



Trademarks

- What is a trademark?
 - A sign which can distinguish your goods and services from those of another trader e.g. words, logo, pictures
 - Used as a marketing tool
- Prevents competitors using a similar or identical sign for similar or identical services
- Can be registered or un-registered
- Renewable every 10 years (if registered)

Trademarks: What you can't trademark

- You can't trademark:
 - Any description of your goods or services
 - e.g. Tasty Foods
 - Any sign that has become customary in your line of trade
 - Or are not distinctive
 - e.g. 7 days a week
 - many suppliers offer services 7 days a week
 - Emblems, hallmarks, flags
 - 3 dimensional shapes
 - Anything deceptive



Trademarks: Certification and Collective Marks

- Certification Marks

- To distinguish certified goods from non-certified goods
- The goods have been examined by an independent organisation



- Collective Marks

- Goods and services provided by a member of an association
- Can only be used by a member
- Owned by the association for the benefit of the members



Trademarks: Passing Off

- 'Passing Off' is using an unregistered trademark to represent goods and services as their own
- Can take common law action but need to show that:
 - You trade in the relevant line of business
 - The public associate the mark you're offering
 - There is the likelihood of deception
 - You have suffered a loss
- It can be difficult to prove passing off, it is easier to show an infringement of a registered trademark

Trademarks: Infringement case

- Red Bull registered trademark in UAE
- In 2003, a trader fined for importing Bullfighters drink
- Red Bull argued 'the competitor was misleading customers into believing that its product was a Red Bull product ...due to its similar name and packaging, and hence carried the benefits and qualities that Red Bull offers.'



Trademarks: Marking

- Blogg's Shoes™ shows that the mark is being used as a trademark (not necessarily registered)
- Blogg's® or RTM shows that the mark is registered
 - But it is illegal to use ® or RTM if it is not registered



Be aware

- You can not make changes to your application
- Application fees are not refundable
- If your trademark application is not successful, there is a period of 2 months to negotiate/make changes
- It is important to check if no such prior art exists
- Fees in the UK vary between £200 and £300; it takes around 10 days for examination report and registration
- You can apply for EU trademark at OHIM or Madrid Protocol through WIPO
- More info: <http://www.wipo.int/trademarks/en/>
- And <http://oami.europa.eu/ows/rw/pages/index.en.do>

Quiz

- What is a trademark?
- A pretty picture
- A sign that differentiates your goods as different from someone else's
- A logo that proves you are best in the market

Quiz

- A trademark should...
 - a) Be distinctive for the goods which you are applying to register it for
 - b) Tell the consumer exactly what your goods are
 - c) Be bright and colourful

Quiz

- What would be a distinctive trademark?
 - a) An invented word
 - b) A hologram with an ® after it
 - c) A picture of the goods or services

Quiz

- What would be a bad trademark?
 - a) 'NIMROD' for clothing
 - b) 'Pressed for time' for laundry services
 - c) 'Budget cars' for car rental

Quiz

- Which would be a good trademark?
 - a) FARNOOZ for financial advisory services
 - b) TASTYFOODS for baby food
 - c) 7 DAYS A WEEK for services

Quiz

- Which is a bad trademark
 - a) A picture of an ant for building construction services
 - b) 3 HOUR FIX for plumbing services
 - c) NUGGET for tents

Quiz

- POLO is a trademark for
 - a) Sweets
 - b) Cars
 - c) Both

Patents

- What is a patent?
 - An IP right granted by a country's government as a territorial right for a limited time (20 years)
 - Patent rights make it illegal for anyone (without the owners permission) to make, use, import, or sell in the invention where the patent is granted
 - Therefore, patents allow you to:
 - sell the invention and all the intellectual property (IP) rights
 - license the invention to someone else but retain all the IP rights
 - discuss the invention with others in order to set up a business based around the invention

Patents

- What does a patent cover?
 - Products or processes that contain new technical aspects
 - How things work
 - How they are made
 - What they are made of
- A patent has to be:
 - New, novel
 - Inventive, not obvious
 - Be capable of industry application, have a technical effect

Patents

- What cannot be patented:
 - Discoveries
 - Theories
 - Mathematical methods
 - Literary, musical, dramatic works
 - Methods of medical treatment
 - Animal or plant variety

Patents

- Structure of a patent:
 - A document (specification) containing
 - **An abstract**
 - A summary
 - **A description**
 - Background and a 'surprising effect'
 - **The claims**
 - The legal definition of the invention
 - **Figures**
 - Black and white

Patents

- Identifying patented products
 - There is no specific mark to show that a product is protected by a patent
 - Marking products may stop others unintentionally infringing your patent rights
 - It is an offence to mark as such if there is no application or patent in force
- How to check if your invention is new?:
 - do a search yourself (ex. through patbase) at <http://www.espacenet.com/index.en.htm>
 - Pay organisation to do the search for you
- For more info, <http://www.epo.org/patents.html>

Quiz

- Which of the following you be able to patent
 - a) A literary work
 - b) A scientific theory
 - c) A technological advance

Quiz

- If you apply for a patent in the UK where do you have protection?
 - a) Europe
 - b) The UK only
 - c) Any country

Quiz

- Which of the following must your invention include to be granted as a patent?
 - a) An inventive step
 - b) Be capable of being made or used
 - c) Have a different appearance

Quiz

- A patent gives the owner the right to
 - a) Collect a monetary award from the government
 - b) Keep others from making, using or selling the invention
 - c) make the invention

Quiz

- A claim is
 - a) A formal request for a patent
 - b) A statement which defines the scope of the patent
 - c) Referred in the description

Any Questions?