Trade marks represent an invaluable tool for businesses to differentiate themselves in the market; they are able to wrap up in a single sign emotional messages concerning a company’s reputation and the quality of its products.

In today’s global and competitive economy, trade marks have become more crucial than ever. Consumers rely on trade marks when making their commercial choices and they are often the strongest assets of companies.

SMEs, representing 99% of businesses in the EU, are heavily dependent on their trade marks’ success in order to stand out in today’s highly dynamic market.

In the following sections of this Bulletin issue you will find several contributions highlighting the importance of trade marks for businesses and illustrating the different available options to protect them.

Firstly, this issue contains a very illustrative article by WIPO, including explanations on the different ways to obtain trade mark protection, with a special focus on the international trade mark registration system managed by WIPO, known as the Madrid System.

Furthermore, a contribution by EUIPO will provide you with a clear and interesting SME-oriented overview of the European Union Trade Mark regime as well as an update regarding a recent database created by EUIPO on key EU trade mark enforcement case law. Another brief article describes the actions that EUIPO is taking to fight the fraudulent use that scammers make of the personal data of trade mark and design owners accessible via the EUIPO website.

In addition, EUIPO’s EU Observatory on Infringements of Intellectual Property provides some valuable information regarding two useful databases aimed at tackling intellectual property rights infringements: ACRIS, the Anti-Counterfeiting Rapid Intelligence System, and EDB, the Enforcement Database.

Is a trade mark the same thing as a trade name? If you often ask yourself this question, you should read INTA’s article on trade names and how to differentiate them from trade marks.

Moreover, our interview with Design and Engineering Company illustrates the importance of trade marks for SMEs and how they are usually managed in terms of strategy.

Finally, if you missed this year’s Enterprise Europe Network Annual Conference in Bratislava, find at the end of this issue a summary with the highlights of this event, whose success has only increased in recent years.

Test your knowledge on patent searching through our usual quiz and try to solve the brand new trade mark soup.

Wishing you inspiring reading!

Your Editorial Team
The Madrid System

Matthew Forno, Senior Counsellor, Madrid Registry, Brands and Designs Sector, World Intellectual Property Organization (WIPO)

Sally Khalil, Consultant, Madrid Registry, Brands and Designs Sector, World Intellectual Property Organization (WIPO)

In today’s globalised economy, the importance of branding is undeniable. Brands have become pervasive in every aspect of daily life. They are an indispensable guide for consumers, and a means for companies to build their reputation and goodwill in an often saturated marketplace. A well-recognised brand can be one of the most valuable assets on a company’s balance sheet.

Businesses in all economic sectors - whether small or large, in developed or less developed countries - rely on brands when they commercialise their goods and services.

As the form of intellectual property (IP) that protects the exclusivity of brands, trade marks are the most widely used form of registered IP in the world today.

What is a trade mark?

A trade mark is a sign capable of distinguishing the goods or services of one enterprise from those of another. It is the symbol of the enterprise’s reputation and goodwill.

While a simple trade mark can comprise phrases, words, letters, and numbers, it may also consist of a wide range of other features including drawings, symbols, three-dimensional features (such as the shape and packaging of goods), non-visible signs (such as sounds), or unique and distinguishing colours.

Why are trade marks important for business?

Trade marks play an essential role in protecting consumers and stimulating competition.

The key purpose of a trade mark is to enable consumers or users to identify the originating source of a product or service. In this regard, trade marks bridge the information gap that exists between producers and consumers, and empowers consumers to determine which goods or services are most desirable.

By granting exclusive rights to names, logos and other commercial identifiers, trade marks lend consumers the confidence to know that they are purchasing what they intend to purchase, while driving quality-based competition among manufacturers and service providers.

