

OVERVIEW ON INTELLECTUAL PROPERTY RIGHTS (IPR)



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Remark:

Some contents and examples used in the following slides were taken from “*Patent teaching kit*” of the *European Patent Academy* and from tutorials and guidelines provided by the *European Patent Office*

DEFINITION

Intellectual property is a term referred to types of property that result from **creations** of the human mind (the “intellect”). **Intellectual property rights (IPRs)** are specific **legal rights** given to inventors, creators and other right holders over such creations.

IPRs usually give the creator an **exclusive right** over the use of his/her creation. Specifically, they prevent any third party from copying, making, offering, selling, importing, exporting the “creations” covered by an IPR, for a **limited period of time and for a defined territory**.

IPRs Comprise:

- (i) **Industrial property rights**, created to stimulate innovation and creation of technology and services, to stimulate and ensure fair competition, to protect consumers
- (ii) **Copyright** and rights related to copyright, created to encourage and reward creative work.

The social purpose is to provide protection for the results of investment in the development of new technologies, thus giving the incentive and means to finance research and development activities.

FREE COMPETITION

DISEGN

*NEW PLANT
VARIETY*

PATENT

UTILITY MODELS

TRADEMARK

COPYRIGHT

MONOPOLY

OVERVIEW OF INTELLECTUAL PROPERTY

Legal right	What	How ?	How long?
Patent and Utility Models	New Invention	Application and examination	20 years (patents) 10 years (UM)
Trade Marks	Distinctive identification of products and services	(Use) and/or registration	If registered, 10 years, renewable
Registered Design	External Appearance	Registration	5 years, renewable up to 25
New Plant Variety	Plant Varieties	Application	20 – 30 years
Copyright	Original creative artistic forms	Exists automatically	50-100 years after the author's death
Trade Secret	Valuable information not known to the public	Reasonable efforts to keep secret	Unlimited

GENERAL FEATURES FOR IPR

WHAT

Each IPR protects specific “creations of the intellect» (*its important to decide the best IPR for our research results or products*)

HOW

Application or Registration: you need to apply for or register an IPR in front of the national or international IPR offices (i.e. EPO for European patent, CPVO for European plant variety, EUIPO per European trademarks.....), which officially and **legally** establish to **grant** (or not) the IPR and related “monopoly” rights to owners;

Examination: formal and/or technical examination by examiners of the national or international IPR offices

Requirements for Granting: formal requirements and technical requirements (i.e. novelty, inventiveness, distinctiveness and other specific requirements) depending on IPR and depending on each country, as detailed in each IPR national and international regulation

WHERE AND HOW LONG

Territory: an IPR can be enforced only within the country in which it is granted.

Limited period of time: even if granted, each IPR has a limited duration

PATENT

WHAT

Patent **protects inventions** “in all fields of technology” and can be defined a new solution (product or process or method) to a “technical” problem needed to be solved.

REQUIREMENTS

- **Novelty:** new to the world (no previous public notice)
- **Inventiveness:** not an "obvious" solution
- susceptible of industrial application
- (sufficiently described -- > patentability examination, knowledge dissemination!)

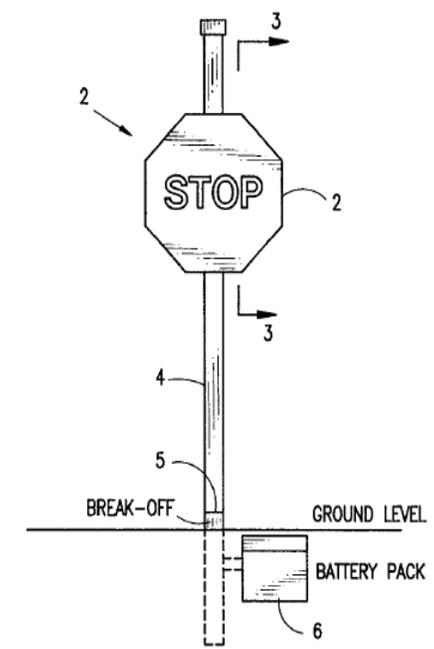
(56) **References Cited**

U.S. PATENT DOCUMENTS

3,026,498 A	*	3/1962	Galliers	
3,177,397 A		4/1965	Keeran	
3,182,415 A		5/1965	Brooks	
3,680,237 A		8/1972	Finnerty, Sr.	40/130 M
3,720,913 A		3/1973	Bradford	340/31 R
3,786,507 A	*	1/1974	Hurd, Jr.	343/7
4,290,047 A		9/1981	Latta, Jr.	340/134
4,319,310 A		3/1982	Kingsley	362/183

