

FORM FOR

INSTRUCTIONS FOR A SEARCH IN THE BENELUX



PLEASE FILL IN AND RETURN TO :

	in Diegem :	Holidaystraat 5	B-1831 Diegem	Fax : 02 715 37 00
GEVERS & PARTNERS	in Brussels :	Rue de Livourne 7	B-1060 Bruxelles	Fax : 02 720 50 70
	in Liège :	Rue Sainte-Croix 4	B-4000 Liège	Fax : 04 252 56 90
GEVERS & ASSOCIATES	in Ghent :	Kouter 1, b.3	B-9000 Gent	Fax : 09 234 24 75
GEVERS ANTWERPEN	in Antwerp :	Frankrijklei 53-55, b.5	B-2000 Antwerpen	Fax : 03 206 99 50

Before sending your instructions, we advise you to carefully read the explanations on the back of this page

Please perform a search according to the following instructions :

NAME TO BE SEARCHED

DEADLINE	Non urgent	2 to 3 weeks
	Standard	5 to 7 working days
	Express	2 to 3 working days
	Priority	24 hours – result by fax

COMPLETE SEARCH – BENELUX

Products and/or services concerned	
Class(es)	

WITH LEGAL OPINION

WITHOUT LEGAL OPINION

IDENTICAL SEARCH – BENELUX

Products and/or services concerned	
Class(es)	

COMPANY NAME SEARCH **BELGIUM** **NETHERLANDS** **LUXEMBOURG**

	Correspondence to be sent to :	If different from the correspondence address, Debit notes to be sent to :
Firm	.....	.....
Attn of	.....	.....
Full address	.....	.....
Tel nr	.....	.....
Fax nr	.....	.....
VAT nr	.....	.....

Please let us have additional information concerning the following countries :

We have noted from the annexed information sheet the costs which are to be anticipated and the limits of the search.

Date :

Signature :

**We would advise you to use this form : it enables you to give us the most complete information.
If, for some reason, you would choose not to use this form, please let us have exactly the same information.**

1) COMPLETE SEARCH AMONG TRADEMARKS - BENELUX

You have chosen a mark which appears commercially appealing. Before filing an application to register your mark, it is highly recommended to ensure its availability. In fact, according to legal requirements, a mark must be AVAILABLE :it should in other words not infringe third party rights.

The objective of the complete anteriority search is to reveal marks which are **identical** and **similar** to yours. The result of the search will enable you to measure the risk you could run by using your mark.

On your request, we can provide you with a short legal opinion on the search result.
The search covers the following registers :

- BENELUX trademarks,
- COMMUNITY trademarks,
- trademarks filed under the Madrid System (Agreement and his Protocol) – also called INTERNATIONAL trademarks – valid in the Benelux.

2) IDENTICAL SEARCH AMONG TRADEMARKS - BENELUX

An identical search merely enables you to establish whether an application for the mark you wish to adopt has already been filed or not. This search is performed in the same above mentioned documentation.

It concerns only the marks which are **strictly** identical. Therefore, this type of search is insufficient for a complete evaluation of the risks connected with the use of your mark.

3) COMPANY NAME SEARCH - BELGIUM - NETHERLANDS - LUXEMBOURG

It is possible that the mark you have chosen is identical or similar to a company name which might prevent you from using your mark (Appeal Court of Brussels, 22 February 1990 : trademark NOGUEIRA, used for wines, was held to be infringing the rights derived from the company name NOGUEIRA, used for a wine trade).

It is therefore recommended to perform a search among the company names and trade names. This type of search is however less exhaustive than a trademark search : it is limited to strictly identical names. However, in the case of the company name search in Belgium, some phonetically identical names could be revealed.

THE RESTRICTIVE NATURE OF THE SEARCH

- ❑ We suggest that you read § 17 “Anteriority Search” in our brochure “TRADEMARK INFORMATION”.
- ❑ In almost all countries, anteriority searches are carried-out on computer. Sophisticated algorithms allow us to find not only identical marks, but also those which are phonetically similar. The question of identity and the similarity of goods and services is based on the “International Classification” (45 classes).
- ❑ The interpretation of the search results is a matter for specialists : we can give you advise on this subject. For all the trademarks which are older than five years, it is necessary to verify if and for what goods and services it has been used.
- ❑ Even though the greatest care is taken, it is impossible to guarantee the results of an anteriority search : this depends on the outcome of all documentary research and on the subjective character and appreciation of similarity. It is also important to emphasize the importance of the following :
 - the search normally covers all the marks which are in force. However, it takes a while to insert newly filed trademarks. Watch out for the Unionist Priority (see “How to protect your marks ?”, § 16);
 - in certain conditions, new legislations allow a mark to be protected against encroachment of a third party’ mark, whether it be identical or similar, even in the case where goods are totally different : it is very difficult to detect such trademarks;
 - the goal of the search is to determinate the availability of a mark : are there any pre-existent rights ? In the largest majority of cases, these rights are formed by the filed trademarks, but other type of marks can equally be pre-existent, notably commercial names (company names) and, in some countries, marks for use. It is possible but difficult, to carry-out searches amongst these signs.

**All anteriority searches are executed under the above mentioned terms.
We therefore decline all responsibility for eventual mistakes or omissions.**