Trade marks add value across all sectors

Firms in nearly every economic sector, including the service sector, use trade marks to protect the exclusivity of their brands. Small and medium sized enterprises (SMEs) in particular rely on trade marks far more than they do on patents. And today, branding is no longer the purview of companies alone—individuals, civil society organisations and even governmental organisations are taking an increasingly active approach to trade mark protection and brand identity.

Trade marks play an essential role in promoting economic growth and development

Trade marks are integral to protecting a company’s brand. When taking into account the expenses that contribute to a brand’s goodwill - including trade mark-related costs - global branding investments by companies was estimated to be around USD 466 billion in 2011. Across the world, these investments have been shown to correlate closely with economic development.

How can trade mark protection be obtained?

Depending on the country or region, trade mark rights can be established through use and/or registration. The rights obtained through use of a trade mark are typically limited to the geographic area in which the mark is used. On the other hand, the rights obtained through registration apply nationally or regionally, and confer exclusive rights in that country or region.

National or regional registration

At the national or regional level, an application to register a trade mark is made through a national or regional IP office (e.g. the US Patent and Trademark Office (USPTO), the European Union Intellectual Property Office (EUIPO) or the African Intellectual Property Organization (OAPI)) in the country/region where the applicant seeks protection.

After the application is filed and the required fees are paid, a trade mark examiner will review the application and assess whether it complies with the legal requirements (e.g. distinctiveness) in the country/region where protection is sought.

If the trade mark examiner determines that an application meets the requirements for registration, it is typically published and made available to the public for opposition. In general, if no (valid) opposition is filed, the trade mark will be granted protection.

International registration

At the international level, applicants have two options: they may either file an individual trade mark application with the trade mark office of each country where protection is sought, or they may use the World Intellectual Property Organization’s (WIPO) international registration system, known as the Madrid System for the International Registration of Marks.

WIPO’s Madrid System allows users to file a single application in one language and pay one set of fees to obtain and maintain protection within the 114 territories of its 98 members.

How the Madrid System works

Stage 1: Filing through a local IP office

Before filing an international trade mark application through WIPO’s Madrid System, an applicant must have already applied for...
The Madrid System

The Madrid System is a one-stop solution for obtaining and maintaining trade mark protection in multiple markets with a single application.

Key Madrid System benefits:

Cost effective

- One international application is equivalent to filing a bundle of national applications
- No need to pay for translations into multiple languages or spend extra time working through the administrative procedures of multiples offices
- Applicants save time and money

Broad geographic coverage

- Potential for simultaneous protection in up to 114 territories of the System’s 98 members, including the European Union (EU) and the 17 member states of the African Intellectual Property Organization (OAPI), the majority of developed countries, and many developing and transition countries across Africa, Asia, Europe and North America

To be entitled to use WIPO’s Madrid System you must:

- have a real and effective industrial or commercial establishment in or
- be domiciled in or
- be a national of one of the System’s 98 members.

or obtained trade mark registration in his or her “home” IP Office. The trade mark owner can then use this application or registration (known as the “basic mark”) to submit an international application.

The international application must be submitted to the same national/regional “home” IP Office, which will then forward it directly to WIPO.

Stage 2: Formal examination by WIPO

Much like a national/regional office, WIPO will conduct an examination of an international application. However, WIPO’s examination consists only of an evaluation of non-substantive formalities, such as fee payments, the designation of at least one member of the Madrid System, and a list of goods and/or services. It does not include a substantive examination of the uniqueness of the mark, nor of the legal requirements in the countries/regions where protection is sought.

Once WIPO approves an international application, the corresponding trade mark is recorded in the International Register and published in the WIPO Gazette of International Marks. At this stage, the international application officially becomes an International Registration and the applicant becomes a “holder”.

WIPO will send the holder a certificate of international registration and notify the IP Offices in the territories where the holder wishes to have the mark protected (as indicated on the international application). Protection may only be sought in the countries and territories of Madrid System members.

It is important to note that, at this stage, the scope of protection of the International Registration is not known. The scope is only determined after a substantive examination and decision by the IP Office in each of the territories where protection is sought.

