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PATENTS OFFICE

Intellectual Property

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Patents Office

Castlebar
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What is Intellectual Property

- Trade Marks
- Patents
- Designs
- Copyright
- Know How
- Trade Secrets



"I call it 'zero'."

- Often more valuable than a company's physical assets



IP Rights are Territorial





Why is IP useful?

Your IP:

- Adds to balance sheet of a company – potentially increase value if selling on.
- Facilitates licensing revenue
- Use as security for borrowing
- Marketing (“our newly patented technology..”)



Knowing about IP:

- **Don't miss opportunities:** Allows you to secure protection before the chance is lost
- **Early warning:** Allows you to identify possible infringement problems early on (someone else infringing your IP, or you infringing someone else's). Enough time to prepare a strategy



Trade marks

“Any sign capable of being represented graphically... which is capable of distinguishing the goods or services of one undertaking from those of other undertakings”





Trade marks (continued)

- Must be registered – nationally or at EU
 - then allowed to use “®”
 - “TM” is not an indication that the mark is registered. These marks not protected by trademark law (but may be other legal considerations)
- Absolute monopoly – strongest protection
 - prevent others from using, without preconditions
- Can be kept alive indefinitely
- Requirements:
 - Must be distinctive,
 - can't be descriptive
 - Only for designated goods/services





What are the Best Trade Marks?

- Invented words which have no meaning in any language (IKEA)
- A dictionary word whose meaning is unrelated to the goods or services (APPLE)
- Combinations of words and figurative elements
- Do not directly describe the goods or services but contain an allusion to them (WEETABIX)
- A family of marks. (Kodak use “Koda” - Kodacolor, Kodachrome, Kodagraph).





Nice Classification

45 classes of goods (34) and services (11)

- **Class 5** - Pharmaceutical and veterinary etc.
- **Class 12** - Vehicles; apparatus for locomotion by land, air or water.
- **Class 15** - Musical instruments.
- **Class 25** - Clothing; footwear; headgear.
- **Class 35** - Retail; advertising; auctioneering.
- **Class 38** - Telecommunications services.



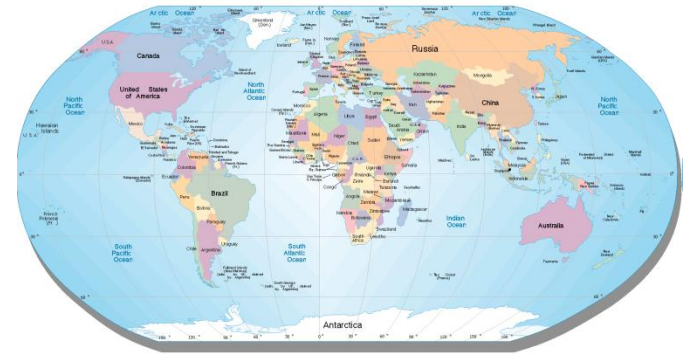
Nice Classification - *Example*

Trade Mark	Proprietor	Class
PUNCH	CORPORACION HABANOS, S.A.	34: Cigars.
PUNCH	CADBURY UK LIMITED	30: Chocolate and sugar confectionery.
PUNCH	ATCO QUALCAST LIMITED	7: Machines for use in agriculture and horticulture; lawn mowers and grass cutting machines; cultivators; parts and fittings for all the aforesaid goods.
PUNCH	COLGATE-PALMOLIVE	3: Soaps; detergents; fabric softening preparations...
PUNCH	EDU PONT	5: Agricultural fungicides.
	PUNCH INDUSTRIES	25: Articles of clothing, footwear, insoles for footwear.
	PUNCH INDUSTRIES	2: Paints and varnishes for footwear... 3: Cleaning, protecting and polishing preparations for footwear... 5: Air Fresheners... 21: Combs, sponges, brushes... 25: Innersoles and fittings for footwear. 26: Laces for footwear...



