

What is a Trademark?

Trademark:

- A distinctive sign which identifies the goods and services of one company from those of another
- A trademark helps consumers to identify and choose between products/services based on their reputation and quality



**Coca-Cola
registered
since 1887**



**Nike
registered
since 1971**

Trademark

Different types of trademarks:

■ Word e.g. **DELICJUSZ**

■ Logo e.g.



■ Word/Logo e.g.



Trademark

Different types of trademarks

- Numerals/Letters



- 3D



- Slogans **RADOŚĆ SMAKU DLA DOROSŁYCH I DZIECIAKÓW**

Trademark

Different types of trademark

- Well-known mark
- Collective mark?
- Certification mark?



POLLENA





Requirements for a Good Trademark

- Distinctive (unique)
- Not descriptive
- Not similar or identical



Distinctive

Distinctive (unique) and not descriptive for the type of product or service being registered

but

if descriptive, it can be registered only if sufficient evidence of use is presented - acquired distinctiveness

DISTINCTIVENESS

CHEESE FROM
DENMARK



TENNIS SHOES

ADIDAS TENNIS SHOES

Distinctive

Yes

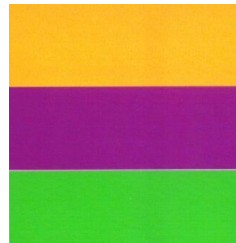
No

■ Word

SUPPER

Super

■ Logo



■ Word/Logo



PREMIUM

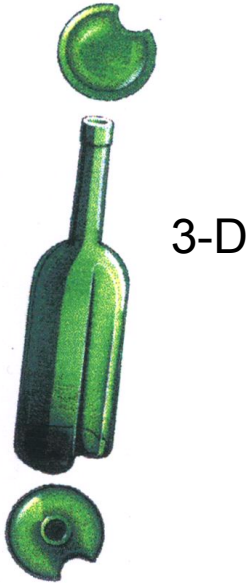


New Kinds of Trademarks

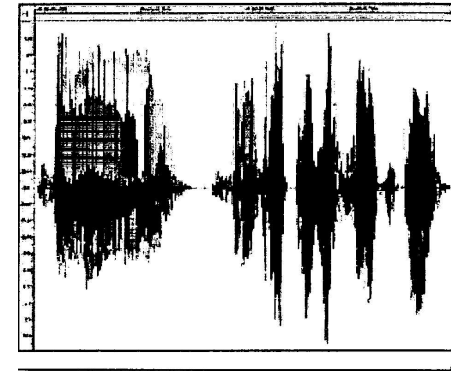
- 3-dimensional
- Sound
- Smell
- Feel
- Moving
- What the future brings
- Colours

Important: Graphic
reproduction!

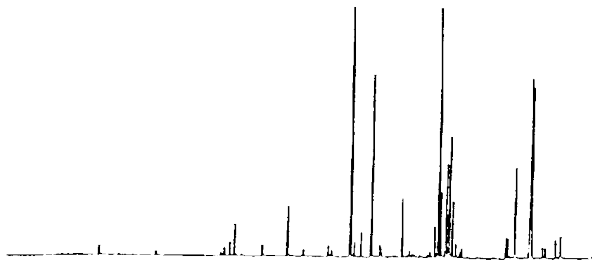
EXAMPLES



SOUND



"The smell of freshly cut grass"



SMELLS

Distinctiveness

- 3D



- Slogan

COCA-COLA IS THE MUSIC

÷ THE BEST PIZZAS
UNDER ONE ROOF

+ PEPSI THE CHOICE OF A
NEW GENERATION

Exercise

■ Half price for clothes



■ Jaguar for cars



■ Tetley for tea bags



■ Handy for chainsaws



Similar/Identical

- If it concerns the same or similar/identical products and services:

The name of product/service cannot be similar or identical to a previous mark

however

- The same similar/identical brand name can be used for different products/services in different classes

but

- Well-known marks have a broader scope



Similar/Identical

Meaning the way the mark is:

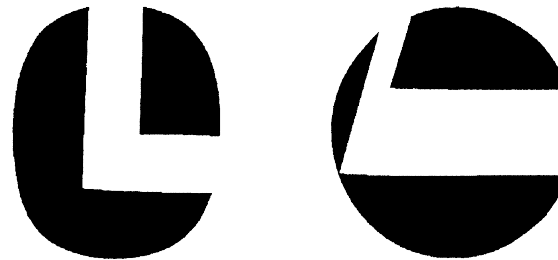
- Written
- Looks
- Phonetic (sounding)
- Conceptual similarity

Similar/Identical - Examples

- Written

Cool/Kool

- Looks



- Sounding

Basket / Buskit
For You/ 4 U

- Conceptual

Star/Stern

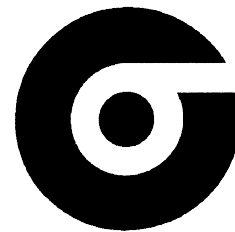
Exercise

- Riverland
- Zymlin
- Eurica

Timberland

Xymelin

Erika



joran®



Varied Protection of a trademark

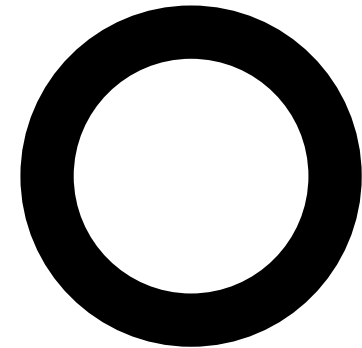
How close can you get to another trademark?

- Strong trademark gives wider protection
- Weak trademark gives less protection

Examples – Strong/Weak

PRINCE

DERMATECH



SAMSUNG



BP



Classification system

- Like a library system
- 45 classes
- Important to make a good list of goods and services
- Think 5 years ahead



How to apply

- Sprawdź, czy nie naruszasz praw osób trzecich;
- Złóż prawidłowo wypełniony formularz zgłoszenia i wnieś stosowne opłaty; (w przypadku wątpliwości skorzystaj z profesjonalnej pomocy rzecznika patentowego);



International Protection

Trademark filed:

- National Office – acquires national protection
- EU system:
 - OHIM – acquire protection in 25 member states
- International system:
 - Madrid Protocol – member states

EU Trademark - Community Trade Mark

- Covers the entire European Community – 25 Member States
- Apply at the OHIM Offices in Alicante (e-filing accepted) (or National Office)
- Fees (can be viewed at the OHIM website: www.oami.europa.eu)





Obtaining an EU trademark

There are some differences between the National trademark system and the EU system:

- Distinctiveness
- Similarity

International filing

- Madrid
- National Applications e.g. in Australia, USA
- Priority claimed for a Polish application within 6 months



INTERNATIONAL APPLICATION

4 APPOINTMENT OF A REPRESENTATIVE (if any)
 Name: Sandel, Løje & Wallberg
 Address: Frederiksgade 7
 P. O. Box 9006
 DK-1265 København K
 Telephone: (+45) 33 11 46 22 Fax: (+45) 33 11 46 23
 E-mail address: mail@slw.dk

5 BASIC APPLICATION OR BASIC REGISTRATION
 Basic application number: VA 2004 05049 Date of the basic application: 20/12/2004 (dd/mm/yyyy)
 Basic registration number: Date of the basic registration date: (dd/mm/yyyy)

6 PRIORITY CLAIMED
 The applicant claims the priority of the earlier filing mentioned below.
 Office of earlier filing: Denmark
 Number of earlier filing (if available): VA 2004 05049
 Date of earlier filing: 20/12/2004 (dd/mm/yyyy)
 If the earlier filing does not relate to all the goods and services listed in item 10 of this form, indicate in the space provided below the goods and services to which it does relate:

 If several priorities are claimed, check box and use a continuation sheet giving the above required information for each priority claimed.

7 THE MARK
 (a) Place the reproduction of the mark, as it appears in the basic application or the basic registration, in the square below. (b) Where the reproduction in item (a) is in black and white and color is claimed in item 8 of this form, place a color reproduction of the mark in the square below

BEOLIVING

(c) The applicant declares that he wishes the mark to be considered as a mark in standard characters.
 (d) The mark consists of a color or a combination of colors as such.

