Real Resources for Researching IP Law

Anne Burnett, J.D., M.L.I.S.
Foreign & International Law Librarian
Secondary Sources
§ 7:32 McCarthy on Trademarks

of a trademark design covering a product is generally determined by comparing the overall commercial impression of the conflicting designs.

§ 7:33 Geometric shapes

Ordinary geometric shapes such as circles, ovals, squares, etc., even when not used as a background for other marks, are regarded as nondistinctive and protectable only upon proof of secondary meaning. A “circle or a ball as a trademark is public juris where it has not acquired a secondary meaning.” A series of three-dimensional cubes molded into the surface of glassware was rejected as a trademark, on the ground that on such a product the design was mere surface ornamentation, devoid of trademark significance to buyers.

However, uncommon or unusual shapes and symbols that contain some minimum amount of inventiveness or fancifulness can be regarded as inherently distinctive and protected as such, without the need for proof of secondary meaning.

"The issue is whether this shape is so unusual for this type of material, or on shopping bags.

"FORT JAMES OPERATING COMPANY v. ROYAL PAPER CONVERTING, INC. 83 U.S.P.Q. 2d 1624, 2007 WL 1677729 (T.T.A.B. 2007) (A registration of an interlocking circle and square design imprinted onto paper towels was relied upon to successfully oppose the registration of a similar design for paper products. "In the case of design marks, the question of likelihood of confusion must be judged on the basis of the visual similarity of the marks..."") (This is a subjective determination and must take into account the overall commercial impressions created by the mark rather than any detailed analysis thereof.

[Section 7:33]
Sources by Topic
Treatise Finders

• Georgetown Law’s Treatise Finder
• Yale Law’s Treatise Finder
USPTO Manuals

Manual of PATENT EXAMINING PROCEDURE
Latest Revision November 2015 [R-07.2015]

U.S. DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Trademark manual of examining procedure (TMEP)

Introduction to the Third Edition of the
COMPRENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES

The Compendium of U.S. Copyright Office Practices, Third Edition (the “Compendium” or “Third Edition”) is the administrative manual of the Register of Copyrights concerning Title 17 of the United States Code and Chapter 37 of the Code of Federal Regulations. It provides instruction to agency staff regarding their statutory duties and provides expert guidance to copyright applicants, practitioners, scholars, the courts, and members of the general public regarding institutional practices and related principles of law. See 37 C.F.R. § 201.2(b)(7).

Effective Date of the Third Edition
The Compendium, Third Edition was released and became effective on December 22, 2014.

The Compendium, Third Edition is a living, electronic document accessible on the official website of the U.S. Copyright Office. The Office publishes regular revisions, as appropriate, to reflect changes in the law and/or practices, which customers may access, download, or print. The version posted on the Office’s website at any given time should be consulted as the current official version. The Office maintains an archive of all revisions as released, as well as prior versions.

Citing to the Compendium
The full title of this manual is the “Compendium of U.S. Copyright Office Practices, Third Edition.” The full title may be abbreviated as the “Compendium.” The manual may be cited as follows:

Full citation:

Short form citation:

What the Compendium Covers
The Compendium documents and explains the many technical requirements, regulations, and legal interpretations of the U.S. Copyright Office with a primary focus on the registration of copyright claims, documentation of copyright ownership, and recordation of copyright documents, including assignments and licenses. It describes the wide range of services that the Office provides for searching, examining, and retrieving information located in its extensive collection of copyright records and the
P. L. 103-142

1 v. Arnold & Porter, 1993

1953 Copyright Problems Analyzed
Kupferman, Theodore R.
1 v. Chicago: Commerce Clearing House, 1953

United States.
Practitioner Materials

Intellectual Property & Technology

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RECENT INTELLECTUAL PROPERTY & TECHNOLOGY UPDATES

The Supreme Court Will Address Key Issues Concerning the PTAB. Let Practical Law Help You Get up to Speed on this Important IP Topic.  2/9/2016

The US Supreme Court has agreed to consider certain important questions concerning inter partes review, which are conducted by the Patent Trial and Appeal Board (PTAB), a tribunal within the US Patent and Trademark Office. The decision may potentially have a major impact on the conduct of these...