Trade marks - first steps

- Check for the availability of your trade mark name
- Search Trade Mark Databases
 - Searching is **free** of charge
 - **National** and/or **Community** databases (EUIPO) & **WIPO**
- **TMView** – www.tmdn.org
 - contains national trade mark data from 40 countries, plus EUIPO & WIPO giving access to 25.9 million trade marks.



TMview



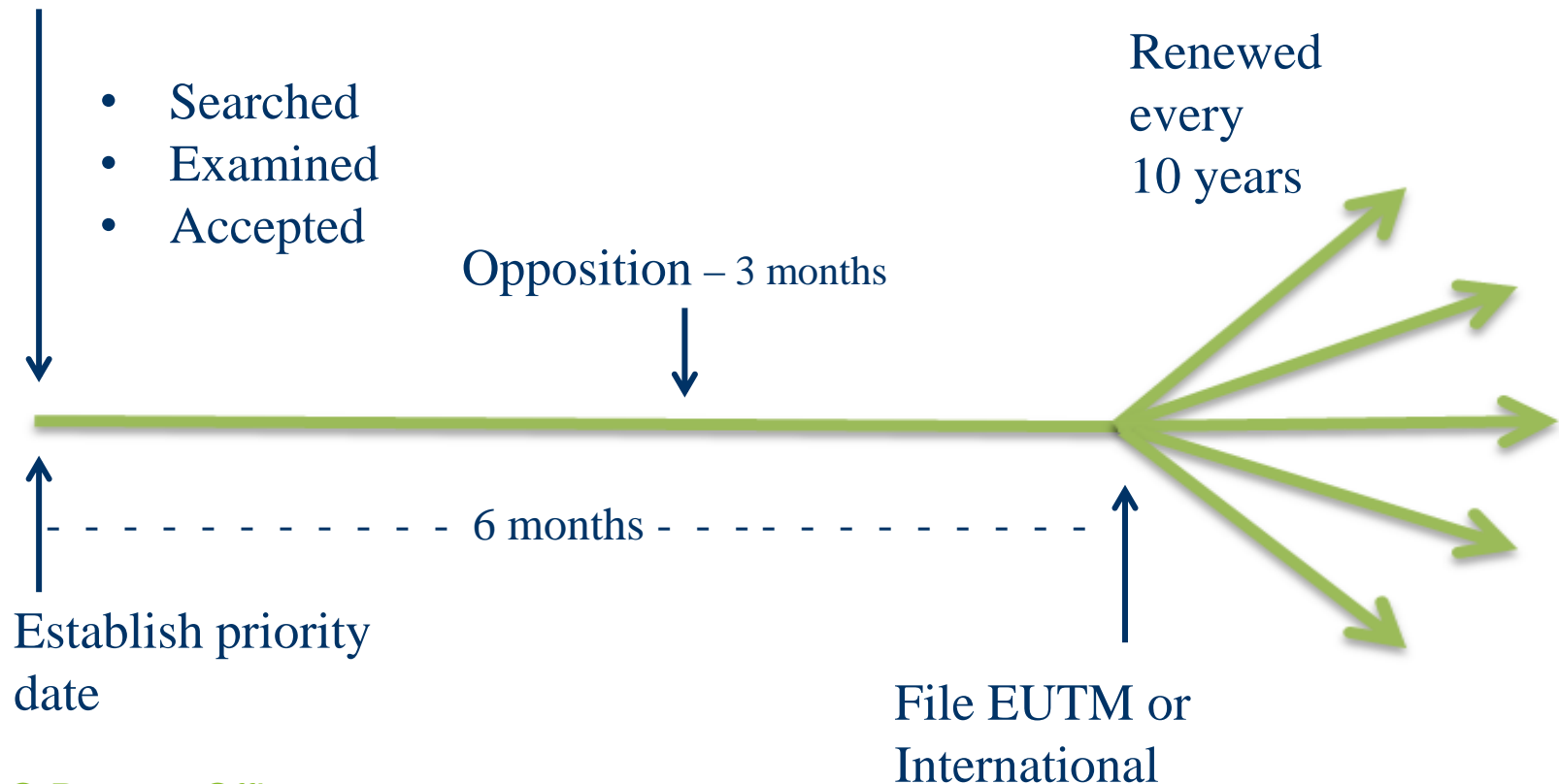
The Application process

File Application - nationally

- Searched
- Examined
- Accepted

Opposition – 3 months

Renewed
every
10 years





Statutory Trade Mark Fees

Registration in Ireland		EU Trade Mark	
Application Fee per class	€70	Application and Registration Fee	€850*
Registration Fee	€177	*(Fees are based on electronic-filing/payment).	
Total for application with 3 classes =	€387	Fee for 2nd class	€ 50
		Fee for 3rd class	€ 150
Renewal Fee 1 class for each additional class	€250 €125	Renewal Fees 1 class	€850*
		Renewal Fee for 2nd class	€ 50
		Renewal Fee for 3rd class	€ 150

