

## CP16 Common Practice

**Signs describing the subject matter of goods and/or services**

# 1

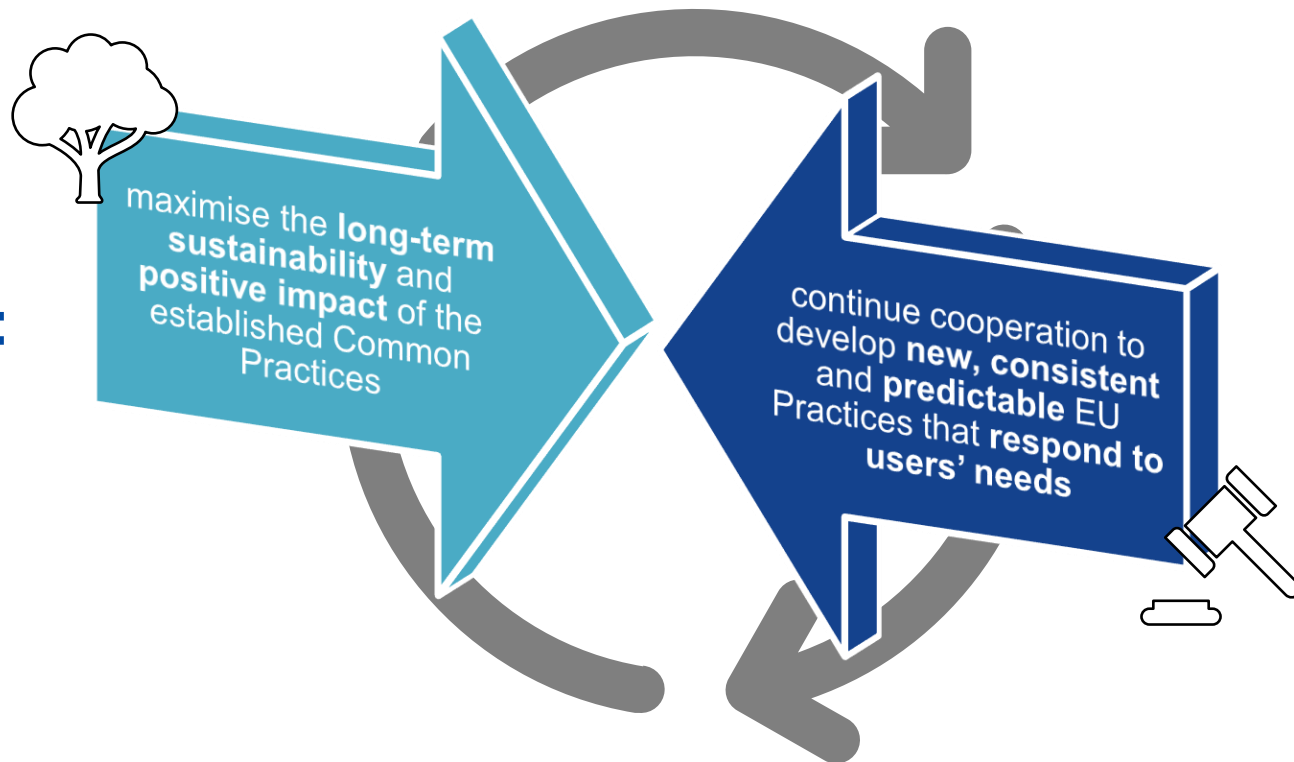
## **BACKGROUND FOSTERING COMMON EU PRACTICES**



## Fostering Common EU Practices

### Vision

**Dual aim:**



## Convergence Projects

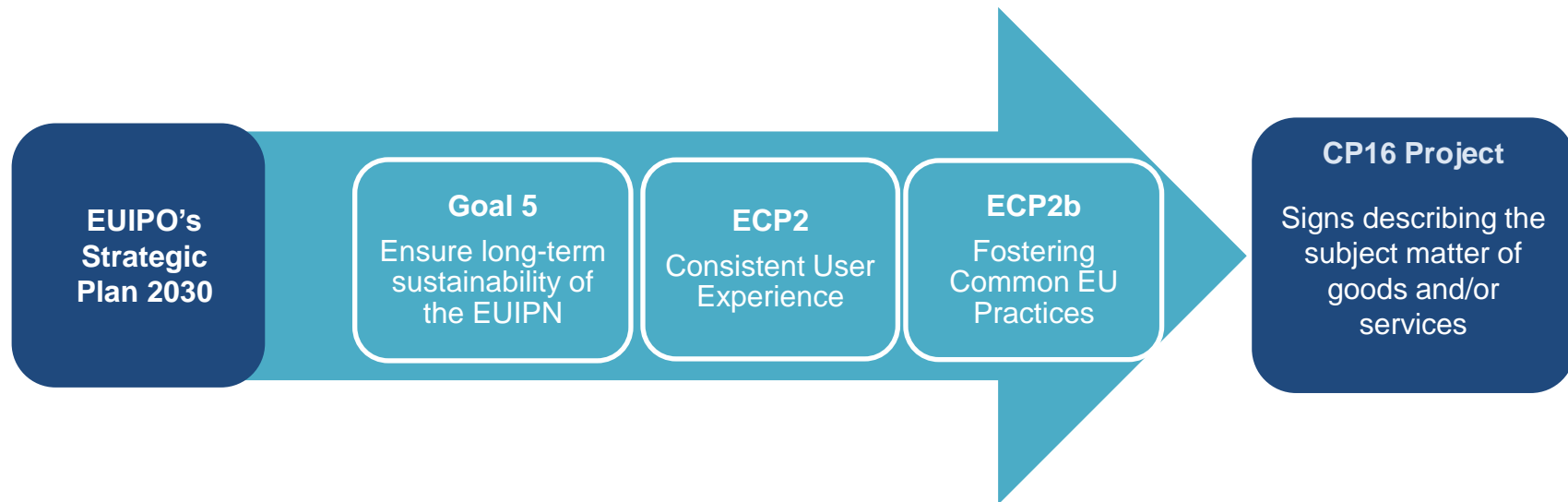
### Legal basis

#### EU trade mark reform package

- Article 151 EUTMR
- Article 152 EUTMR
- Articles 51-52 TMD

#### EU design reform package

- Recital 8 EUDR
- Article 34-35 Recast DD



# **2**

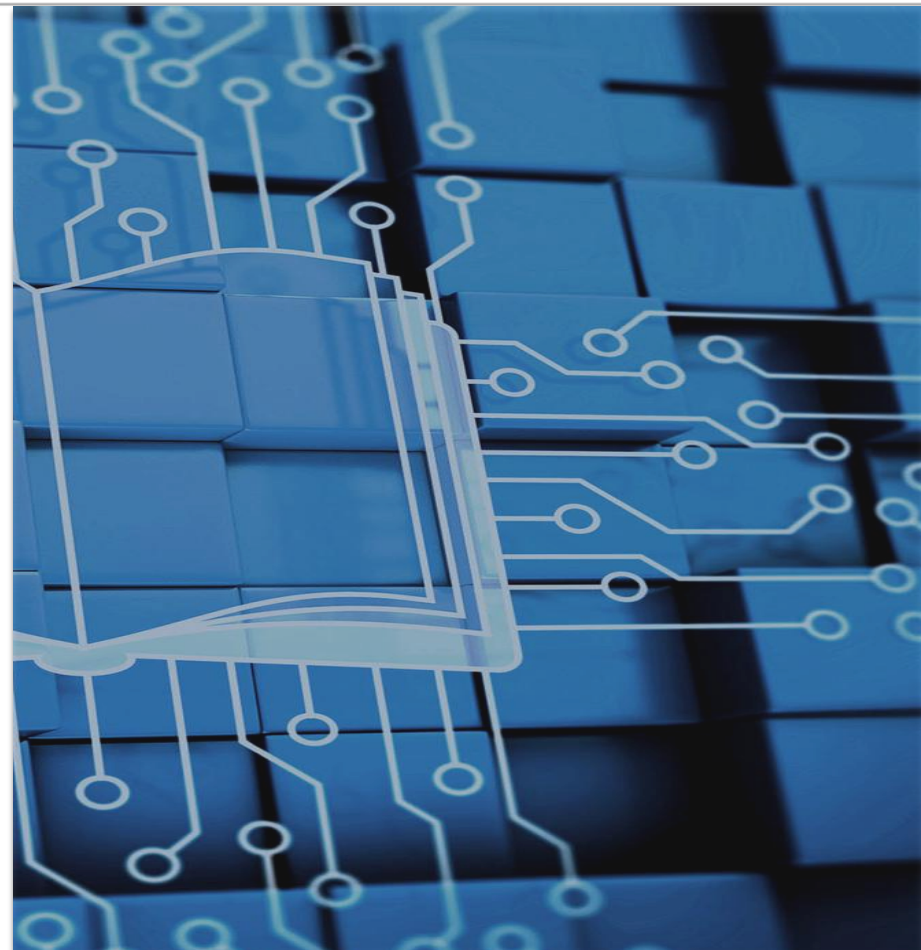
## **CP16**

### **COMMON PRACTICE**



# 2.1

## Reasons for CP16 launch

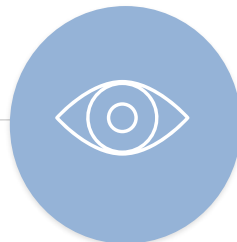


## CP16 Common Practice – Background



### Guidance

on the notion of subject matter and on how to assess signs describing the subject matter of goods and/or services (Article 4(1)(c) TMD)