An illuminated sign comprises a front lens having a sign legend; an electroluminescent panel disposed behind the lens to provide lighting to the sign legend; a power source operably connected to the electroluminescent panel; a first sensor responsive to the headlights of an approaching vehicle and connected to the electroluminescent panel to activate the electroluminescent panel upon detection of the headlights; and a second sensor responsive to ambient light and connected to the electroluminescent panel such that the electroluminescent panel is OFF during daylight.

38 Claims, 6 Drawing Sheets



PATENT

APPLICATION

- In front of National Patent Offices (i.e. Ufficio Italiano Brevetti e Marchi - UIBM in Italy or State Intellectual Property Office (SIPI) in Republic of Croatia...)
- In front of supranational Patent Offices or Organizations (i. e. European Patent Office – **EPO** or World International Patent Organization – **WIPO**)

EXAMINATION

Formal and Technical (the procedure could be different for each country)

- Italy: search report without substantial examination
- Croatia: substantial examination or non substantial examination (two different choices)
- EPO or USPTO: search report and substantial examination

A patent is granted **for 20 years** from the date of filing a patent application.

UTILITY MODEL

WHAT

A utility model is an exclusive right granted to the so-called “**minor inventions**” consisting of small improvements to / adaptations of existing products or that have a short commercial life.

REQUIREMENTS

- The requirement of “**novelty**” is always to be met, but “inventive step” or “non-obviousness” may be much lower or absent altogether.
- In some countries, utility model protection can only be obtained **for certain fields of technology** (such as mechanical devices) and **only for products** but not for processes.

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(21) Appl. No.: **09/887,254**

(22) Filed: **Jun. 25, 2001**

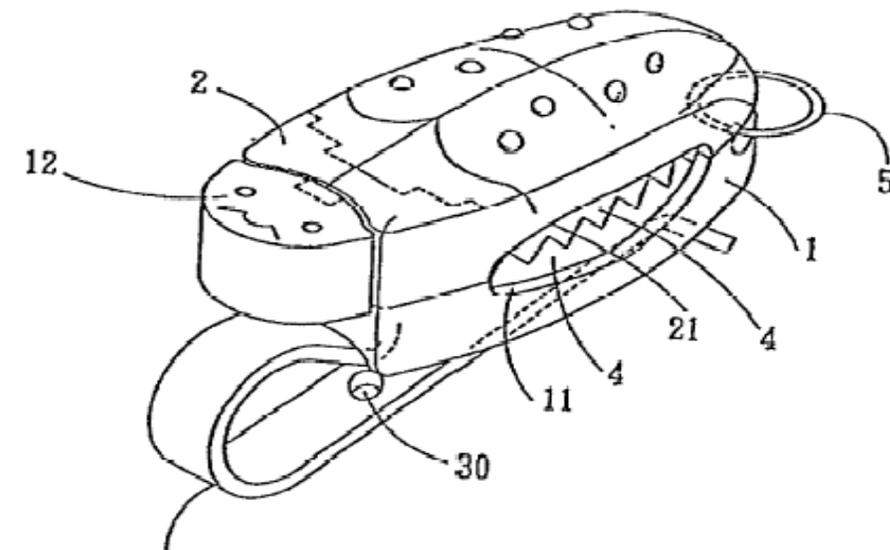
(30) **Foreign Application Priority Data**
 Jun. 30, 2000 (CN) 99219211.0

Publication Classification

(51) Int. Cl.⁷ A44B 21/00

(57) ABSTRACT

A portable assembly for attaching several objects, comprising the first case, the second case and a hanger, wherein the first case is provided with a containing recess and an engagement portion; the second case is pivotally connected to the first case, a corresponding containing recess is arranged in face with the containing recess of the first case, in the free end of the second case is provided with another engagement portion which can be in engagement with said engagement portion; the hanger is arranged on the first case. With the arrangement according to the present utility model, many kinds of objects can be sandwiched between the first case and the second case so as to be conveniently brought with the user.



