which

- a) the request for review was rejected : 124 (121),
- b) the decision of the HPO was changed: 26 (46),
- c) the decision of the HPO was repealed and the HPO was ordered to start a new procedure: 20 (15),
- d) termination of the proceedings: 12 (22),
- e) the decision of the HPO was repealed and the request was referred to the HPO: 31 (43),
- f) suspension of the proceedings: 1 (-).

As far as trademarks are concerned, the number of requests for review was much higher than in the other forms of protection (426), which was up by almost 20% over the previous year. The number of cases returned with a final decision did not change compared to 2002 (214). The proportion of approvals to rejections seems to shift to rejections (124), in the other cases the Metropolitan Court decided on the change or cancellation of the HPO's decision or on the termination of the proceedings (90).

**II. Matters concerning the generation, reproduction, and distribution of secondary sources of trademark information, i.e., trademark gazettes**

**III. Matters concerning classifying, reclassifying and indexing of trademark information**

**IV. Trademark manual search file establishment and upkeep**

**V. Activities in the field of computerized trademark search systems**

**VI. Administration of trademark services available to the public (relating to facilities, e.g., for lodging applications, registering trademarks, assisting clients with search procedures, obtaining official publications and registry extracts)**

**VIVACE**

In order to take advantage of the possibilities deriving from Hungary's accession to the European Patent Convention and the Community Trademark System as well as to reduce the arising disadvantages, the HPO prepared – in agreement with the administrative authorities and professional bodies concerned – the Action Plan Promoting Industrial Property Competitiveness of Entrepreneurs (the Hungarian acronym of which is: VIVACE). VIVACE is aimed at heightening awareness of the intellectual property system within small and medium-sized enterprises (SMEs) and at developing their industrial property culture.

All over the world, SMEs play a significant role in economy; they are of considerable importance in Hungary, too. The entrepreneurial sphere accounts for 36% of the GDP and they give work to 67% of employees, that is, to more than 1.5 million people. At the end of 2003, there were 868 thousand enterprises in Hungary, of which 99.9% were SMEs. Within this, the rate of microenterprises with less than 10 employees was particularly high.

Due to their economic importance and role in employment, the strengthening of SMEs and the considerable improvement of their performance constitute one of the most essential factors of the future competitiveness of the Hungarian economy. 75% of the SMEs working in industry are inactive from the point of view of innovation. Only 2-3% of the enterprises, that is approximately 2-3 thousand belong to pioneer, knowledge-intensive companies capable of developing genuine ideas.

In a knowledge-based economy, the effective management of intellectual property is becoming a more and more important condition for coping with market competition. This calls for the development of the industrial property culture of enterprises, for the enhancement of their awareness of the industrial property system and for the strengthening of their industrial property skill.

The conditions of accessing patent information are more favourable in the United States and in Western and Northern European countries than in the Central and Eastern European region. As far as the use of patent information is concerned, Hungary takes a place in the middle of European countries. It is advisable to heighten the awareness of the industrial property system in the circles of SMEs by means of campaigns, special training programmes and by applying up-to-date information and communication techniques. The intellectual property-related services of chambers, incubators, science parks and institutions supporting enterprises should be improved. Furthermore, it is indispensable to promote all the efforts that aim at the reduction of the costs of acquiring and maintaining intellectual property rights.

**VII. Matters concerning mutual exchange of trademark documentation and information**

**VIII. Matters concerning education and training including technical assistance to developing countries**

**IX. Other relevant matters**