### EUIPO Boards of Appeal Case-law Research Report

[on descriptiveness of a sign  
suggesting the subject matter of  
advertising services](#)



### Improve consistency across IP offices

## CP16 Common Practice – Background

### Methodology for gathering input

#### Consultations

3 consultations in writing

#### Communication

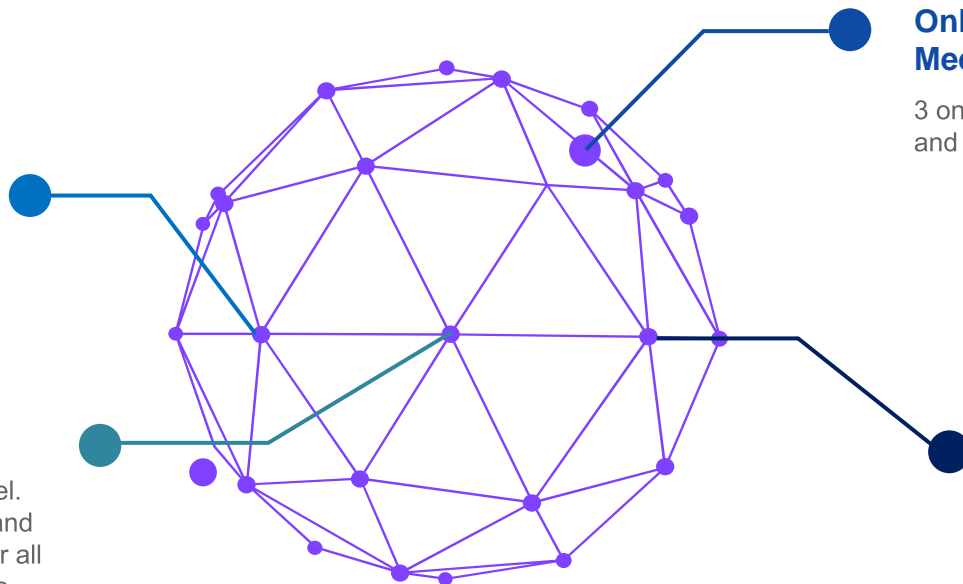
MS Teams as a communication channel. Feedback, proposals and new drafts available for all participants in real time.

#### Online/Hybrid Meetings

3 online VC meetings held and 1 hybrid meeting.

#### Bilateral Meetings

Tailored meetings with stakeholders to clarify doubts





## CP16 Common Practice – Virtual Community participants

### IPOs

- DE
- DK
- EE
- ES
- EUIPO
- FI
- FR
- GR
- HR
- HU
- IT
- LT
- LV
- PL
- PT
- RO

### UAs

- AIM
- APRAM
- BMM
- CITMA
- ECTA
- FICPI
- INTA
- MARQUES



## 2.2

# Scope and structure



## CP16 Common Practice – Scope

In scope



**Common understanding** of the notion of subject matter;



**Aspects to be considered when assessing descriptiveness** of signs that may serve, in trade, to designate the subject matter of the goods and/or services for which protection is sought under Article 4(1)(c) TMD;



**Examples** to illustrate how to assess whether a sign is descriptive of the subject matter of the goods and/or services for which protection is sought.

## CP16 Common Practice – Scope

### Out of scope

- signs that consist of the title of **well-known books, films or other works of art**;
- signs that consist of the **name of a (famous) person/author**;
- **procedural aspects**;
- **assessment of Article 4(1)(c) TMD**, other than the subject matter of the goods and/or services;
- **assessment of any other absolute ground** for refusal of Article 4(1) TMD;
- **assessment of other types of marks**, different from word marks;
- **assessment per se of specific market realities** in each Member State;
- **acquired distinctiveness through use**;
- **the limitation/amendment of the list of goods and/or services to overcome an objection** based on the sign being descriptive of the subject matter of the goods and/or services;
- **description of legal constraints** preventing implementations in particular MS IPOs;
- **language-related issues** as regards the examples in the Common Practice; and
- definition and/or assessment of **‘thematic style’**.



## CP16 Common Practice – Scope



**Note:** A distinction can be made between ‘**thematic content**’ and ‘**thematic style**’.



### ‘Thematic content’

Refers to the specific ideas, subjects, or messages that the goods or services may relate to.



### ‘Thematic style’

Refers to consumers’ perception through design, branding, and messaging. It defines how a theme is expressed through artistic choices such as tone, imagery, structure, symbolism, etc.



## CP16 Common Practice – Scope

In the context of CP16, only the **‘thematic content’** is relevant because, in principle, any good and/or service can adopt a **‘thematic style’** without necessarily having ‘thematic content’.



For example, ‘children's furniture with a dinosaur theme’, ‘hotel services with a pirate theme’, ‘party organisation with historical themes’ can be understood to have ‘thematic style’ but **not** ‘thematic content’.



## CP16 – STRUCTURE



### 1 INTRODUCTION

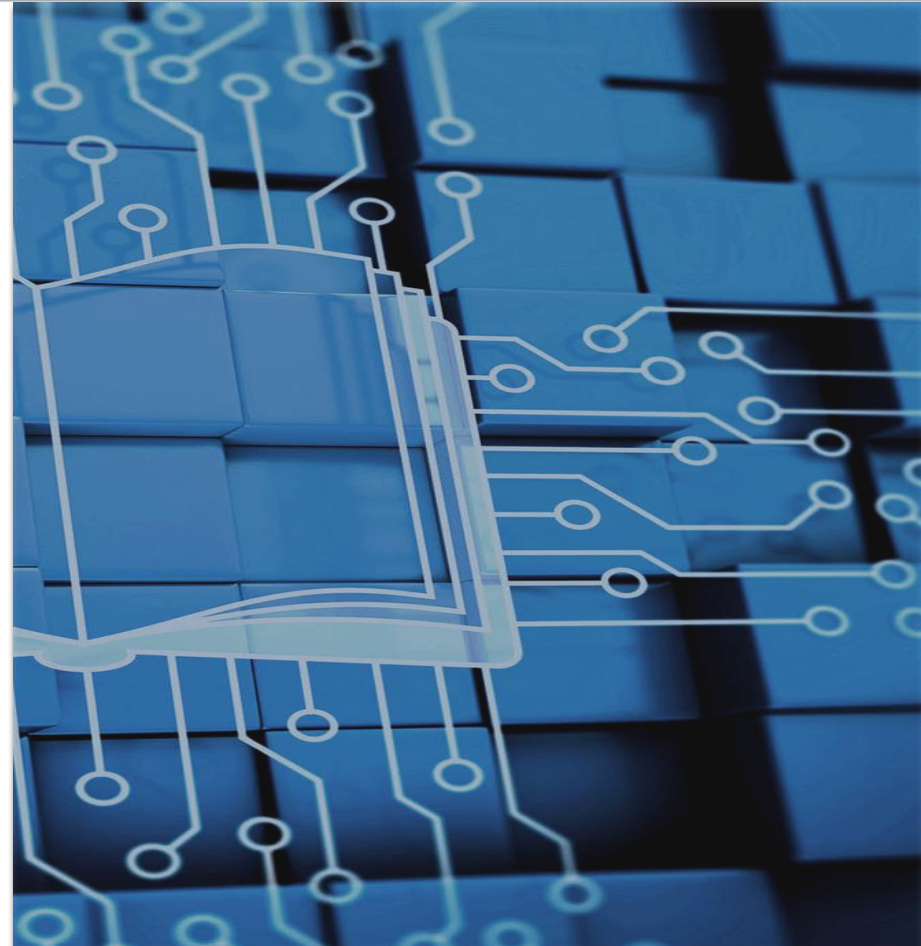
- 1.1 Objective of this document
- 1.2 Background
- 1.3 Practice scope
- 1.4 Implementation

### 2 THE COMMON PRACTICE

- 2.1 'The subject matter of the goods and/or services' as a reason for refusal
- 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection
- 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

# **2.3**

## **Principles**





## Translation disclaimer

If there is a discrepancy between the translation of the Common Practice document in any of the official languages of the European Union and the English version, the latter will prevail.



