



Press Release CP/07/01

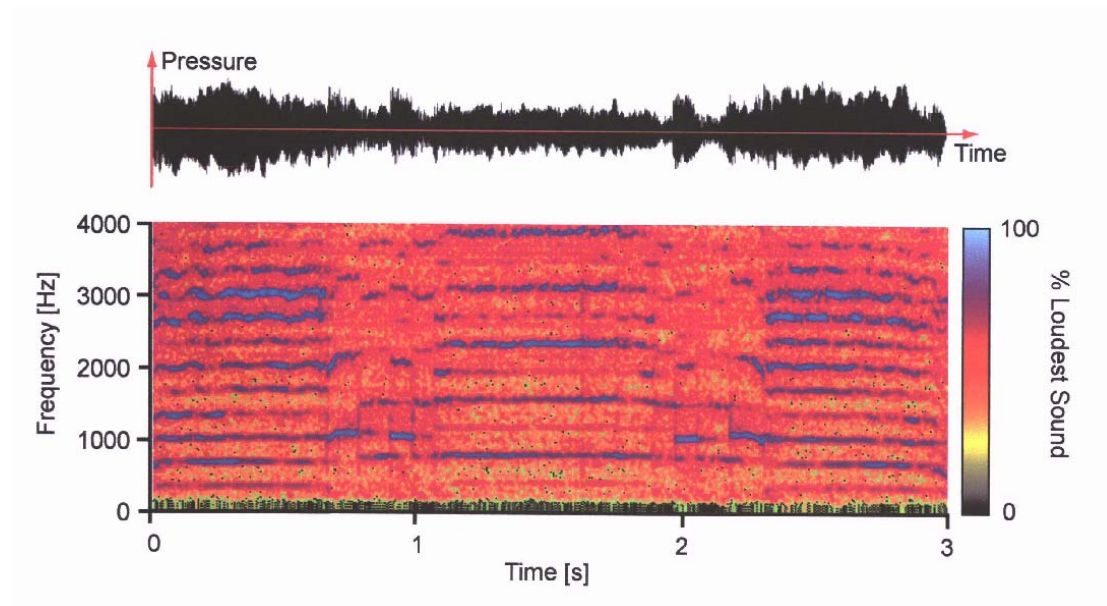
Alicante, 05/11/2007

Tarzan's trade mark yell

We all know that Tarzan of the Apes, the character created by US novelist Edgar Rice Burroughs, has a distinctive call – at least in the film versions of the story.

Over the years the European trade marks and designs office, OHIM, based in Alicante, has received three applications to register this call – made famous by US film star Johnny Weissmuller – as a Community Trade Mark.

The first application, in February 2004, included a graphic representation of the call. This was refused by OHIM examiners on the grounds that it did not comply with the requirement that the graphic representation of the mark must be clear, precise, self-contained, easily accessible, intelligible, durable and objective and concise. OHIM's independent Boards of Appeal confirmed the objection of the examiner on 27 September, 2007.



- Application for a sonogram now refused by the Boards of Appeal

However, a second application for a musical notation, also made in February 2004, was accepted for registration as it complied with the above formalities and the “yell” which it described was judged to be distinctive.



- Application for a musical notation

In addition, a third application, made in May 2006, combining a sonogram with an MP3 sound file is currently going through the registration process. It has been published so that interested parties have a chance to decide whether or not to object. This has been made possible by a change in legislation in 2005, which means that the Office is able to accept sonograms provided they are accompanied, at the time of the filing, by an MP3 sound file.

The refusal of the original 2004 application has generated intense media interest. Can sounds be trade marks? The answer is clearly yes. In fact, over the past ten years OHIM has registered around 40 sound marks.

OHIM trade mark lawyer Wouter Verburg says: “We are getting increasing interest in this area – everything from Tarzan’s call to a lion’s roar. If they comply with the formalities and are distinctive they can be registered, and we now accept MP3 files as part of this process, provided they are filed together with the sonogram. As technology moves on we have moved too.”

News Release from the Office for Harmonization in the Internal Market (Trade Marks and Designs).

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