UTILITY MODEL

APPLICATION

- In front of National Patent Offices (i.e. Ufficio Italiano Brevetti e Marchi - UIBM in Italy or State Intellectual Property Office of Republic of Croatia - SIPI)
- In front of the World International Patent Organization (WIPO), by a PCT procedure: utility models are one type of protection available at the national level in designated countries that have a utility model system. No European Utility Model and, i.e., no US Utility model

EXAMINATION

- Formal, usually not novelty or obviousness examination
- The registration process is therefore often significantly simpler and faster, taking, on average, six months.

A Utility Model is granted **for 10 years** from the date of filing an utility model application.

REGISTERED INDUSTRIAL DESIGN

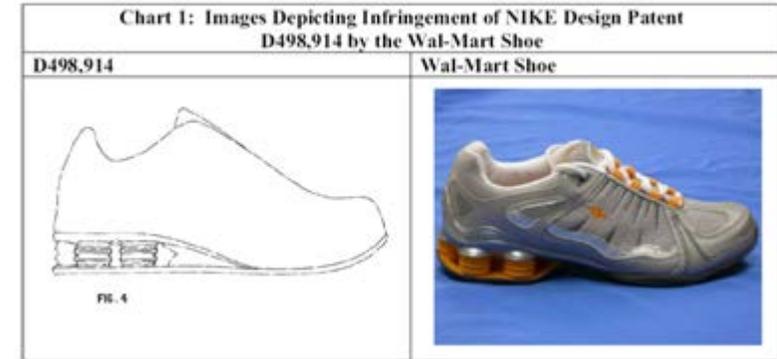
WHAT

Industrial design is an exclusive right granted to protect the shape, configuration, surface pattern, composition of lines and colors applied to a product (such as an item of clothing, a new mobile phone handset, a new coffee maker or an innovative form of packaging).

The right protects the design feature – for example, its shape or appearance – **rather than its function.**

REQUIREMENTS

- **Novelty and originality:** has not previously been registered and/or disclosed to the public and has to be significantly differs from known designs or combinations of known design features.
- **Industrial application:** The design must be industrially applied onto an article



REGISTERED INDUSTRIAL DESIGN

REGISTRATION

- In front of National Patent Offices (i.e. Ufficio Italiano Brevetti e Marchi - UIBM in Italy or State Intellectual Property Office of Republic of Croatia - SIPI);
- no “world” or “international” industrial design right exists;
- **Wipo Hague System** for The International Registration of Industrial Designs: The Hague System for the International Registration of Industrial Designs provides a practical business solution for registering up to 100 designs in over 65 territories through filing one single international application. Any substantive aspect of the protection is entirely a matter for the domestic legislation of each designated Contracting Party.

EXAMINATION

- substantive examination provided by domestic legislation of each designated Contracting Party

A registered design initially lasts for **5 years**; however, it can be renewed every five years, up to a total of 25 years, on payment of renewal fees.

PLANT VARIETY (OR BREEDER'S) RIGHT

WHAT

It is designed for plant varieties ('variety' shall be taken to mean a plant grouping within a single botanical taxon of the lowest known rank) of which material is produced and commercialised.



REQUIREMENTS

- **Novelty:** at the date of application variety have not been sold or otherwise disposed of to others, for purposes of exploitation of the variety: (1 year before the application, within the territory of the Community; 4 – 6 years before the said date outside the territory of the Community).
- **Distinctiveness:** variety has to be clearly distinguishable, by reference to the expression of specific claimed characteristics, from any other variety already existing;
- **Uniformity:** variety has to be sufficiently uniform in the expression of its characteristics
- **Stability:** if the expression of the characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

PLANT VARIETY (OR BREEDER'S) RIGHT

APPLICATION

- In front of National Patent Offices (i.e. Ufficio Italiano Brevetti e Marchi - UIBM in Italy or State Intellectual Property Office of the Republic of Croatia (SIPI))
- In front of supranational Patent Offices or Organization (i.e. Community Plant Variety Office – **CPVO** for a whole EU countries protection)