## CP16 – STRUCTURE



### 1 INTRODUCTION

- 1.1 Objective of this document
- 1.2 Background
- 1.3 Practice scope
- 1.4 Implementation

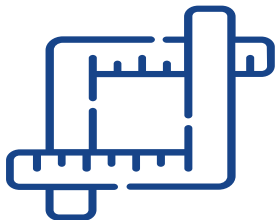
### 2 THE COMMON PRACTICE

- 2.1 **'The subject matter of the goods and/or services' as a reason for refusal**
- 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection
- 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.1 General context

#### Article 4(1)(c) TMD



Trade marks 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.

## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.1 General context

Signs will be assessed:



by reference to the goods and/or services for which protection is sought, and



by reference to the understanding which the relevant public has of the sign.

The expression 'other characteristics of the goods or services' reflects that the list of characteristics provided in this provision is **not exhaustive** → **The subject matter of the goods and/or services is encompassed by this reference although not mentioned.**

## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.1 General context

For a sign to fall under the ground for refusal set out in Article 4(1)(c) TMD:

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 recognised by the relevant public as  
a **description of the goods and/or services in question or of one of their characteristics.**

## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.2 Common understanding of 'subject matter'



**Dictionary definitions** for '[subject matter](#)' and '[thematic](#)' can be found on page 4 of the CP.



**EU case-law:** There is no definition of the notion of subject matter in EU case-law.

However, when assessing whether a sign may be describing the subject matter of the goods and/or services at issue, ***EU case-law employs the notion of 'subject matter' to refer to the:***

- key element,
- content,
- area,
- activity,
- field, or
- theme,

that any good or service relates to or consists of.

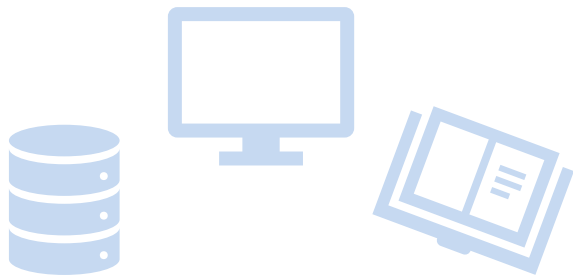
## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.2 Common understanding of 'subject matter'



#### EU case-law

Analysis of EU case-law: **'subject matter' is generally used in connection with goods or services whose nature allows them to contain or relate to a specific thematic content** (e.g. *data carriers* (Class 9); *books* (Class 16); *entertainment* (Class 41)).



## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.2 Common understanding of 'subject matter'



#### Notion of 'subject matter' for the purposes of CP16

Signs describing the subject matter of goods or services whose '**nature**' allows them to contain or relate to a specific thematic content.

- ✓ **For goods:** Is one of the inherent features, qualities, or characteristics that the goods are able to contain specific subject matter in any form?



E.g.: Goods that can store information physically or electronically (e.g. books, magazines, data carriers, e-books)

- ✓ **For services:** Is the field or category of activity provided to third parties able to provide or create specific subject matter?



E.g.: Educational or tutoring services, or services such as writing and publishing.



## 2.1 'The subject matter of the goods and/or services' as a reason for refusal

### 2.1.2 Common understanding of 'subject matter'

CP16 applies to any goods and/or services that serve to create, store or process specific thematic content, **as they are, by nature, suitable for containing or relating to subject matter.**



\* A case-by-case assessment of the goods and/or services for which protection is sought will always be necessary

## CP16 – STRUCTURE



### 1 INTRODUCTION

- 1.1 Objective of this document
- 1.2 Background
- 1.3 Practice scope
- 1.4 Implementation

### 2 THE COMMON PRACTICE

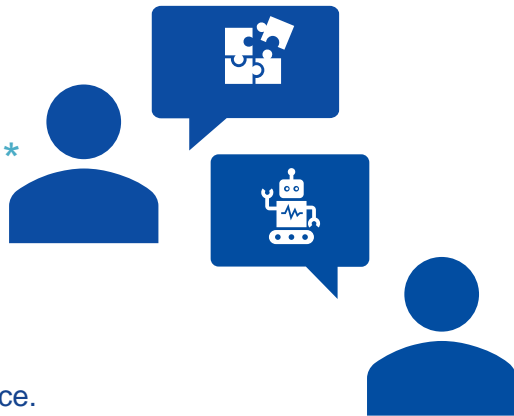
- 2.1 'The subject matter of the goods and/or services' as a reason for refusal
- 2.2 **Aspects to be considered to assess descriptiveness in the context of a subject matter objection**
- 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

To **assess the descriptiveness of signs** it will have to be determined:

- whether **the meaning** identified in the sign
- can be perceived as an indication of the **subject matter of the goods and/or services**,

and therefore, as one of their inherent characteristic(s).\*



\*More information about the term characteristic can be found on page 6 of the Common Practice.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Aspects to analyse to assess the descriptiveness of signs

1

**Relevant public**

2

**Meaning of the sign**

3

**The goods and/or services at issue**

4

**Existence of a direct link**

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

The analysis of these aspects constitutes a **methodology** to provide guidance on how to assess cases related to 'subject matter'.

The **important matter** will be to establish whether:

 from the perspective of the **relevant public**,

 a **direct link**, can be established between:

 the **meaning of the sign** and

 the **subject matter that the goods and/or services at issue relate to.**

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### 1 **Relevant public:** Who is the **relevant public** of the goods and/or services at issue?

The relevant public is considered to be reasonably well-informed and **reasonably observant and circumspect**.

Depending on the nature of the goods and/or services at issue, it may be identified as:

The general public



and/or

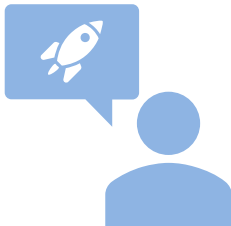
Professionals  
(i.e. specialist public)



## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

2 **Meaning of the sign:** Does the sign applied for have a **meaning** for the relevant public?

It will need to be assessed whether, from the perspective of the identified relevant public, the sign has a **meaning**.

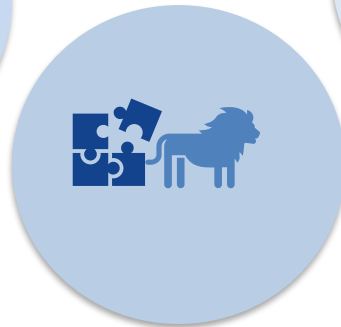


It can be corroborated by, inter alia, reliable dictionary entries, encyclopaedias, etc.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### 3 The goods and/or services at issue: Are the goods or services at issue inherently able to contain or relate to subject matter?

It will have to be analysed whether the goods or services are inherently able to contain or relate to subject matter.





## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

4

**Existence of a direct link:** Will at least one of the potential meaning(s) identified in the sign be immediately **perceived/understood** by the relevant public **as a direct reference to the specific subject matter of the goods or services** at issue? Is there, therefore, **a direct and immediate relationship** between the meaning of the sign and the subject matter of the goods and/or services for which protection is sought?



All previous aspects will have to be analysed in conjunction with one another.

The relevant public's perception of the sign may be influenced by specific aspects, such as the market reality of the goods and/or services in question.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

#### What should be determined during the assessment of the existence of a direct link?

Whether:

- in the context of the relevant **goods and/or services**,
- at least one of the possible **meanings** of the sign
- could be immediately understood by the **relevant public**, such that it is reasonable to believe that it will be **recognised as describing the specific subject matter of the goods and/or services** for which protection is sought.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

This may be the case when one of the possible meanings of the sign either:

- provides commercially relevant information\* on what may be the main topic, genre, category, or any other subject matter of the goods at issue



**‘PLANETS’** for *books* in Class 16 → could be perceived by the relevant public, without further thought, as providing information on the main subject matter that is addressed or dealt with by the books. This is because consumers are accustomed to, or could reasonably expect, encountering books on the market whose subject matter focuses only on planets. Thus, the term refers to a subject matter that is commercially relevant for books.

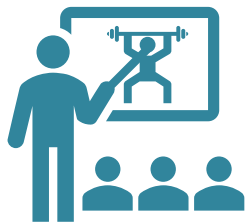
Note: The concept of ‘commercially relevant’ in the context of this Common Practice refers to specific market realities. It does not constitute an indication of how significant a characteristic may be in the sense of ‘commercially essential’ or ‘merely ancillary’ as used in Postkantoor, C-363/99, § 102, 12/02/2004, EU:C:2004:86.

