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**Book review of U. Hildebrandt, Harmonised Trademark Law in Europe.
Case-Law of the European Court of Justice**

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ULRICH HILDEBRANDT: **Harmonised Trade Mark Law in Europe. Case-Law of the European Court of Justice.** Cologne, Carl Heymanns Verlag, 2005. Pp. XVI, 150. €48. ISBN 3-452-25922-6.

Trade marks are business identifiers and are all about the trade in goods and services. With the increase in brand advertising by manufacturers and in brand-awareness of consumers, trade marks are more important than ever.

In Europe, the rules regarding the registrability and (un)lawful use of (registered) trade marks are laid down in the Trade Mark Directive, which dates back to 1988 and is a well-known piece of legislation both in and outside the European Union. All the national trade mark laws of the 25 Member States, as well as the Community Trade Mark Regulation, conform to this Directive. Over the years, the European Court of Justice (ECJ) has given numerous rulings on the Trade Mark Directive and the Community Trade Mark Regulation, especially as to how its provisions should be interpreted and implemented. As a result, an impressive body of case-law has been building up over the years and some 80 decisions have been issued as of today. Given the sheer pace and huge amount of this case-law, European trade mark law changes as quickly as the fast-moving consumer goods it is intended to protect.

Although each ECJ decision receives sufficient attention in itself by numerous scholars and authors, a comprehensive guide with a systematic analysis of all ECJ case-law was not available. This book provides just that, and is therefore destined to be greatly appreciated by every trade mark practitioner who needs a quick overview of all the landmark decisions of the ECJ.

The book is written by Dr. Ulrich Hildebrandt, who is a lawyer in Berlin, and also teaches intellectual property law at the Heinrich-Heine-University in Düsseldorf.



dorf, Germany. The approach of the book is based upon the structure of the Trade Mark Directive: it lays out the provisions of the Trade Mark Directive and then systematically outlines the reasoning of all relevant judgments.

It must be stressed that analysing all the case-law of the ECJ is easier said than done: it implies a huge workload of systematically analysing over 80 decisions, which amounts to over a thousand pages of complicated case-law and requires an enormous level of consistency and dedication. For this, Hildebrandt should be applauded. Equally impressive is Hildebrandt's legislative research on the implementation of the Trade Mark Directive in national legislation – he provides short references to the corresponding national provisions of all 25 (!) Member States. As a result, this book is a very useful tool indeed.

Although this is a splendid book, there is still some room for improvement. Although the first chapter describes the guiding principles of European trade-mark law, some key considerations of the ECJ have not been included. For example, the basic idea behind the legislators' decision primarily to recognise a first-to-file and not a first-to-use system in the Trade Mark Directive and Community Trade Mark Regulation has been explained by the ECJ in paragraph 37 of *Sieckmann*, but is not mentioned here.¹ Further, the commentary on Art. 5 of the Trade Mark Directive could perhaps refer more clearly to the identical provisions in Art. 4, and, for instance, explain that the ECJ's standard concerning the likelihood of confusion, as issued in *Puma/Sabel* under Art. 4(1)(b),² also applies to the infringement provision in Art. 5(1)(b). Although this might be rather self-evident to trade mark practitioners, the average IP-law student, who will eagerly use this book as a quick

1 ECJ, 12 December 2002, C-273/00, 2002 ECR I-11737, 34 IIC 548 (2003) – *Sieckmann*.

2 ECJ, 11 November 1997, C-251/95, 29 IIC 54 (1998).

reference guide, will greatly appreciate such clarification and guidance.

Overall, however, this review can only be very positive. Hildebrandt has done an admirable job, and this book is a must-have for any trade mark practitioner or student who needs a fast and reliable overview of all landmark decisions of the ECJ.

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