EXAMINATION

Formal, substantive and **Technical examination.**

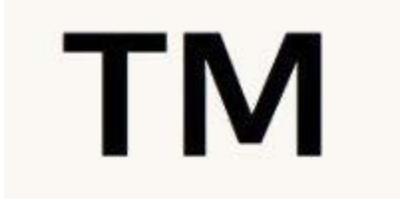
The applicant has to submit plant material requested in writing from the CPVO. On this sample of plant material the Examination Office shall verify the requirements of **D**istinctiveness, **U**niformity and **S**tability (DUS examination)

A Plant variety Right is granted **for 20/25 years** from the date of granting, extended to 30 years in the case of varieties of vine and tree species

TRADEMARK

WHAT

Trademark is any word, name, symbol, or design, or any combination thereof, used by producers to identify and distinguish their goods from those of other competitors

The letters "TM" in a bold, black, sans-serif font, centered on a light beige rectangular background.

REQUIREMENTS

- **Novelty and distinctiveness:** trademark has to be new, and should have the capacity of identifying and distinguishing particular goods as emanating from one producer or source. The trade mark should not describe what you sell, it should not monopolise a sign that merely describes the goods and/or services that you offer. Such signs should remain available for everybody: for you and your competitors.
- A trademark must be capable of **graphical representation** and **has to be used in commerce**

TRADEMARK

REGISTRATION

- In front of National Patent Offices (i.e. Ufficio Italiano Brevetti e Marchi - UIBM in Italy or State Intellectual Property Office of the Republic of Croatia (SIPI))
- In front of supranational Offices or Organization (i.e. European Union Intellectual Property Office – **EUIPO** for the European Union trade mark (EUTM) or World International Patent Organization – **WIPO** for an international Trademark)
- Simply by using the trademark

EXAMINATION

Formal or substantive: some countries (but not all) verify the distinctiveness and the novelty on trademark databases. Most of the countries then publish the mark in Official Gazettes or public databases and, for a limited period of time (few months, even just one), it is susceptible of opposition by third parties who believes they may be damaged by registration of the mark. If not opposition occurs, the trademark is granted.

A Trademark is granted **for 10 years** from the date of registration, illimited renewable

TRADEMARK, SOME EXAMPLE

WORD MARK: a word mark is represented using words, letters, numbers or any other characters that can be typed.



FIGURATIVE MARK: A figurative mark is represented using pictures, graphics or images but could also contain letters combines the use of pictures, graphics or images with words or letters.

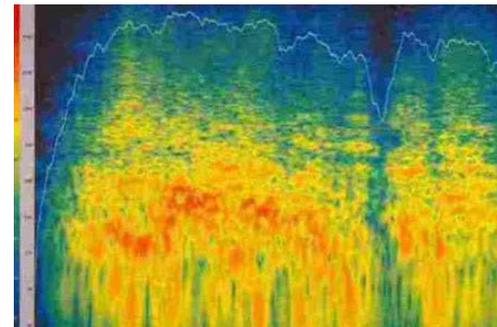


3D MARK: A three-dimensional mark is represented using a three-dimensional shape, such as the actual product or its packaging.



TRADEMARK, SOME EXAMPLE

SOUND MARK: A sound mark must be represented graphically using, for example, musical notation ♪..



Metro-Goldwyn-Mayer
[EUTM 005170113](#)



Mast-Jägermeister SE
EUTM 004928371

COLOUR PER SE MARK: A colour per se mark is used only to register an actual colour to distinguish products or services.



COPYRIGHT

Copyright protects creative expression that has been reduced to tangible form, such as a book, piece of recorded music, computer program, screenplay, painting, photograph, or motion picture. It is a legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution.

Copyrights are considered territorial rights, which means that they do not extend beyond the territory of a specific jurisdiction. Copyright laws vary by country, but many aspects of national copyright laws have been standardized through [international copyright agreements](#).

Typically, **the duration of a copyright spans the author's life plus 50 to 100 years** (that is, copyright typically expires 50 to 100 years after the author dies, depending on the jurisdiction). **Some countries require certain copyright formalities to establishing copyright**, but most recognize copyright in any completed work, **without formal registration**.