

New common practices in trademark matters: greater clarity for descriptive signs and slogans



The European Union Trademark Offices have approved two new common practices that will apply as from April 16, 2026, **to harmonize criteria in trademark examination** on two key issues:

- **Signs describing the subject matter of goods and/or services (CP16).**
- **The distinctive character of slogans (CP17).**

Although (in principle) the law will not change, the way in which it will be interpreted uniformly across Europe will change, with the aim of providing greater transparency, legal certainty, and predictability.

Signs describing the subject matter of goods and/or services (CP16)

One of the most common reasons for trademark refusal is **lack of distinctiveness** due to the sign being **descriptive**: trademarks which 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, shall not be registered or, if registered, shall be liable to be declared invalid.

For a sign to fall under the ground for refusal set out there must be a sufficiently direct and specific relationship between the sign and the goods and/or services in question, such that it is reasonable to believe that it will actually be recognized by the relevant public as a description of the goods and/or services in question or, of one of their characteristics. In this scenario, common practice CP16 clarifies:

- **How to identify whether the meaning conveyed by the sign describes the subject matter of the goods and/or services applied for** and, therefore of one of their characteristics.
- **How to determine the existence of a sufficiently direct link between the sign applied for and the subject matter of the goods and/or services** for which protection is sought.

This is especially relevant in situations such as:

- Trademarks that include words that directly refer to the purpose of the product.
- Terms that describe the content of a service.
- Signs that refer to the subject matter of publications, software, courses, etc.

In short: common practice CP16 standardizes how to assess whether a sign directly describes the content, subject matter, or purpose of a product or service, and therefore lacks distinctiveness to be registered as a trademark.

Registering a slogan as a trademark (CP17)

The second common practice CP17 affects a very common area in marketing: slogans. Many companies try to register advertising phrases as trademarks. However, **not every commercial phrase is registrable**. This second block seeks to establish the concept of a slogan and **defines a series of factors to analyze whether a phrase is more than just a promotional message and can identify the business origin**.

Firstly, the new CP17 practice indicates that a slogan may be registered if:

- It allows the business origin to be identified and is distinctive in nature.
- It has a certain degree of originality or requires minimal interpretative effort.
- It is not perceived solely as a standard commercial message.

In other words, it is not enough for the slogan to sound appealing: it must stand out in the market. In addition, CP17 practice indicates a number of **factors that serve as guidance for establishing the distinctiveness of a slogan**:

- It has a number of meanings.
- It constitutes a play on words.
- It introduces elements of conceptual intrigue or surprise, so that it may be perceived as imaginative, surprising or unexpected.
- It has a degree of originality or resonance, and/or triggers in the minds of the relevant public a cognitive process or requires an interpretative effort.
- It has unusual syntactic structures and/or linguistic and stylistic devices, such as alliteration, metaphors, rhyme, paradox, etc.

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However, **the fact that one or more of the factors above apply does not necessarily mean that a slogan is distinctive** (for example, a slogan with multiple meanings may not necessarily be distinctive).

In short: as from April 16, 2026, EU trademark Offices will be more predictable when judging whether a name describes the content of what it sells too closely or whether an advertising slogan is “strong” enough to be registered as a trademark.

Comprehensive trademark consulting

At **UNGRIA**, we have a team of expert **trademarks attorneys** who can advise you on the best type of protection for the newly adopted distinctive sign that identifies your goods, services and company. We will also let you know, if your earlier trademarks are well protected in those countries to which you export or intend to export your goods or provide your services.

Do you have any questions about trademarks? **Please, do not hesitate to contact us for more information.**

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