Stage 3: Substantive examination by IP Offices

Each IP Office will then conduct an examination of the trade mark to ensure it meets the applicable national or regional requirements. A decision must be made within 12 or 18 months of the date the Office receives notice of the International Registration from WIPO.

If an IP Office accepts to protect the mark within its territory, it will issue a “statement of grant of protection.” A decision to refuse protection, whether in whole or in part, of the mark will not affect the decisions of IP Offices in other countries/regions. Trade mark owners may contest a decision to refuse protection directly with the national/regional Office concerned.

Once a decision has been made by a national or regional IP Office, WIPO will record it in the International Register and notify the holder.

The international registration of a trade mark through WIPO’s Madrid System is valid for ten years and can be renewed directly with WIPO at the end of each ten-year period.

Final thoughts...

Trade marks are essential to the growth and success of SMEs and large multinationals alike. With branding investment rapidly becoming a priority for enterprises across all sectors, the role of registered trade marks in protecting brand exclusivity is more important than ever.

WIPO’s Madrid System aims facilitate the often complex process of securing trade mark protection by providing a centralised system of registration and management through which users can obtain protection in multiple markets across the globe using a single application. As an enterprise evolves and grows, the Madrid System can also be used as a convenient and cost-effective way to expand trade mark protection into new markets, and to centrally manage and maintain existing trade marks.
What is new in the EU: The Trade Mark Regulation has been improved since 23 March 2016

The aim of the EU trade mark reform legislative package is to foster innovation and economic growth by making trade mark systems all over the EU more accessible and efficient for businesses, with a special focus on SMEs, in terms of lowered costs and complexity, increased speed, greater predictability and legal security.

The legislative package comprises two legislative proposals which amended the existing Trade Mark Directive (harmonising the trade mark laws of the EU Member States) and the Trade Mark Regulation (which sets out the rules applicable to EU trade marks and to the Office).


The reform acknowledges the success of the existing EU trade mark system, confirming that its main principles have stood the test of time and continue meeting business needs and expectations, but seeks to build on this success by making it more effective, efficient and consistent as a whole and adapting it to the Internet era.

What changes are in place from 23 March 2016?

1. Fees

- One-fee-per-class system: extra fee payable after the first class. This means that in practice applicants pay a lower fee if they only apply for one class (€850), the same fee if they apply for two classes (€900) and a higher fee if they apply for three or more classes (€1050)

- Overall decrease of application, opposition and renewal fees. The latter are substantially reduced in all instances and set to the same level as application fees

2. Areas of substantial improvements and simplification

- Formalities and examination proceedings: filing via national offices is abolished;
- Relative grounds for refusal: i.e. shorter opposition period for international registrations designating the EU;
- Goods & Services: trade marks containing class headings are interpreted according to their literal meaning;
- Appeals: elimination of interlocutory revision in inter partes cases and insertion of certain provisions to clarify and codify

European Union Intellectual Property Office

It is now accepted that SMEs are the backbone of the EU economy as they represent 99% of all business in the EU and account for around 85% of new jobs. In effect, there are some 21 million SMEs in the EU and they employ 66.9% of all people employed in the EU.

In terms of intellectual property rights, only 9% of EU SMEs own patents (2.9%), trade marks (2.5%) and designs (9.2%). These SMEs have almost 32% higher revenue which shows a significantly higher economic performance and therefore significant relative benefits associated with the ownership of IP rights.

A brief overview of the benefits of registering an intellectual property right such as a trade mark:

- Protects brand value
- Builds an asset
- Defends against rival marks
- Defines the rights
- Prevents counterfeiting and fraud

European Union Trade Mark

Those who seek protection in all Member States of the European Union can apply for a European Union trade mark (EU trade mark) at the European Union Intellectual Property Office (EUIPO). An online application at EUIPO costs €850 and is filed in just one language.