**or...**

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

- provides commercially relevant information about what may be the main subject matter that the services at issue relate to



‘YOGA’ for *educational services* in Class 41 → could be perceived by the relevant public, without further thought, as providing information about what the subject matter of the educational services is. This is because consumers are accustomed to, or could reasonably expect, encountering undertakings providing educational services whose subject matter is specifically related to yoga on the market. Thus, the term refers to a subject matter that is commercially relevant for educational services.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

- A direct and immediate relationship **may be more likely** when the sign consists of a term that is **commonly used on the market in connection with a specific category of goods and/or services** — and the goods or services in question fall within that specific category.
- In such cases, **this is an indication that this information is commercially relevant.**
- The relevant public could, therefore, reasonably and without further thought, understand the sign as providing information on the specific subject matter of the goods or the services.



The term 'CATS' could be considered as **being commonly used in commerce in connection with books** in Class 16. It is a topic for which there is an interest from the public and for which a substantial number of books are available. Therefore, the term is *commercially relevant when used in relation to books*, and a sign consisting of the term 'CATS' will be perceived by the general public as directly describing the subject matter of the books.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

If the **relevant public** is accustomed to or can reasonably expect to find **goods and/or services** on the market that contain or relate to the subject matter identified within the **meaning of the sign**, it will be more likely that a **direct and immediate relationship** between the sign and the goods and/or services for which protection is sought can be established.



By definition, **the subject matter** of the goods or services is something that is capable of **influencing the public's decision to purchase**, acquire or consult the goods and/or services at issue instead of those from other undertakings.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection

### Existence of a direct link

The term 'NIGHTS' refers to 'the part of each day when the sun has set, and it is dark outside'. When applied for **books** (Class 16) it would **not be perceived** by the **relevant public** as **directly describing the subject matter of the books**.

It is a **topic** on which **there is not a substantial number of books available on the market, nor would there seem to be a sufficient interest in the topic on the part of the relevant public**.

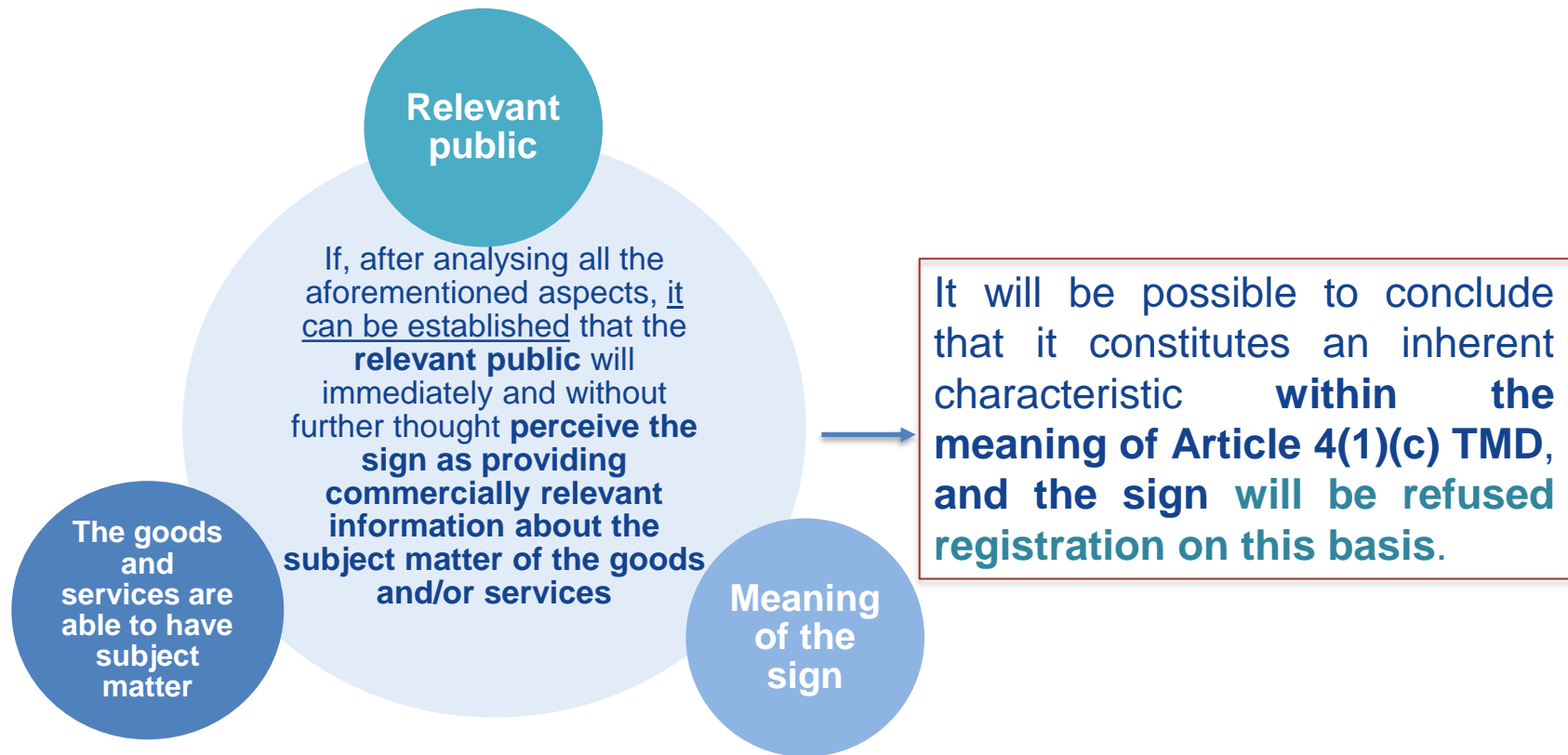


**Consumers are not accustomed** to encountering books specifically dedicated to the topic of 'nights' on the market, nor will they expect to do so.

Therefore, the term '**NIGHTS**' is **not commercially relevant** when used **in relation to books**. The relevant public would not be inclined to base its choice of acquiring or consulting the book on the fact that the sign describes a specific subject matter.

'NIGHTS' cannot be considered an inherent characteristic of a book, within the meaning of Article 4(1)(c) TMD.

## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection





## 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection



However, the fact that there is no direct link between the sign and the subject matter of the goods and/or services **does not automatically render the sign acceptable**.

It may still be objectionable for other reasons outside the scope of CP16.

The scope of CP16 is limited to the assessment of descriptiveness, namely where the sign describes the subject matter of the goods and/or services.

## CP16 – STRUCTURE



### 1 INTRODUCTION

- 1.1 Objective of this document
- 1.2 Background
- 1.3 Practice scope
- 1.4 Implementation

### 2 THE COMMON PRACTICE

- 2.1 'The subject matter of the goods and/or services' as a reason for refusal
- 2.2 Aspects to be considered to assess descriptiveness in the context of a subject matter objection
- 2.3 **Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



The purpose of this section is to present:

- examples of signs that **are considered descriptive** because they serve, in trade, to designate the subject matter of the goods and/or services for which protection is sought; as well as
- examples of signs that **are not considered descriptive** of the subject matter of the relevant goods and/or services.

The examples aim to provide guidance on how to apply the aforementioned general methodology and facilitate the assessment of the descriptiveness of signs based on their subject matter.

- Additional clarifications are provided for advertising services in Class 35 and services in Class 38.

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

- Nevertheless, this section does not analyse whether a sign in an example may also be considered descriptive of other characteristic(s) of the goods and/or services (e.g. kind, quality, or purpose).
- The fact that the examples included in CP16 are considered descriptive of the subject matter of the goods and/or services does not exclude the possibility of a sign also being descriptive of other characteristic(s).
- The fact that certain examples presented are considered not to be descriptive of the subject matter of the goods and/or services **does not imply that the sign is registrable**, as other grounds for refusal may nevertheless apply.



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



Although certain terms in the examples may be recognised in several languages, it is assumed that they are in English and will be understood as a native English speaker would understand them.



The goods and services used in the examples are only indicative of possible goods and services where signs might be considered descriptive of the subject matter.

Other goods or services, or even possibly classes, not mentioned in the examples could also be relevant in a refusal of a sign based on subject matter, provided that the nature of the goods and/or services in question allows them to contain or relate to a specific subject matter.