Stored Communications Act Does Not Authorize Statutory Damages Absent Jury Award of Actual Damages: Eleventh Circuit  2/8/2016

In Vista Marketing, LLC v. Burkett, the US Court of Appeals for the Eleventh Circuit, among other things, vacated the district court’s award of statutory damages when a jury found Burkett guilty of violating the Stored Communications Act without causing any actual damages, finding the district...
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**Description**: 389 pages; Illustrations; 23 cm

**Subject**:
- Fashion merchandising
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- Intellectual property law and IP in key fashion markets

**Alt. Author**: Jimenez, Guillermo, editor
- Kolon, Barbara, editor

**ISBN**:
- 1609888988
- 9781609881895
Practitioner Materials
IP is global...
TRIPS: TEXT OF THE AGREEMENT

Agreement on Trade-Related Aspects of Intellectual Property Rights

The TRIPS Agreement is Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization, signed in Marrakesh, Morocco on 15 April 1994.

PREAMBLE to the Agreement on Trade-Related Aspects of Intellectual Property Rights

PART I General Provisions and Basic Principles

PART II Standards Concerning the Availability, Scope and Use of Intellectual Property Rights

1. Copyright and Related Rights
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Competition
Copyright and Related Rights (Neighboring Rights)
Domain Names
Enforcement of IP and Related Laws
Genetic Resources

News on IP Laws

December 1, 2015  Poland: The Act of July 24, 2000, which entered into force on December 1, 2015, introduces significant changes in the Polish industrial property law with European regulations, in terms of protection for industrial designs and grants copyrights to the registration of Industrial Designs and of the granting of protection. It provides patent protection for medical products, in particular, for the application of a sequence or a partial sequence of a gene, in the patent application for biotechnological inventions, and extends
DECRETO Nº 2183/91
REGLAMENTARIO DE LA LEY DE SEMILLAS Y CREADORES FITOGENÉTICAS Nº 20247

BUENOS AIRES, 21 de Octubre de 1991

Visto el expediente 1560/91, del registro de la SECRETARIA DE AGRICULTURA, GANADERIA Y PESCA, el Cuerpo COMISION NACIONAL DE SEMILLAS propone la derogación del Decreto Nº 50 del 17 de enero de 1989, reglamentario de la Ley 20.247 y el dictado de un nuevo instrumento legal en su reemplazo, y

CONSIDERANDO:

Que el artículo 34 del Decreto 2476 del 26 de noviembre de 1990 establece la necesidad de reorganizar y fortalecer las funciones de control vegetal en la producción agrícola nacional, en especial la destinada a mercados externos.

Que dicha norma prevé, además, la creación de un organismo especializado para tal fin, lo que posibilitará una más eficiente aplicación de la Ley 20.247 y obtener una mayor participación en el mercado internacional de semillas.

Que, asimismo, la creación de un organismo como el descripto, requiere que su funcionamiento se vea enmarcado en una reglamentación apropiada al fin perseguido.

Que dicha reglamentación debe adecuarse a los acuerdos y normas internacionales que aseguren un efectivo resguardo de la propiedad intelectual, para brindar la seguridad jurídica necesaria para el incremento de las inversiones en el área de semillas.

Que tal adecuación redundará en mayores alicientes para la obtención y comercialización de nuevas variedades de semillas, garantizando a los agricultores un ingreso básico de alta calidad para la producción agrícola, en conjunto a reglas transparentes para el desarrollo del mercado de semillas nacional.

Que la nueva reglamentación incorpora la experiencia acumulada desde la entrada en vigencia de la Ley 20 247 y un vocabulario acorde con el avance tecnológico nacional e internacional en la materia.

Por ello,

...
Jurisdiction-specific
WORLD INTELLECTUAL PROPERTY REPORT
Latest Developments - February 9, 2016

TRADEMARKS
“El Chapo” Capture Shines Light on Mexican Trademark Law  A 2011 decision to grant branding rights for one of the world’s most notorious drug traffickers’ names has raised questions in Mexico about how the laws governing trademarks are applied.