Once registered, the EU trade mark can be renewed indefinitely every 10 years.

Registering an EU trade mark is easy and straightforward

- A single registration – filed online, in one language – is valid in all EU Member States
- An EU trade mark gives its owner an exclusive right in all current and future EU Member States at a reasonable cost
- An EU trade mark can be enforced in a market of almost 500 million consumers

NEW SIMPLIFIED FEE STRUCTURE FOR EU TRADE MARKS

<table>
<thead>
<tr>
<th>TYPE OF MARK</th>
<th>FIRST CLASS</th>
<th>EXTRA CLASSES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PAPER</td>
<td>E-FILING</td>
</tr>
<tr>
<td>INDIVIDUAL</td>
<td>1000</td>
<td>850</td>
</tr>
<tr>
<td>RENEWAL of INDIVIDUAL</td>
<td>1000</td>
<td>850</td>
</tr>
<tr>
<td>COLLECTIVE or CERTIFICATION</td>
<td>1800</td>
<td>1500</td>
</tr>
<tr>
<td>RENEWAL of COLLECTIVE or CERTIFICATION</td>
<td>1800</td>
<td>1500</td>
</tr>
</tbody>
</table>

Source: EUIPO website.
existing practice regarding ancillary appeals;

• **Clear framework for cooperation and convergence of practices** with national and regional intellectual property offices of the EU;

• **Budget**: under given conditions, possibility of compensation to Member States; exceptional possibility to transfer Office future surpluses to EU budget;

• **Professional representation**: reference is now to the European Economic Area (EEA)\(^2\) instead of EU.

3. Institutional changes

• **Name of the Office**: from the Office for Harmonization in the Internal Market (OHIM) to the European Union Intellectual Property Office (EUIPO);

• **Name of the Community trade mark**: from CTM to the European Union trade mark (EUTM);

• **Governance of the Office**: change in the name of one of the governing bodies (Administrative Board becomes Management Board); and in the composition;

• **2 seats for the European Commission and 1 seat for the European Parliament on the Management Board**; as well as in the voting majorities (from simple majority to absolute majority).

**What changes will be in place from 1 October 2017?**

• **Graphical representation**: signs can be represented in any appropriate form using generally available technology, as long as the representation is clear, precise, self-contained, easily accessible, intelligible, durable and objective;

• **EU certification mark**: a new type of trade mark will be registrable at EU level; certification marks allow a certifying institution or organisation to permit adherents to the certification system to use the mark as a sign for goods or services complying with the certification requirements.

---

\(^2\) The EEA includes EU countries and also Iceland, Liechtenstein and Norway.
Key National Enforcement Judgments available in eSearch Case Law

European Union Intellectual Property Office

More than 700 key enforcement judgments from 16 EU Member States are now available online in EUIPO’s eSearch Case Law. The decisions collected set new trends in case law and include all types of IP rights, covering both civil and criminal proceeding.

This new jurisprudence can be accessed using the advanced search function of the “National Court Judgments” tab by selecting “Only Key Enforcement decisions”. The information displayed consists of the full text of the judgments in their original language together with a summary in English, along with the affected IP right, the legal norms and the damages, when available.

Steps against scammers sending misleading invoices to users

European Union Intellectual Property Office

Several fraudulent schemes have been reported to EUIPO in which suspects misuse contact details of trade mark and design owners which are accessible via the EUIPO website, such as from the application for registration. The suspects issue misleading invoices requesting payment for unsolicited publication, registration or entry in unofficial or fictitious databases. These misleading invoices usually include amounts that are similar to real trade mark and design service fees, and often offer discounts for their services as part of the fraud or attempt of fraud. The same schemes are used when a trade mark or design is up for renewal.