## 2.3.1

# Examples of signs applied for goods in Class 9



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**ROCK  
MUSIC**

Class 9: DVDs,  
CDs

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** any of various styles of pop music having a heavy beat, derived from rock and roll.
- **The goods at issue:** are physical media designed to store and deliver subject matter. By their nature, these goods are able to contain subject matter.
- **Direct relationship:** The goods are commonly found in music stores or other specialised stores, where sections are usually organised by music genre. 'ROCK MUSIC' is commercially relevant in relation to those goods. As a result, the relevant public, when confronted with the sign affixed to a DVD or a CD, will immediately perceive it as a description of their subject matter. Thus, in this case, 'ROCK MUSIC' is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**PICTURES**

Class 9:  
Databases

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘representation consisting of lines and shapes which are drawn, painted, or printed on a surface and show a person, thing, or scene’.
- **The goods at issue:** store, manage, and retrieve information, often according to their specific subject matter. They can contain various types of data. By their nature, these goods are able to contain subject matter.
- **Direct relationship:** Databases are usually designed and marketed based on their subject matter, purpose, and/or functionalities. When a consumer intends to use or acquire a database, they pay special attention to the specific type of content it stores. It is reasonable to think that consumers could be interested in such databases based on their content. The term is commercially relevant in relation to databases and the relevant public will immediately perceive it as a description of their subject matter. Thus, ‘PICTURES’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**MEDICINE**

Class 9:  
Downloadable  
electronic books

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘the treatment of illness and injuries by doctors and nurses’, or ‘a substance that you drink or swallow in order to cure an illness’.
- **The goods at issue:** are digital publications designed to store and present information electronically. By their nature, these goods are able to contain subject matter.
- **Direct relationship:** The goods are commonly found in online bookstores or digital platforms, where electronic books are typically organised by subject or genre, one of which is medicine. The term is commercially relevant in relation to the goods. As a result, the relevant public, when confronted with the sign affixed to downloadable electronic books, will immediately perceive it as describing their subject matter. Thus, in this case, ‘MEDICINE’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**WINE**

Class 9:  
Downloadable  
mobile  
applications

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘an alcoholic drink which is made from grapes’.
- **The goods at issue:** are software applications developed for use on smartphones or tablets. These applications may be created to contain specific subject matter. By their nature, these goods are able to contain subject matter.
- **Direct relationship:** These goods are distributed via digital platforms such as app stores, where they are broadly categorised by function or general themes, such as ‘Food & Drink’ or ‘Lifestyle’. The term is commercially relevant in relation to the goods. The relevant public will immediately perceive it as a description of the app’s subject matter (i.e. an app that provides information about different types of wine, wine pairings, or wine reviews). Thus, in this case, ‘WINE’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**ANCIENT  
HISTORY**

Class 9: Software

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘history of ancient civilisations, especially Greece and Rome’.
- **The goods at issue:** are developed for use on various devices, including smartphones, tablets, or computers. They may be designed to contain specific subject matter. By their nature, these goods are able to contain subject matter.
- **Direct relationship:** Software is commonly categorised based on its function or area of application, such as education, entertainment, productivity or lifestyle. Within these categories, software may focus on specific themes or topics. In this context, users often look for software that addresses particular topics or areas of interest. Therefore, the term is commercially relevant, and the relevant public will immediately perceive it as being a description of the software’s subject matter. Thus, in this case, ‘ANCIENT HISTORY’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**MEDICINE**

Class 9:  
Antivirus  
software

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘the treatment of illness and injuries by doctors and nurses’, or ‘a substance that you drink or swallow in order to cure an illness’.
- **The goods at issue:** The goods at issue are technical in nature, with an inherent function that is purely utility-based. Antivirus software is to protect computer systems and data by detecting, preventing, and responding to security threats such as unauthorised access or malware attacks. Their primary function is protective and operational, not thematic. Thus, by nature, they are not capable of containing subject matter.
- **Direct relationship:** Considering the nature of the goods, the sign will not be perceived by the relevant public as a description of their subject matter.

**Not descriptive of the subject matter of the goods at issue**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**WINE**

Class 9:  
Cybersecurity  
software

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘an alcoholic drink which is made from grapes’.
- **The goods at issue:** the goods are technical in nature, with an inherent function that is purely utility-based. Cybersecurity software is specifically designed to protect computer systems, networks, and data by detecting, preventing, and responding to security threats such as unauthorised access. Their primary function is protective and operational, not thematic. Thus, by nature, they are not capable of containing subject matter.
- **Direct relationship:** Considering the nature of the goods, the sign will not be perceived by the relevant public as a description of their subject matter.

**Not descriptive of the subject matter of the goods at issue**

## 2.3.2

# Examples of signs applied for goods in Class 16



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**CROSSWORDS**

Class 16: Magazines

- **Relevant public:** general public.
- **Meaning of the sign:** ‘a word game in which you work out the answers and write them in the white squares of a pattern of small black and white squares’.
- **The goods at issue:** are publications with a paper cover which are issued regularly – usually every week or month – and contain articles, crosswords, stories, etc. By their nature, these goods are capable of containing subject matter.
- **Direct relationship:** Consumers are in the habit of finding magazines on the market whose subject matter is exclusively related to crosswords. The term is commercially relevant in relation to the goods. The relevant public, when confronted with the sign affixed to a magazine, will immediately perceive it as a description of the magazine’s subject matter, and thus as an inherent characteristic of the goods.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**YOGA**

Class 16:  
Instructional  
and teaching  
materials

- **Relevant public:** general public and professionals in the educational sector.
- **Meaning of the sign:** ‘a type of exercise in which you move your body into various positions in order to become more fit or flexible, to improve your breathing, and to relax your mind’.
- **The goods at issue:** could be, for example, leaflets, books or other kinds of printed matter that provide information related to various fields of study or areas of interest. By their nature, these goods are capable of containing subject matter.
- **Direct relationship:** The goods can be categorised based on their educational purpose or area of focus, such as professional training. Within these categories, such materials often focus on specific topics or disciplines, and the relevant public will choose to consult or acquire them because of their subject matter. Therefore, the term is commercially relevant in relation to the goods, and the sign will immediately be perceived by the relevant public as a description of the subject matter of the goods. Thus, in this case, ‘YOGA’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**BIT**

Class 16:  
Computer  
magazines

- **Relevant public:** general public and professional consumers.
- **Meaning of the sign:** ‘the smallest unit of information that is held in a computer's memory (either a 0 or 1)’.
- **The goods at issue:** The goods are computer magazines, which are periodical publications focused on a wide range of computing-related topics, such as hardware and software reviews, industry news, programming tutorials, consumer electronics, and IT trends. By their nature, these goods are capable of containing subject matter.
- **Direct relationship:** While the term ‘BIT’ is a technical term associated with computing, it represents a highly specific and abstract concept that does not provide information about the main subject matter of computer magazines. The term ‘BIT’ does not correspond to a commercially relevant category of computer magazines and does not immediately provide information about the content of the goods. Consequently, it will not be perceived as a description of the subject matter of the goods.

**Not descriptive of the subject matter of the goods at issue**

### 2.3.3

## Examples of signs applied for goods in Class 28



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**FILM  
STARS**

Class 28: Quiz  
games

- **Relevant public:** general public.
- **Meaning of the sign:** ‘famous actors and/or actresses who appear in films’.
- **The goods at issue:** are quiz games, which typically involve answering questions, solving puzzles, or testing knowledge on specific subjects. By nature, these goods can contain subject matter.
- **Direct relationship:** When a consumer intends to buy a quiz game, they pay special attention to its subject matter. Therefore, the term is commercially relevant in relation to the goods. As a result, the relevant public, when confronted with the sign affixed to a quiz game, will immediately perceive it as a description of its subject matter. Thus, in this case, ‘FILM STARS’ is considered an inherent characteristic of the goods at issue.

**Descriptive of the subject matter of the goods**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**ANGRY  
PLUMBERS**

Class 28:  
Board games

- **Relevant public:** general public.
- **Meaning of the sign:** The sign as a whole will be perceived by the relevant public as referring to a group of plumbers who are enraged or acting with frustration.
- **The goods at issue:** are board games, which are recreational products involving structured play. These games can vary widely in theme and format, including strategy-based games, role-playing games, educational games, or games based on fantasy, professions, or daily life. By their nature, these goods can contain subject matter.
- **Direct relationship:** While board games may feature plumbers as characters or elements within a storyline or pack of cards, and consumers may be accustomed to encountering board games inspired by professions, 'ANGRY PLUMBERS' does not correspond to a commercially relevant category of board games, and does not immediately provide information on what the content of the board game would be. When consumers are confronted with the sign affixed to a board game, they will not perceive it as a description of the game's subject matter.

**Not descriptive of the subject matter of the goods at issue**

## 2.3.4

# Examples of signs applied for services in Class 35 – (a) The specific case of advertising services



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

The Nice Classification includes ‘*advertising*’ as a general indication of the Class 35 heading, i.e. ‘*advertising; business management; business administration; office functions*’.