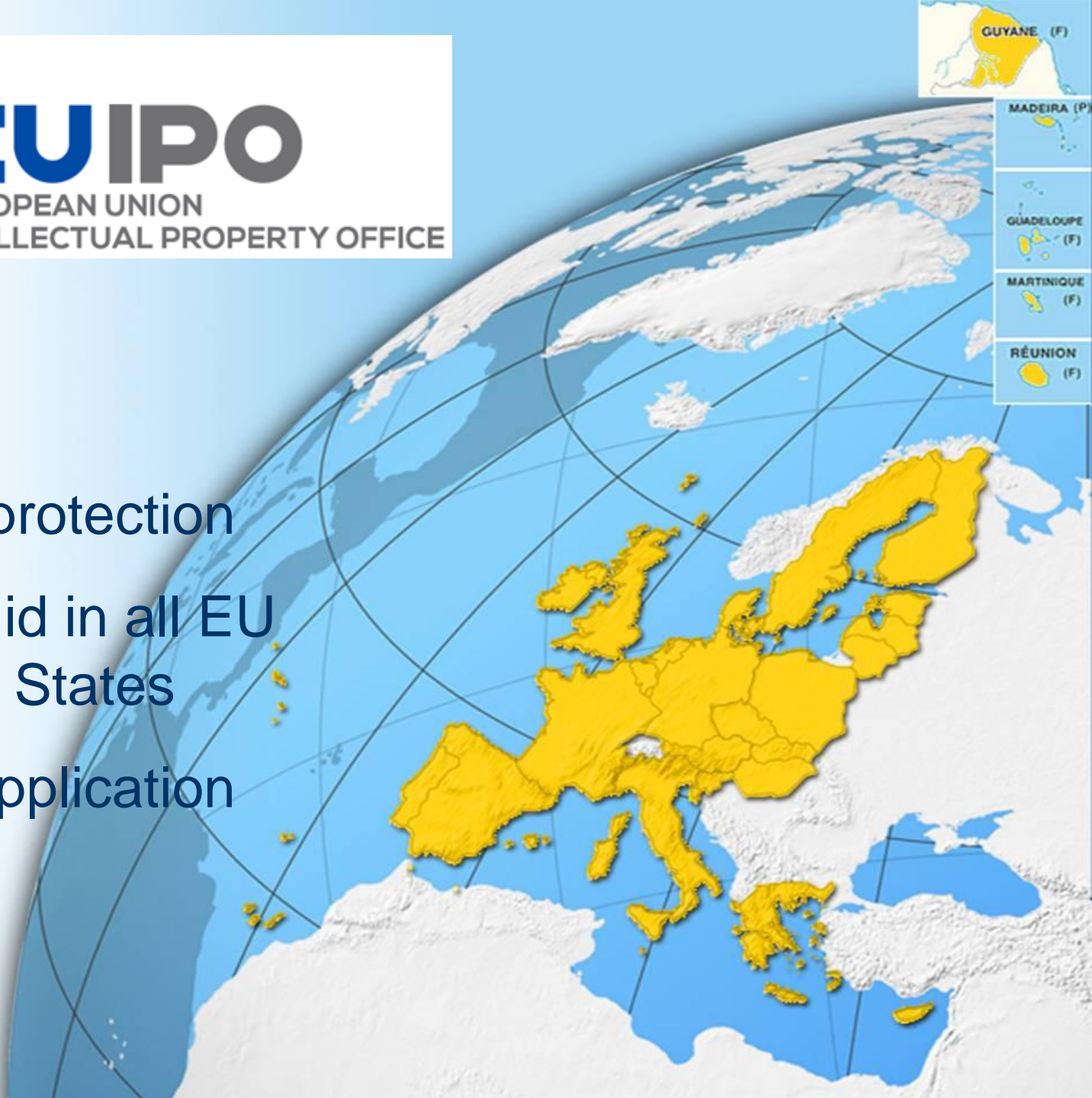


EUIPO
EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE



EU Mark

- Unitary protection
- Mark valid in all EU Member States
- Single application





Trade mark – case study





Designs

The overall look of the product resulting from the ...

- Lines
- Colours
- Textures
- Contours
- Materials
- Ornamentation

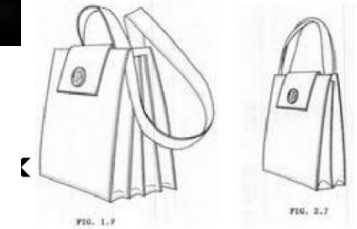
(not the function)



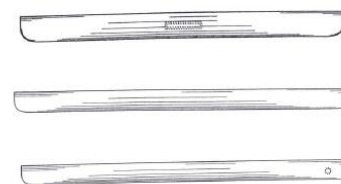
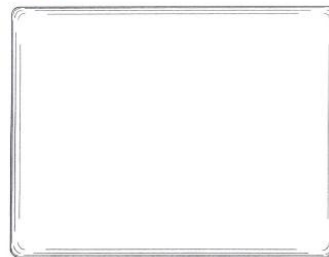


The First Step

- Consider your Market
- Search Registered Design Databases
 - National - www.patentsoffice.ie
 - Community databases – www.tmdn.org (EUIPO)



DesignView



oami.europa.eu



The Application Process

Application form
Filing receipt
Formalities check
Acceptance/registration
Publication/deferred
publication (up to 30
months)



Can take up to 4
months from
date of filing of
application to
registration



Statutory Design Fees

Fee	Ireland	Community Design (RCD)
Application/ registration Fee	€70	€230
Publication Fee	None	€120
Deferment Fee	€35 for up to 30 months	€40
Renewal Fees	2 nd period of 5 years = €50 3 rd period of 5 years = €70 4 th period of 5 years = €80 5 th Period of 5 years =€100	2 nd period of 5 years = €90 3 rd period of 5 years = €120 4 th period of 5 years = €150 5 th Period of 5 years =€180