To address this issue, EUIPO has established a multi-pronged policy against the fraudulent activities of scammers sending misleading invoices to users of the EU trade mark and design system. For this purpose, EUIPO has closely cooperated with the Swedish public prosecutor’s office who brought to court an extensive scam scheme principally targeting EU trade mark owners. In June 2016, the District Court in Uppsala (Sweden) passed four custodial sentences ranging between two months and one year on four of the defendants for attempted aggravated fraud. EUIPO continues to provide support in the appeal procedure and trusts that a precedent in Sweden will assist in convincing prosecutors in other jurisdictions in considering a similar approach.

Indeed, several initiatives were launched and there is more to come. EUIPO stands ready to be proactive, together with other stakeholders, in taking measures against scammers.

Further information and warnings to users are available on the EUIPO website.
EUIPO anti-counterfeiting initiatives

Within EUIPO, the EU Observatory on Infringements of Intellectual Property is a network of experts and specialist stakeholders that has amongst its priorities the objective to provide data, tools and databases to support the fight against IP infringement. In this context, two databases - ACRIS and EDB - have been developed and made available to right holders.

**What is EDB?**

EDB helps right holders protect their products against counterfeiting and provides a direct communication channel between right holders and enforcers in the EU. By sharing information on products suspected to be counterfeited and the IPR that protect these, right holders can help enforcers detect counterfeits.

Police and customs officials of the 28 Member States can send suspicious cases to right holders about products detained while right holders can send alerts about potential cases. EDB also permits the electronic filing of customs applications for action (AFA) in three easy steps.

Who can use EDB?

Right holders having a valid right in the EU (or their representatives)

For further information:
- EDB website
- EDB Registration procedure

For any questions:
Observatory.EDB@euipo.europa.eu

**What is ACRIS?**

The Anti-Counterfeiting Rapid Intelligence System (ACRIS) was created in collaboration with the European Commission (DG Trade) and the European Observatory on Infringements of Intellectual Property Rights to bring together in one database all data relating to cases of intellectual property rights’ infringement affecting EU companies in countries outside the EU.

Furthermore, ACRIS permits EU policymakers to obtain additional information and statistics to help shape their intellectual property discussions with countries outside the EU, thus improving the IP landscape there for EU businesses.

Who should use it and why?

ACRIS allows EU companies (directly or through representatives or associations for example) to report on IPR infringements in countries outside the EU in a structured format, thus being able to submit cases, search their own cases and report on these. ACRIS is an intelligence-sharing instrument: users of this tool can tap into this source of knowledge to shape their business strategies in non-EU countries and reduce their risk of suffering IP infringement. In fact, contributions are shared amongst users of the tool in an anonymised way so that overall statistics by country can be drawn and trends identified.

What are the benefits of the tool?

It helps you in taking decisions on how best to protect your assets, by helping you to get an overview of the world-wide enforcement situation of your company and other companies in an anonymised way. The more companies share their information, the more accurate will be the picture that the tool can provide. We count on your help to make the tool a success!

For further information: ACRIS website
To request access: ACRIS registration

For assistance with ACRIS
Observatory.ACRIS@euipo.europa.eu
What’s in a name?

International Trademark Association (INTA)’s Enforcement Committee – General Enforcement Matters Subcommittee:

Patty Connor, Stussy, Inc.; Thomas J. Romano, Kolisch Hartwell, P.C.; Scott Brown, Vinson & Elkins, LLP; Iris Gunther, International Trademark Association

When owners of small to medium-sized enterprises (SMEs) prepare to launch their business, one of the steps on their check list is registering their business or trade name. This is considered a good move in order to distinguish the business in commerce and for it to be recognisable to your customer base. For many entrepreneurs, finding the right name is a task coloured by traditional considerations, family expectations, beliefs, superstitions and other rational - or less rational - factors. Many business owners do not actually consider the legal implications of the choice of a name, but there are some important legal factors which you should be aware of.