When analysing whether a sign may be descriptive of the subject matter of advertising services in Class 35, the first step will be to **determine who is the relevant public of said services.**



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

According to case-law, advertising services must be construed as the advertising of a good or a service for the benefit of others and not the advertising of one's own goods or services to one's own benefit.



Therefore, these services are generally not aimed at the general public, as they are meant for advertising a good or another service and no consumer would have a need for advertising services. Instead, **they are B2B services which are aimed at companies or entrepreneurs (i.e. the professional public) who want to advertise their goods and/or services on the market.**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

In general, advertising services are provided by [advertising or communication agencies](#), which usually design advertising material, produce commercials, and create tailored strategies to promote/advertise clients' goods, services, events, etc. through various media (e.g. radio, television, internet, publicity texts or advertising films).





## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



After analysing **whether the sign applied for has a meaning, from the perspective of the relevant public**, it will be necessary to establish **what the subject matter of *advertising services* may be**, and whether such subject matter can be considered as one of their inherent characteristics.



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

The GC, in the PETCO judgment, stated that:

- the purpose of advertising services is to help third parties to sell **goods and services by promoting their launch or sale.**
- **these services have the purpose of reinforcing the client's position on the market to enable them to acquire a competitive advantage through publicity.**

Case-law also mentions that *advertising services* are services which can be inherently linked to the specific good and/or service being promoted/advertised, or to the market sector or field of activity or business of said good or service.

This is because **their focus is the creation and dissemination of subject matter in the form of a promotional message**, which is tailored bearing in mind the particular good and/or service, or the field/area of activity or business that will be advertised/promoted.

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Based on the above, the subject matter of advertising services can be:

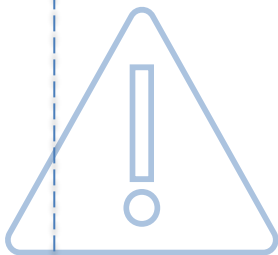


a) the **specific good and/or service**; or



b) the **specific market sector, field of activity or business**  
that will be advertised/promoted.

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



To consider the specific good and/or service, or the market sector, field of activity or business that is being advertised/promoted as a characteristic under Article 4(1)(c) TMD, **there must be a particular branch of advertising established on the market that can be differentiated from the advertising services of other goods and/or services.** This distinction **could depend on whether specialised advertising agencies already exist within a specific field/area, or whether it is reasonable to assume that such specialisation could exist.**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Finally, it is to be assessed whether, from the perspective of the **relevant public**, there is a **direct and immediate relationship** between the **meaning** identified in the sign and the **concrete subject matter of the advertising services**.



This may be the case **when the relevant public will immediately perceive, without further thought, that at least one of the meanings of the sign is providing commercially relevant information about** the subject matter of the advertising services (i.e. about the specific good and/or service; or the market sector, field of activity or business that will be advertised).

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



***Attention:*** *The examples that CP16 considers descriptive of the subject matter of advertising services **are based on the assumption that a specialised advertising agency can exist for the referenced market sector.** Since the definition of concrete market sectors is out of scope of CP16, the examples do not confirm a common approach in this regard.*

\* For additional information on the specific case of *advertising services* in Class 35, please read the [BoA Case-Law Research Report](#) on this matter.

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

### Sign:

### FASHION

Class 35:  
Advertising  
services

- **Relevant public:** professional public.
- **Meaning of the sign:** ‘the area of activity that involves styles of clothing and appearance’ or ‘a style of clothing or a way of behaving that is popular at a particular time’.
- **The services at issue:** involve the creation and dissemination of advertising materials, commercials, etc. to promote clients’ products, services. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** The relevant public will immediately perceive the sign as providing information about the market sector being advertised (i.e. the subject matter of the advertising services). This is because specialised advertising agencies dedicated to the fashion industry can exist in the market. These agencies tailor their services specifically to the fashion sector and differentiate fashion-related advertising from the promotion of other goods and/or services. The term is commercially relevant in relation to the services. Thus, in this case, ‘FASHION’ is considered an inherent characteristic of the services.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

### Sign:

### FOOD & WINE

Class 35:  
Advertising  
services

- **Relevant public:** professionals.
- **Meaning of the sign:** As a whole the sign will be understood by the relevant public as referring to edible substances and alcoholic beverages made from grapes.
- **The services at issue:** involve the creation and dissemination of advertising materials, commercials, etc. to promote clients' products, services. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** The relevant public will immediately perceive the sign as providing information about the market sector being advertised (i.e. the subject matter of the advertising services). This is because advertising agencies dedicated to the food and wine industries can exist in the market. These agencies tailor their services specifically to the food and wine sector and differentiate food and wine-related advertising from the promotion of other goods and/or services. As a result, the term is commercially relevant in relation to the services. Thus, 'FOOD & WINE' is considered an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

LIPSTICK

Class 35:  
Advertising  
services

- **Relevant public:** professionals.
- **Meaning of the sign:** ‘a coloured substance in the form of a stick which people put on their lips’.
- **The services at issue:** involve the creation and dissemination of advertising materials, commercials, etc. to promote clients’ products, services. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** Although advertising agencies may occasionally promote specific products such as lipsticks, this is only one of many possible goods and services that can be advertised. Moreover, there are no specialised advertising agencies on the market that exclusively focus on the advertisement of lipsticks. The term is not commercially relevant in relation to the services, and when the relevant public encounters this sign in relation to advertising services, they will not perceive it as a description of their subject matter, namely, the market sector to which they relate (in this case, the lipsticks market).

**Not descriptive of the subject matter of the services at issue**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**PLUMBING**

Class 35:  
Advertising  
services

- **Relevant public:** professionals.
- **Meaning of the sign:** ‘the water and drainage pipes, baths, and toilets in a building’, or ‘repairing things such as water and drainage pipes, baths, and toilets’.
- **The services at issue:** involve the creation and dissemination of advertising materials, commercials, etc. to promote clients’ products, services. These materials are usually customised depending on the particular good and/or market sector to be advertised or promoted. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** Although advertising agencies may occasionally promote services related to specific sectors such as plumbing, this is only one of many possible areas that can be advertised. Moreover, there are no specialised advertising agencies on the market that exclusively focus on the advertisement of plumbing services. Consequently, the term is not commercially relevant in relation to the services, and when the relevant public encounters this sign in relation to advertising services, they will not perceive it as a description of their subject matter – namely, the market sector to which they relate (in this case, the plumbing sector).

**Not descriptive of the subject matter of the services at issue**

## 2.3.4

# Examples of signs applied for services in Class 35 – (b) Other services in Class 35



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**ELECTRONICS**

Class 35:  
Organising trade  
fairs

- **Relevant public:** professionals.
- **Meaning of the sign:** ‘the technology of using transistors and silicon chips, especially in devices’, or ‘electronic devices, or the part of a piece of equipment that consists of electronic devices’.
- **The services at issue:** aim to bring together professionals from a particular industry or market sector. This means that, when providing the services, the objects on display, the setting of the trade fair and audience to which they are addressed, will be tailored to the particular industry, market sector and/or field of activity of the trade fair. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** Trade fairs can be organised with a specific industry or sector in mind, such as fashion or electronics. In commercial practice, it is common for trade fairs to be thematically focused. The term is commercially relevant in relation to those services and the relevant public will immediately perceive the sign as a description of the core subject matter of the trade fair. Thus, in this case, ‘ELECTRONICS’ is considered an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**COUNTRY  
ROADS**

Class 35:  
Organising  
trade fairs

- **Relevant public:** professionals.
- **Meaning of the sign:** ‘roads in the country’.
- **The services at issue:** aim to bring together professionals from a particular industry or market sector. This means that, when providing the services, the objects on display, the setting of the trade fair and audience to which they are addressed, will be tailored to the particular industry, market sector and/or field of activity of the trade fair. By their nature, these services can relate to a specific subject matter.
- **Direct relationship:** While trade fairs may occasionally feature topics related to road construction or infrastructure, including aspects concerning country roads, it is commercially unlikely that such events will focus exclusively on country roads. Consequently, the term ‘COUNTRY ROADS’ is not commercially relevant in relation to the services, and the relevant public will not perceive it as a description of the core subject matter of the trade fair being organised.

**Not descriptive of the subject matter of the services at issue**

**2.3.5**

## Signs applied for services in Class 38



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

According to the **explanatory note of the Nice Classification**, Class 38 includes mainly services that allow at least one party to communicate with another, as well as services for the broadcasting and transmission of data.

