Dissolution of the Netherlands Antilles

Netherlands Antilles ceased to exist. Action required before October this year to maintain trademark rights in Dutch oversees territory. NautaDutilh fully authorized to file confirmative applications for the Caribbean Netherlands.

The end of the Netherlands Antilles

As a result of a state reorganization per 10 October 2010, the Netherlands Antilles have ceased to exist. Bonaire, St. Eustatius and Saba are now municipalities of the Netherlands and are referred to as the BES Islands. The two other islands, Curaçao and St. Maarten, have become countries within the Kingdom of the Netherlands.

Separate TM registration required for BES Islands

Although the BES Islands are part of the Netherlands, trademark protection for these islands is not covered by a Benelux or CTM registration. The applicable trademark law in the BES Islands is the Trademarks Act BES (TAB) which is largely the same as the current Netherlands Antilles legislation. However, there is no provision for examination on absolute grounds.

NautaDutilh authorized representative for BES Islands

The Benelux Trademarks Office has been appointed to handle the trademark applications and registrations for the BES Islands. NautaDutilh is fully authorized to act as a trademark agent for the Caribbean Netherlands and we can manage your BES Islands portfolio directly from our Amsterdam office.

Confirmative application required before 10 October 2011

In order to maintain your existing national Netherlands Antilles trademark rights for the BES Islands, it will be necessary to file a confirmative application before 10 October 2011. For maintaining your national rights in Curaçao and St. Maarten, there is still uncertainty what steps are required. It is expected that these countries will install a transitional system similar to the BES Islands. We will keep you updated on further developments in this respect.

International registrations changed automatically

International registrations designating the Netherlands Antilles (registrations with country code AN) are treated differently. They will be automatically changed by WIPO to cover the new territories, without the need for further action. At present WIPO is working on subdividing the AN trademarks. The Caribbean Netherlands’ country code will be BQ. Curaçao will be CW and St. Maarten SX. New international registrations must specify for which part of the former Netherlands Antilles the protection is required.

Office expected to be up and running by March 2011

Meanwhile, the Benelux Office has started to accept the first applications (approximately 70 until now), most of which are confirmative applications. The Office is building a database and installing an electronic workflow system, which should result in the first official publication around March 2011. Applications filed until then will be processed but obtaining a certificate of registration is not yet possible. Also it is not yet possible to conduct a trademark search through the Office database.
Confirmative applications can be filed
If your trademark portfolio in the Netherlands Antilles is handled by NautaDutilh, you have already received most of the above information early October last year. You can instruct us now to:

1. File a confirmative application in order to safeguard the BES Islands part of your existing Netherlands Antilles rights. An existing registration in the Netherlands Antilles has to be confirmed before October 10, 2011 to continue to cover the BES Islands. Please provide us with the details of the existing Netherland Antilles registration (if not available we can obtain a certified copy for you). A renewal can be done simultaneously. The costs for preparing and filing the confirmative application amount to Euro: 275,-

2. File a new application to cover the BES Islands. One application will cover the Caribbean Netherlands, consisting of the three islands. The costs for preparing and filing an application according to the standard classification in 1 up to 3 classes amount to Euro: 675,-

3. Perform any other prosecution work related to the BES Islands. Please ask for our schedule of fees.

Contact
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