Differences between trade names and trade marks

A trade name identifies a company or business; it is the name of your business entity. A trade mark commercially identifies a source of products and services; it indicates the origin of your products and services. A trade mark can be a word, a design, a logo, a symbol, or a slogan, and it can even be a colour, a sound or a shape.

Trade names can be trade marks and vice versa but they are not automatically interchangeable – instead, their usage will determine whether they are names or marks. The placement and size, together with the surrounding context, all influence whether the use qualifies as that of a trade mark and/or a trade name. Often, a trade mark is prominently displayed, apart from other text, so as to stand out. Meanwhile, a trade name may not stand out, and may even be accompanied by the company address or other contact information.

Registration process

Trade marks and trade names can both be registered, but on different registries.

Trade marks are typically registered with trade mark registries, mostly operated by national trade mark offices. European countries, as well as the European Union Intellectual Property Office (EUIPO), conduct a substantive examination\(^1\) of any trade mark application and some offices check the registers for prior trade mark registrations and applications that a new application could conflict with. In some countries, the owner of a prior trade mark registration or application of a possibly confusingly similar mark is notified by the relevant office and then has the chance to oppose the new trade mark filing. In addition, most European countries recognise trade mark rights even without registration – these rights can be created and acquired by way of continued factual use of a trade mark in the marketplace and the extent of these rights depends on the legal provisions within that jurisdiction.

Conflicting rights

As a consequence of the lack in substantive examination of a trade name application, the fact that a business/trade name was successfully registered does not necessarily mean it is clear of conflicts with existing trade marks or other rights in the market. If a third party owns a prior right, which means it was adopted or registered before you started using your business name, and this prior right is identical or similar to your chosen name, there may be a conflict and your name might be considered as infringing. For the same reason, a trade name registration does not guarantee that you are able to stop others from using the same or similar names in commerce. A trade name can infringe a trade mark and a trade mark can infringe a trade name – so prior clearance of the availability of a trade name is critical.

Clearance

Once you have selected and adopted a name by using it in the marketplace, the risk of conflict is a threat to the investment you have made in your business. One option to reduce the risk of conflicts when registering your trade name and preparing to use it in

---

\(^1\) The substantive examination is conducted to assess whether the application meets the criteria for registration (e.g. distinctiveness).
commerce is to conduct a clearance search to determine the availability of the name that you have selected. In order to assess the risk of use and to try to avoid potential conflicts, it is highly recommended that you conduct a broad clearance search before you register or adopt a name for use with your business, whether it be a trade name, trade mark or even a domain name. Ensure that your clearance search covers existing trade names, trade marks, and other uses – whether registered, filed/pending, or unregistered – to determine what other rights exist in the marketplace. Remember that conflicts can arise with “similar” names, not just “identical” terms.

It is possible to conduct some initial searching on your own. For example, the EUIPO has a freely accessible database which allows at least preliminary searches in the European and national trade mark registers that you can do yourself.

Most searches are not completely fool proof and interpreting the search results can require a detailed understanding of the law. For example, a change in punctuation, stylization or spelling of your name in relation to an existing name may avoid conflicts in some circumstances, but not in others. Also, in some circumstances, it may be possible that you could use a name identical to an existing name, depending on the degree to which the goods/services of your company are unrelated to the owner of the identical name. Making these determinations is fact specific and typically requires a professional legal analysis.

Professional assistance

Based on the subtleties and complexities within the law, consulting with a trade mark professional or intellectual property (IP) lawyer is highly recommended. They will be able to help you with a clearance search and will explain the results and risks and consequences to you.

For more information and free resources about trade marks, visit www.inta.org/SME.
Mr Berndorfer, let’s start with introducing your company to our readers. Can you tell us a bit about “Design and Engineering Company”? 

D&E Company was established in 2005 and our main office is in Austria. Our key strategy is to do everything in-house before we transfer our developed products to our suppliers, located worldwide, to give our clients the best service. We also have offices in Switzerland, New York, Hong Kong and China.