It expressly excludes, among others, the **content or subject matter** that may be contained in the communication activity, such as:



downloadable image files (Class 9),



providing business information via a website (Class 35), or



providing films and television programmes via video-on-demand services (Class 41).

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

In light of this, services that are **technical by nature** (i.e. because they only cover the provision of the means of communication, such as networks, broadcasting or transmission facilities), **do not relate to the specific subject matter delivered via these services** — for example, the content of a television program, reality show, film, radio programme, podcast — which is typically covered under classes such as Class 41.





## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services



Accordingly, as a general principle, a sign applied for services under Class 38 **cannot be considered descriptive of the subject matter transmitted through these services, within the meaning of Article 4(1)(c) TMD.**

However, this conclusion does not preclude the possibility of an objection based on the sign's descriptiveness of other characteristic(s) of the services such as the nature, kind, or intended purpose, or based on other absolute grounds for refusal, such as Article 4(1)(b) TMD.

## 2.3.6

# Examples of signs applied for services in Class 41



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

### Sign:

**ANCIENT  
EGYPT**

Class 41:  
Cultural  
activities

- **Relevant public:** general and professional public.
- **Meaning of the sign:** ‘ANCIENT EGYPT’ as a whole will be understood as ‘the historical civilisation of Egypt during antiquity, particularly the period of the Pharaohs, pyramids, and other cultural, artistic, and religious aspects associated with Egyptian history’.
- **The services at issue:** typically aim to convey, promote, or explore particular cultural, historical, or social content. These services can be tailored around a specific topic, idea or cultural activity. By their nature, they are able to be related to a specific subject matter.
- **Direct relationship:** Cultural activities can be designed and delivered with a particular historical, artistic, or social theme in mind. It is common for cultural events or exhibitions to be themed around well-defined subject matter to attract and engage the relevant audience. The term is commercially relevant in relation to these services and the relevant public will immediately perceive it as a description of the specific subject matter of the cultural activities. Thus, ‘ANCIENT EGYPT’ is considered an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

### Sign:

### Sexually Transmitted Diseases

Class 41:  
Education  
services

- **Relevant public:** general and professional public.
- **Meaning of the sign:** As a whole, the sign will be understood by the relevant public as 'diseases that are spread by means of sexual intercourse or sexual contact between two people'.
- **The services at issue:** refer to any activity or program designed to provide knowledge and training, through courses, workshops, seminars or programs. By their nature, they are able to relate to a specific subject matter.
- **Direct relationship:** Education services are often developed and delivered with a clear focus on specific subject matter or areas of knowledge. They commonly address well-defined topics to meet the needs of learners or target audiences. Therefore, the term is commercially relevant in relation to these services, and the relevant public will immediately perceive it as a description of the field of activity that will be taught. Thus, 'Sexually Transmitted Diseases' is considered an inherent characteristic of the services at issue.

Descriptive of the subject matter of the services

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**CONTEMPORARY  
DANCE FESTIVAL**

Class 41: Education  
services

- **Relevant public:** general and professional public.
- **Meaning of the sign:** As a whole, the sign will be understood as an organised series of events or performances focused on modern styles of dance that reflect current artistic trends.
- **The services at issue:** by nature they can be tailored to a specific field of interest – such as music or dance. Thus, by their nature, these services are capable of relating to a specific subject matter.
- **Direct relationship:** Festivals can be structured and promoted according to their subject matter, which plays a crucial role in both how they are presented on the market and the consumer's decision to attend. The term is commercially relevant in relation to these services, and the relevant public will immediately perceive the sign as a description of the subject matter of the festival. Thus, the term is considered an inherent characteristic of the services.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

### Sign:

### CHILDREN'S SONGS

Class 41:  
Entertainment

- **Relevant public:** general public.
- **Meaning of the sign:** As a whole the term will be understood as referring to 'songs specifically created for or aimed at entertaining children'.
- **The services at issue:** are designed to provide amusement or enjoyment to the public, including live performances, music, theatre, dance, storytelling, and other forms of cultural, artistic, or recreational activities. By their nature, they are capable of relating to a specific subject matter.
- **Direct relationship:** In the context of entertainment services, the specific subject matter often plays an important role in how they are made available on the market, as well as in the consumer's choice to attend, engage with, or purchase access to them. The term is commercially relevant in relation to these services, and the relevant public will immediately perceive the sign as a description of the entertainment being offered, namely, musical content aimed at children. Thus, 'CHILDREN'S SONGS' is considered an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**ARCHITECTURE**

Class 41: Publishing  
services

- **Relevant public:** general and professional public.
- **Meaning of the sign:** ‘the art of planning, designing, and constructing buildings’.
- **The services at issue:** consist of publishing activities, which include the preparation, production, and distribution of content such as books, magazines, etc. These services are typically intended to inform, educate, or entertain, and can be tailored to specific areas of interest or sectors of knowledge. By their nature, these services are capable of relating to a specific subject matter.
- **Direct relationship:** The services can be structured and marketed according to the subject matter they cover. Publishing houses or editorial divisions commonly specialise in particular fields of knowledge or areas of interest, and market their services accordingly. The term is commercially relevant in relation to these services, and the relevant public will immediately perceive the sign as a description of the specific subject matter of the services (i.e. that the publishing activities concern content related to architecture). Thus, ‘ARCHITECTURE’ will describe an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**FILM-MAKING**

Class 41: Education

- **Relevant public:** general and professional public.
- **Meaning of the sign:** ‘the activity or business of producing and directing films’.
- **The services at issue:** refer to any activity or program designed to provide knowledge, training, and learning opportunities through courses, workshops, seminars or programs. By their nature, these services are capable of relating to a specific subject matter.
- **Direct relationship:** Education services can be structured and promoted according to the specific subject matter they cover, such as language learning, science, art, or technology. The term is commercially relevant in relation to these services, and the relevant public will immediately perceive the sign as a description of the specific subject matter of the services (i.e. education or training focused on creating films). Thus, ‘FILM-MAKING’ will describe an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**HELMET**

Class 41:  
Sporting and  
cultural  
activities

- **Relevant public:** general and professional public.
- **Meaning of the sign:** ‘a hat made of a strong material which you wear to protect your head’.
- **The services at issue:** are aimed at offering sporting and cultural activities (i.e. activities that involve physical exertion, skills and competition or the participation in or appreciation of activities related to arts, traditions and/or creative expressions). They can be tailored or adapted depending on a specific sport. Thus, by their nature, these services are capable of relating to a specific subject matter.
- **Direct relationship:** While sporting and cultural activities may occasionally involve the use of helmets – for example, in cycling, motor racing, or traditional cultural performances – it is commercially unlikely that such activities will focus exclusively on helmets. Multiple mental steps are required to link the sign ‘HELMET’ directly to the subject matter of the services. Thus, the term is not commercially relevant in relation to the services. Consequently, when confronted with the sign ‘HELMET’ in relation to sporting and cultural activities, the relevant public will not perceive it as a description of the specific subject matter of the services.

**Not descriptive of the subject matter of the services at issue**

2.3.7

## Examples of signs applied for services in Class 42



## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

**Sign:**

**E-SECURITY**

Class 42:  
Software as a  
Service (SaaS)

- **Relevant public:** general and professional public.
- **Meaning of the sign:** ‘E-SECURITY’ as a whole will be understood as referring to security measures or services related to digital environments, the internet, or electronic systems.
- **The services at issue:** refer to the cloud-based delivery of software applications accessible via the internet. These services may offer a wide variety of functionalities, including both content-driven and task-oriented solutions, and can be specifically designed around a particular subject matter. The subject matter around which a Software as a Service (SaaS) solution is developed plays a central role in how the service is developed, positioned on the market, and selected by users. By their nature, these services are capable of relating to a specific subject matter.
- **Direct relationship:** To meet the specific needs of clients, these services are often tailored around a specific subject matter, such as online security. Therefore, the term is commercially relevant in relation to these services and the relevant public will immediately perceive the sign as a description of their subject matter (i.e. that they relate to the field of digital security). Thus, in this case, ‘E-SECURITY’ is considered an inherent characteristic of the services at issue.