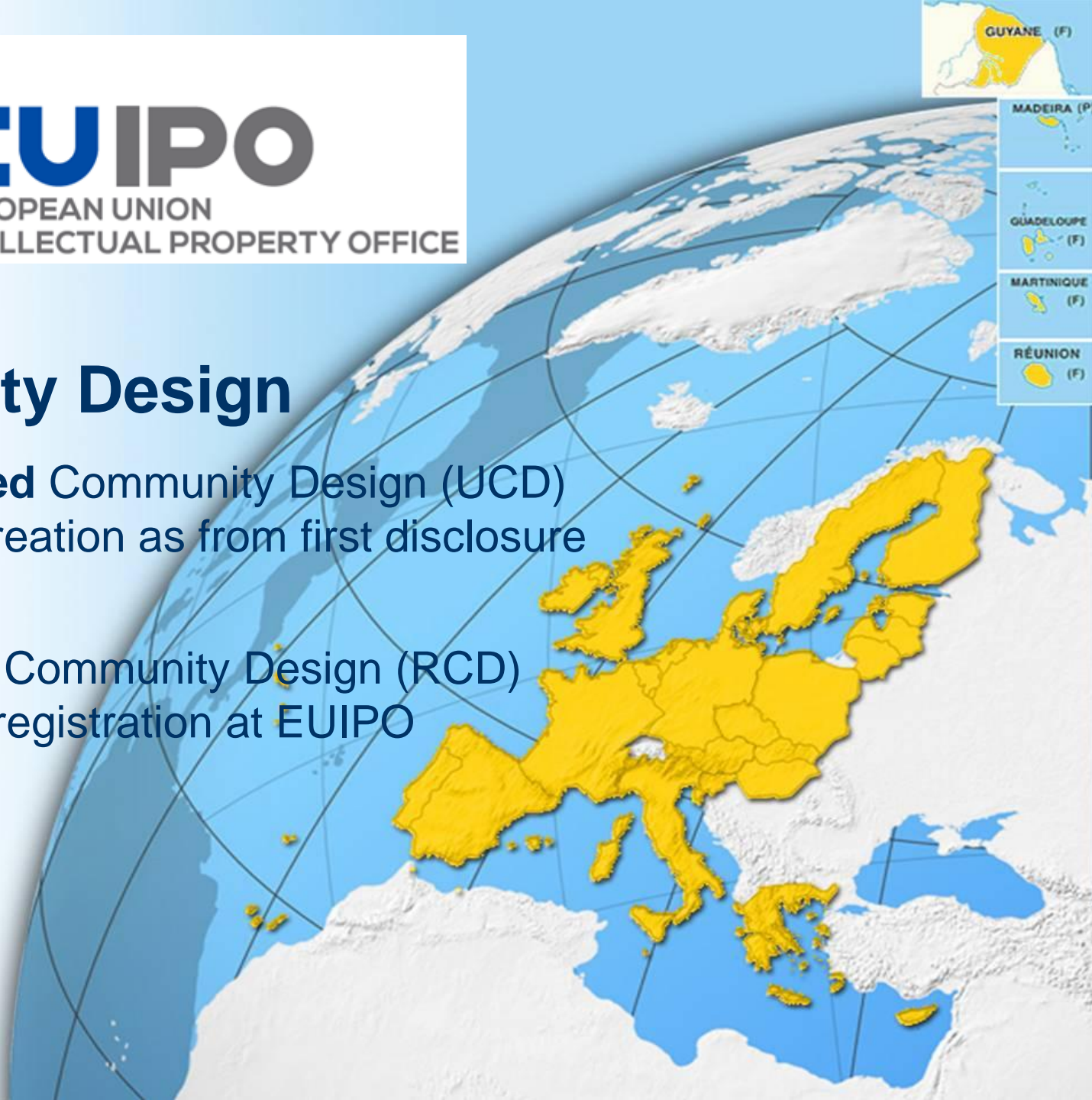


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Community Design

- **Unregistered Community Design (UCD)**
automatic creation as from first disclosure
- **Registered Community Design (RCD)**
creation by registration at EUIPO





The Unregistered Community Design Right

- In 2007 fashion designer Karen Millen (**KM**) alleged that Dunnes Stores (**Dunnes**) had copied two shirts and a knit top from her collection and had manufactured these for sale.
- Dunnes did not deny copying KM's designs at trial.
- As the design right was not registered, KM had to establish a valid unregistered design right to prove that the Dunnes clothes were unauthorised copies.
- The High Court found in favour of Karen Millen.



What Do You Think?

KAREN
MILLEN



SAVIDA





Karen Millen vs Dunnes Stores

- Dunnes appealed the ruling to the Supreme Court that they had breached EU regulations by copying a women's shirt and top.
- In 2013 the Supreme Court referred questions to the Court of Justice of the European Union
- A judgement on this appeal was delivered last year upholding the original ruling.