COPYRIGHTS/FOREIGN LAWS
Russian Court Rules in Favor of Dell in Copying Levy Case  Feb. 8 — A Russian court issued a ruling Feb. 8 in favor of Dell in a landmark case involving the private copying levy.

INTELLECTUAL PROPERTY
What Will a Brexit Mean for IP Owners?
It is very likely that there will be a referendum this year to decide whether or not the United Kingdom leaves the European Union. Assuming that the result of the referendum is for the UK to leave ...

TRADEMARKS
FIFA v. PepsiCo and the Mexican Supreme Court’s Trademark and Unfair Competition Jurisprudence Litigation  Litigation in FIFA v. PepsiCo arose from a trademark infringement action brought before the Mexican Institute of Industrial Property.
The 2014 ABA Journal Blawg 100

Wow! It’s crazy that we’re already on our eighth Blawg 100. Every year, we find ourselves behind the eight ball as we struggle to rack up a great list and choose new nominees for our now 30-blog-sitting Hall of Fame. No, we don’t just go through the 4,000-plus blogs in our directory and consult a Magic 8 Ball to decide what to add or scratch off our list. We remember the blogs that have tipped us off to breaking news and the bloggers who have competed us to write about their innovative ideas.

And over the summer, we cue readers—and other bloggers—to write in and let us know about their favorites. When we can see their love for a blog is real and not a marketing hustle, it captures our attention.

Now, it’s time for you, the reader, to take a shot. Let us know what you think about our choices. Click here to peruse an alphabetical list. Each person gets a total of 13 votes, to distribute as they see fit among the blogs they like, with a limit of one vote per person, per blog. Once you’ve used all 13 votes, you’ll notice the “Vote Now!” buttons will disappear. If you have trouble voting or questions about anything else, please see our Blawg 100 FAQ.

The polls open Nov. 24 and shut down at close of business on Dec. 19. For a constant feed of inspiration, go online and find our Blawg 100 Twitter list, which includes the handles of all this year’s nominees and those of our Hall of Fame bloggers from years past.

Congratulations to everyone in the 2014 Blawg 100.
If you don’t Fear the Beard, perhaps you will Fear the Brow. I know I do. Anthony Davis has a distinctive unibrow that many females invest heavily to avoid. He has obtained trademark registrations for the words FEAR THE BROW, RAISE THE BROW, and BROW DOWN, among others. His distinctive brow (singular) is shown below:

NBA All-Star James Harden is first in the lineup with his infamous beard. Harden’s beard has become so popular, it has its own Twitter account.

Although James Harden does not have a trademark registration for his beard (yet), his beard is featured on merchandising. He started growing the beard in college, basically out of laziness, but started noticing fans coming to games with fake beards. The beard has been with him through the Olympics and now to an MVP award from the National Basketball Players Association.
More Current Awareness

THE WALL STREET JOURNAL
BUSINESS

LAW BLOG
On cases, trends and personalities in business

PATENTS
INTELLECTUAL PROPERTY

4:05 PM ET
Jan 14, 2016
INTELLECTUAL PROPERTY

Patent Litigation Up in 2015, Despite Efforts to Rein It In
By Ashley Jones
Patent litigation brought by so-called “non-practicing entities” continued to flourish in 2015, according to a new study, despite repeated attempts to curtail it.

According to the report, released Monday by San Francisco-based IPX Corp., NPES filed nearly 3,600 patent cases in 2015. NPES, also referred to as “patent trolls,” buy up patents and seek to make money from them through licensing and litigation.

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1:50 PM ET
Dec 30, 2015
INTELLECTUAL PROPERTY

Crowdfunded ‘Star Trek’ Fan Film Accused of Copyright Infringement
By Jacob Goldin
Weeks before a Star Trek fan film was set to begin production, Paramount Pictures Corp. and CBS Studios are setting their phasers to stun, accusing the makers of the crowdfunded project of infringing on their interstellar intellectual property.

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