**Descriptive of the subject matter of the services**

## 2.3 Examples on how to perform the assessment of signs describing the subject matter of the goods and/or services

Sign:

**MOUSE  
GEEK**

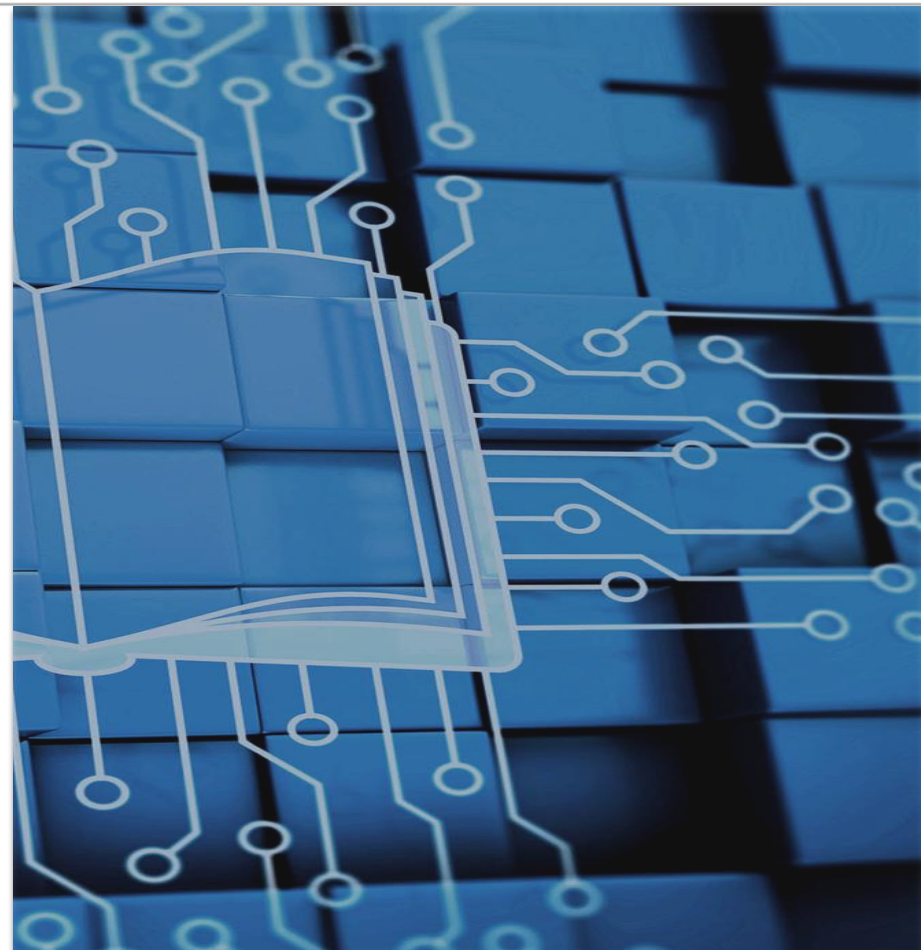
Class 42:  
Computer  
software design

- **Relevant public:** professionals.
- **Meaning of the sign:** 'MOUSE GEEK' as a whole will be understood as referring to a person who is particularly knowledgeable or enthusiastic about computer mice or, more broadly, computer technology or accessories.
- **The services at issue:** involve creating, developing, and maintaining software applications tailored to meet the needs of various users or industries. By their nature, these services can be designed to address specific subject matters, depending on the software's purpose or target market. Thus, they are able to relate to a specific subject matter.
- **Direct relationship:** The term 'MOUSE GEEK' does not correspond to a commercially relevant category within computer software design services and, as such, does not immediately provide information about the content of the services. When confronted with the sign in connection with the services, the relevant public will not perceive it as a description of the specific subject matter of the services, as it is unlikely that such services would focus on mouse technology or target a niche audience defined by the term.

**Not descriptive of the subject matter of the services at issue**

**3**

# **CP16 IMPLEMENTATION**



## CP16 Implementation



### Access the CP

<https://www.euipn.org/en/practices>



### Publication date



**16/02/2026**



### Implementation period (max. 3 months after publication)



**16/02/2026 until 16/05/2026**

## CP16 Common Practice

### Overview of implementations

Overview of implementations of the CP16 Common Practice			
Office	Implementation date	The Common Practice will be applicable to:	
		Proceedings <u>pending on</u> the implementation date	Proceedings <u>initiated after</u> the implementation date
AT	16.02.2026		X
BG	16.05.2026	X	X
BX	16.02.2026	X	X
CY	16.05.2026		X
CZ	16.05.2026		X
DE	16.02.2026	X	X
DK	01.03.2026	X	X
EE	16.02.2026	X	X
ES	16.04.2026		X
EUIPO	16.02.2026	X	X
FI	16.02.2026	X	X
FR	16.02.2026		X
GR	16.03.2026		X

Overview of implementations of the CP16 Common Practice			
Office	Implementation date	The Common Practice will be applicable to:	
		Proceedings <u>pending on</u> the implementation date	Proceedings <u>initiated after</u> the implementation date
HR	16.02.2026		X
HU	01.03.2026	X	X
IE	16.02.2026		X
IT	01.03.2026		X
LT	01.04.2026	X	X
LV	16.02.2026	X	X
MT	16.02.2026		X
PL	16.05.2026		X
PT	16.02.2026		X
RO	27.04.2026	X	X
SE	16.05.2026	X	X
SI	16.02.2026		X
SK	16.02.2026	X	X

## Where can I find the Common Practices and related documents?



[www.euipn.org](http://www.euipn.org)

- The EUIPN's website
- Information on ECPs, Tools, Practices, events and news
- Available in 23 EU languages

### EU Common Practices

Best practices for a more efficient, predictable and accessible European IP system



#### Practices page:

- Contains all Common Practices, categorised into **trade marks** and **designs**
- Each Common Practice page also contains any **related documents** such as training materials.



## Further information on EUIPN.org and webinars

	Common Practices and other materials	Webinars
CP1	<a href="#">Acceptability of Classification Terms and the General Indications of the Nice Class Headings</a>	
CP2	<a href="#">Interpretation of Scope of Protection of Nice Class Headings (formerly Implementation of 'IP Translator')</a>	
CP3	<a href="#">Distinctiveness - Figurative Marks containing descriptive/non-distinctive words</a>	<a href="#">Distinctiveness - Figurative marks containing descriptive/non-distinctive words</a>
CP4	<a href="#">Scope of Protection of Black and White Marks</a>	<a href="#">Scope of Protection of Black and White Marks</a>
CP5	<a href="#">Relative Grounds – Likelihood of Confusion (Impact of Non-Distinctive/Weak Components)</a>	<a href="#">Relative Grounds of Refusal – Likelihood of Confusion (Impact of non-distinctive/weak components)</a>
CP6	<a href="#">Graphic Representation of Designs</a>	<a href="#">Graphic representation of designs</a>
CP7	<a href="#">Harmonisation of Product Indications</a>	<a href="#">Harmonisation of Product Indications (Phase 1)</a> <a href="#">Harmonisation of Product Indications (Phase 2)</a>
CP8	<a href="#">Use of a trade mark in a form differing from the one registered</a>	<a href="#">Use of a mark in a form differing from the one registered</a>

## Further information on EUIPN.org and webinars

	Common Practices and other materials	Webinars
CP9	<a href="#">Distinctiveness of three-dimensional marks (shape marks) containing verbal and/or figurative elements when the shape is not distinctive in itself</a>	<a href="#">Distinctiveness of shape marks</a>
CP10	<a href="#">Criteria for assessing disclosure of designs on the internet</a>	<a href="#">Disclosure of design on the Internet</a>
CP11	<a href="#">New types of Marks: Examination of Formal Requirements and grounds for refusal</a>	<a href="#">New Common Practices 2021: new types of trade marks and appeal proceedings</a>
CP12	<a href="#">Evidence in Trade Mark Appeal Proceedings: Filing, structure and presentation of evidence, and the treatment of confidential evidence</a>	<a href="#">New Common Practices 2021: new types of trade marks and appeal proceedings</a>
CP13	<a href="#">Trade mark applications made in bad faith</a>	<a href="#">Common Practice on trade mark applications made in bad faith (CP13)</a>
CP14	<a href="#">Trade marks contrary to public policy and/or to accepted principles of morality</a>	<a href="#">Common practice on trade marks contrary to public policy or to accepted principles of morality (CP14)</a>
CP15	<a href="#">Comparison of goods and services: treatment of terms lacking clarity and precision and common interpretation of Canon criteria and other factors</a>	<a href="#">Common practice on Comparison of Goods and Services (CP15)</a>
CP16	Signs describing the subject matter of goods and/or services	
CP17	The distinctive character of slogans	



**EUIPO**  
EUROPEAN UNION  
INTELLECTUAL PROPERTY OFFICE

[www.euipo.europa.eu](http://www.euipo.europa.eu)



[@EU\\_IPO](https://twitter.com/EU_IPO)



[EU IPO](https://www.linkedin.com/company/euipo)



[EUIPO.EU](https://www.facebook.com/EUIPO.EU)



[@EUIPO](https://www.instagram.com/EUIPO)



[EUIPO](https://www.youtube.com/EUIPO)

**THANK YOU**