Patents

“A Government grant of the exclusive right to make, use, or sell an invention, usually for a limited period” *Encyclopaedia Britannica*

Protects a fundamental idea – an “invention”

- it protects **function** rather than **form**
- does not exist automatically !!





Patent - Protection in Ireland

Via Irish Patents Office



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Via European Patent Office (EPO)
(38 Contracting States to EPC)



Via (WIPO) Patent Co operation treaty
(PCT) (148 Contracting States to PCT)



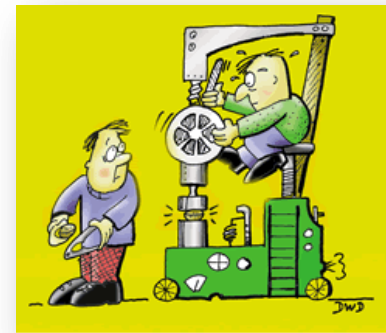


Patents – what qualifies?

New/Novel



Inventive step



Industrial applicability





The First Step

- Do not Disclose or Publish
- Search for Novelty - **Espacenet**
- Consider your Market & Product Life Cycle
- Consider the Costs
- The Decision to apply for a patent should be part of your Business Strategy.





What does a patent look like?

DESCRIPTION

The description of your patent application must give detailed disclosure as to what your invention is, what it does and how it works.

CLAIMS

The claims are the important section of your specification as the scope of the monopoly given by a patent is legally determined by the claims, **not** the description.

ABSTRACT

The abstract is a **short summary** (150 words or fewer) of your invention. This is primarily used for search purposes.

DRAWINGS

The drawings section of your application should represent pictorially the detailed depiction discussed in the description section.



The Patent Specification

- **Optimist:** “The glass is half full”
- **Pessimist:** “The glass is half empty”
- **Patent attorney:** “Liquid H₂O bisects an open cylindrical vessel”



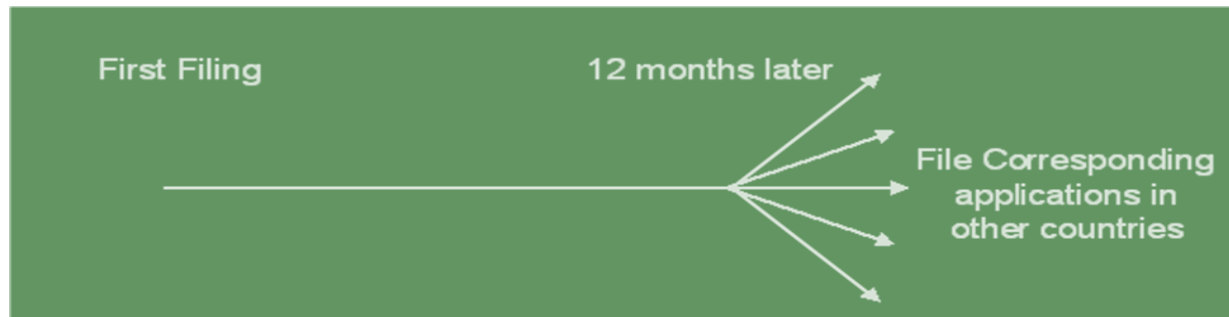


Statutory Irish Patent Fees

Fee	Short term 10 years	Long term 20 years
Application Fee	€60	€125
Search Fee	None	€200
Grant Fee	€30	€64
Renewal Fees vary each year	Year 3 = €30 Year 10 = €110	Year 3 = €60 Year 20 = €468
Total	€659	€5017



