



## BROCHURE RE-ESTABLISHMENTS

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This brochure was downloaded from:

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## 1. Re-establishments

Elsewhere on this website we refer to for instance trademarks, designs and patents. These rights are granted in procedures before competent authorities, such as the European Patent Office, the Trademarks and Designs Registration Office of the European Union (OHIM) and the Benelux Office for Intellectual Property (BOIP).

### *Performing formalities in time*

Both during that procedure and after registration there are certain formalities that have to be performed in order to maintain the right and to prevent the right from expiring. For instance for a patent an amount has to be paid annually (a so-called annuity), the registration of a trademark has to be renewed every 10 years and a design every 5 years. Should a required formality not be performed in time, the right will expire.

### *Correcting errors*

Fortunately legislation provides for the possibility of correcting an error by means of restoration proceedings. In these proceedings it will have to be proven on the basis of arguments that the right expired despite observing due care under the circumstances given. Such restoration proceedings are possible before the Dutch Patent Office, the European Patent Office, the Trademarks and Designs Registration Office of the European Union, however not before the Benelux Office for Intellectual Property.

### *Criteria*

In general the bar is set high. A request for restoration therefore has to be meticulously substantiated. The criteria are much stricter than for instance is the case in the United States of America, where –in short- it may suffice to prove that the loss of the right was unintentional.

## 2. Vriesendorp & Gaade

Should your patent, trademark or design lapse whereas this was not meant to happen, the specialists of Vriesendorp & Gaade will be happy to file a request for restoration on your behalf. We have quite some experience in those matters.