Where the Office of origin has addressed this form by telefacsimile, the present space must be completed before addressing the original of this page to the International Bureau.
 Number of basic registration or Office reference as shown on the first page of this form: VA 2004 05049

Signature by the Office of origin:

11 DESIGNATED CONTRACTING PARTIES

Check the corresponding boxes

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> AG Antigua and Barbuda | <input type="checkbox"/> DK Denmark | <input type="checkbox"/> KP Kyrgyzstan | <input type="checkbox"/> PL Poland |
| <input type="checkbox"/> AL Albania | <input type="checkbox"/> EE Estonia | <input type="checkbox"/> KP Democratic People's Republic of Korea | <input type="checkbox"/> PT Portugal |
| <input type="checkbox"/> AM Armenia | <input type="checkbox"/> ES Spain | <input type="checkbox"/> KR Republic of Korea | <input type="checkbox"/> RO Romania |
| <input type="checkbox"/> AN Netherlands Antilles | <input type="checkbox"/> FI Finland | <input type="checkbox"/> LI Liechtenstein | <input checked="" type="checkbox"/> RU Russian Federation |
| <input type="checkbox"/> AT Austria | <input type="checkbox"/> FR France | <input type="checkbox"/> LS Lesotho | <input type="checkbox"/> SE Sweden |
| <input type="checkbox"/> AU Australia | <input type="checkbox"/> GB United Kingdom ¹ | <input type="checkbox"/> LT Lithuania | <input type="checkbox"/> SG Singapore ¹ |
| <input type="checkbox"/> BG Bulgaria | <input type="checkbox"/> GE Georgia | <input type="checkbox"/> LV Latvia | <input type="checkbox"/> SI Slovenia |
| <input type="checkbox"/> BT Bhutan | <input type="checkbox"/> GR Greece | <input type="checkbox"/> MA Morocco | <input type="checkbox"/> SK Slovakia |
| <input type="checkbox"/> BX Benelux | <input type="checkbox"/> HR Croatia | <input type="checkbox"/> MC Monaco | <input type="checkbox"/> SL Sierra Leone |
| <input type="checkbox"/> BY Belarus | <input type="checkbox"/> HU Hungary | <input type="checkbox"/> MD Republic of Moldova | <input type="checkbox"/> SY Syrian Arab Republic |
| <input type="checkbox"/> CH Switzerland | <input type="checkbox"/> IE Ireland ¹ | <input type="checkbox"/> MK The former Yugoslav Rep. of Macedonia | <input type="checkbox"/> SZ Swaziland |
| <input checked="" type="checkbox"/> CN China | <input type="checkbox"/> IR Iran (Islamic Republic of) | <input type="checkbox"/> MN Mongolia | <input type="checkbox"/> TM Turkmenistan |
| <input type="checkbox"/> CU Cuba | <input type="checkbox"/> IS Iceland | <input type="checkbox"/> MZ Mozambique | <input type="checkbox"/> TR Turkey |
| <input type="checkbox"/> CY Cyprus | <input type="checkbox"/> IT Italy | <input type="checkbox"/> NA Namibia | <input type="checkbox"/> UA Ukraine |
| <input type="checkbox"/> CZ Czech Republic | <input checked="" type="checkbox"/> JP Japan | <input type="checkbox"/> NO Norway | <input checked="" type="checkbox"/> US United States of America ² |
| <input type="checkbox"/> DE Germany | <input type="checkbox"/> KE Kenya | <input type="checkbox"/> YU Serbia and Montenegro | <input type="checkbox"/> ZM Zambia |

Others:

¹ By designating Ireland, Singapore or the United Kingdom, the applicant declares that he has the intention that the mark will be used by him or with his consent in that country in connection with the goods and services identified in this application.

² If the United States of America is designated, it is compulsory to annex to the present international application the official form (MM18) containing the declaration of intention to use the mark required by this Contracting Party.



Consequences of infringing

If you infringe someone else's trademark or design, you may risk:

- Injunction, which means that all the infringer's products with the infringing trademark on or the same design can be removed from the market
- Destruction of products
- Being given a fine
- Being sentenced to imprisonment (in gross cases)

Consequences of infringing

- Paying damages to the trademark or design owner
e.g. Burberry vs. Zebra



Why register?

- To have an exclusive right
- Stop others from copying
- Certificate of ownership



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