Patents - Application process





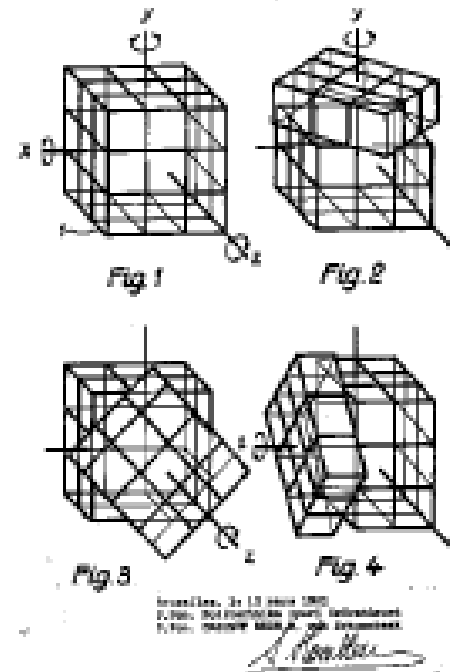
Patent case study

- Erno Rubik.



First claim from Hungarian patent HU170062

- Spatial logical toy as claimed in claim 1, characterized in that in forming the cube (1), a six-membered identical shape and size are provided at each centre of the cube faces and includes a prismatic projection (6) and a head (5) machined from a single piece together with the extension, these six elements are provided with a covering surface and a square lower limiting surface spherical.





What is Copyright

Copyright is a property right, given to authors/creators of literary or artistic work such as music, songs, films, books, computer programmes, etc.

- Relates to the expression of an idea, not the idea itself





Copyright Protection

- There is no copyright registration system in Ireland.
- Automatic right - the Author (original creator of the work) is the owner.

Protection not absolute: must prove copying has taken place (can sometimes be difficult)



E.g. © **Copyright Joe Blogs 2015**



Copyright and Business

Use of a TV or Radio in a public space must be paid for – royalties!





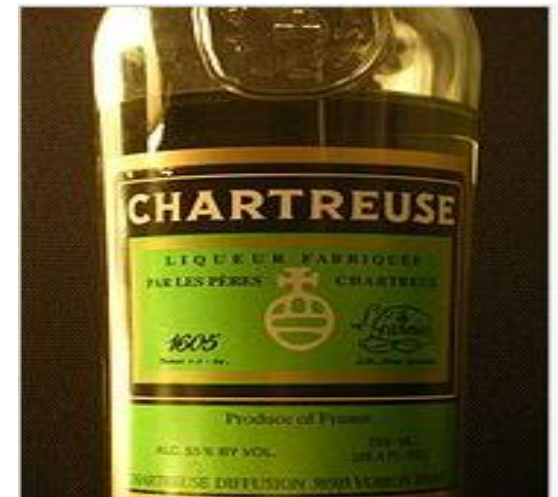
Copyright case study





Trade Secret

- A **trade secret** is a formula, practice, process, instrument or compilation of information which is not generally known.
- Can give its owner an actual or potential advantage in business, (e.g., formula for Coca Cola®)
- Cost to acquire/maintain: None
- Time to acquire: immediate
- Duration of protection: perpetual as long as secret is maintained.



Green Chartreuse liqueur
protected by confidential information
of the ingredients



One product – many IP Rights

Trade marks

- Company name, Logo
- Product name

Patents

- Function of the cap

Copyright

- Text
- Graphics



Designs

- Overall form of the bottle
- Arrangement and shape

Trade secrets

- Blend of honeys, know-how kept "in-house" and not published



What should I do?

- Ask yourself **if you have IP** or if you intend to use IP owned by others.
- If your business is based on **an invention**, take care about disclosure or publication.
- **Look before you leap** –undertake searches of patent, TM and design databases .
- **Consider your market.**
- Consider the **life cycle** of the product.
- Consider the **costs**.
- Reflect IP in **business strategy** and planning.





Services Available from Patents Office website

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- Access to **FREE** search facilities
- Links to other National & International IP Offices – www.innovaccess.eu
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Role of a Patent / Trade mark attorney

- Develop an IP strategy tailored for your business
- Pre-filing searches and Registrability advice
- Advice on Trademark Classification
- Drafting Patent Applications
- Responding to objections from Patents Office
- Advice on IP Protection Abroad
- Network of Overseas Associates





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Thank you for listening – *feedback forms*

Questions or Comments?