Our company has an enthusiastic team of experts in several areas, which transforms our company to a speed boat on the ocean and to one of the most innovative companies in a wide field of different product ranges.

We are really proud to get design awards like “Winner of Eurobike Award 2016” or “Winner of the Hong Kong TOY Award 2017”. 

In your products, you are bringing innovation and client expectations together. So, how would you define your overall business strategy and what is the role of intellectual property in this approach?

At D&E Company we believe that a strong dialogue between our clients and us is fundamentally important to have full control in all steps during the development process of products. The balance between futuristic concepts and feasible solutions is our so called “total solution design approach concept” including different stages starting from innovation lab, then strategy and marketing, graphic and product design, engineering and prototyping, production and quality management and brand communication. It is our goal to deliver everything out of one hand so our client is getting the best results.

We are aware that, in today’s highly competitive business world, intellectual assets are a strong weapon for our clients such as patents, designs, trade marks, domain names, and so on.

When we create a new product with our client, our first step is to do a lot of research in the business field to better understand the market as our strategy is to develop products and solutions which can be protected.

The strategy of IP protection is not that complex as a first step. We have to ask ourselves: Can I commercialise this invention? If yes, a first step is to set up the goal and define what we want to do, what will be the product line, what we want to sell over the coming years and what makes us competitive in the market.

In my opinion, for example, a patent which is not commercialised is just a piece of paper and is worthless and a waste of IP protection costs.

To inspire our readers, how can you briefly define your trade mark strategy?

Strategies for developing effective trade marks and brands involve focus groups, market testing and pilot products. The first step is really a challenging part because you need to find a short, effective brand name which is easy to remember.

In these days we recognise a fundamental link between a product and a brand. We think that the customers are very particular on what they spend and it is crucial to them to get an authentic product from a reliable brand.

Especially, such an innovative company trading all over Europe like you also needs to cope with infringers. How do you handle IP infringements against your products?

Yes, we already had to deal with infringers a lot in the past and we always weigh up the chances we get in legal battles and decide then how to proceed. Intellectual property infringers are on the one hand of course bad for our brand and business, and on the other hand it shows us that the products we are developing are successful on the market.

You are a successful Austrian SME. So, what are your suggestions for other European SMEs to become successful in this highly competitive global business world?

For us, “listening to customer needs” has a key role in becoming successful. We try to work out all details about a new project before starting to work on it, we talk with our clients in depth before starting to dive in ourselves, to better understand the needs of our customer and where we could go with the new project. We have developed our own approach for business strategy, as I mentioned before. Thus, all companies should develop their own strategies. You really do not need to invest a lot of money for this or you do not need to be a big company to define your strategy. Even if you are an SME, if you listen to your customers and if you can find a way to implement the customer needs into your business approach, success will eventually come.

While doing this, the companies should not forget intellectual property rights and they should integrate their IP into their business strategies, because IP is a very strong weapon and companies should never ignore it.
The winners of 2016 are:

- **Category 1 - New Partnerships:** The award honoured Aquabion GmbH from Germany and Rabmer GreenTech in Austria. The Network facilitated cooperation between the two SMEs. Aquabion GmbH’s turnover has since increased by 10-15 % while both businesses have hired new personnel.

- **Category 2 - New Directions:** The award was presented to Germany’s Novihum Technologies. Thanks to the Network, the company was able to access funding from the SME Instrument to develop a production plant and hire 20 new people.

- **Category 3 - New Horizons:** The award was given to Smartive from Spain. The company was also able to access funding from the SME Instrument after guidance from the Network. The funds were used to expand the company’s market share which is expected to increase its annual turnover from 500,000 EUR to 5 million EUR in 2019.

As an associate partner of the Enterprise Europe Network, the European IPR Helpdesk was also represented during the Conference with a booth to provide more information on the services of the Helpdesk by highlighting the importance of intellectual property issues throughout business and technology partnership processes.

The European IPR Helpdesk has also organised a closed group meeting with the European IPR Helpdesk Ambassadors to discuss future tools and services to be developed in order to boost the IP competency of the Network for the benefit of all Network clients.
The European IPR Helpdesk on Tour

Take a look at a selection of our recent events!

In the last three months the European IPR Helpdesk Team participated in a number of IP events all over Europe, and provided several IP workshops building capacities in IP management among SMEs and researchers.

Meet us at these upcoming conferences
- 22 March 2017, Iași / Romania: International Communication Conference
- 29-30 March 2017, Munich / Germany: EARTO Annual Conference 2017

Upcoming IP training events
- 8 February 2017, Madrid / Spain: IP Management in Horizon 2020
- 22 February 2016, Salzburg / Austria: IP Management in Horizon 2020
- 15 March 2017, Leuven / Belgium: Introduction to IP & IP Management in Horizon 2020 with a focus on MSCA
- 23 March 2017, Bucharest / Romania: IP Management in Horizon 2020

Upcoming webinars
- 18 January 2017: Services of the European IPR Helpdesk
- 08 February 2017: Introduction to IP
- 15 March 2017: IP in EU funded projects
- 12 April 2017: Technology Transfer

For further information, please have a look at our online event calendar.

Your IPR Queries Matter to Us: Ask the Helpline

The European IPR Helpdesk Helpline answers your questions concerning intellectual property (IP) within three working days. You get practical, and free-of-charge, first-line support directly from our IP experts.

If you are curious about the type of IP queries that the Helpline has recently been dealing with, these are shown in this illustration.

If you would like to talk to one of the IP experts of our helpline, please dial +352 - 25 22 33 – 333

www.iprhelpdesk.eu/helpline
I am a Project Manager of the H2020 project X. We just found out that there is a company which has a registered trade mark X. Does that constitute a problem for our project name? Are we in a conflict? And how do you propose that we proceed?

First of all and as a preliminary remark, trade marks are territorial rights and their geographic scope of protection is limited and depends on the country (or countries) or region of registration. Put simply, a trade mark protection which one obtains will be limited exclusively to the country (or countries) or region (EU) where the registration was obtained.

As a general principle, participants of EU-funded projects should refrain from using acronyms which are identical or similar to registered trade marks of others, especially when applying such acronyms in similar areas of activity and in the same territory in which they were registered as trade marks. Under certain circumstances, this could be regarded as an unauthorised use of a trade mark and lead to a trade mark infringement.

On the other hand, not all uses of logos which are identical or similar to registered trade marks of others, especially when they were registered as trade marks. First of all and as a preliminary remark, trade marks are territorial rights and their geographic scope of protection is limited and depends on the country (or countries) or region of registration. Put simply, a trade mark protection which one obtains will be limited exclusively to the country (or countries) or region (EU) where the registration was obtained.

If the territory of registration overlaps with the territory on which you are planning to sell your goods or services and your future activity might have a commercial character (“used in the course of a commercial activity with a view to gain and not as a private matter”), then the use of such a project acronym might be potentially considered as a trade mark infringement. In such a case, changing the acronym would be advisable. On the other hand, if the use of your acronym lacks commercial character (this is to be assessed by a relevant professional) you may be on the safe side.

For the first time, we are confronted with a grey market issue, whereby we suspect that our own Middle East distributor is dumping products into Europe, using a broker in Romania. We have proof of the offer towards distribution in Europe of our own brand (as well as many other fragrance brands), and based on the contracts we have with our distribution channels, re-import into Europe is not allowed. While we are working on local action with our distribution channel, we wonder whether we can stop the (re-)import of our products, by stopping them at a potential point of entry into Europe. We can provide you with details (email only) of the broker in Romania, as well as a copy of the email with products on offer. Thanks for letting us know whether you need anything or can help.

To begin with, it is not clear from your email whether you have IP titles obtained for the entire region of the European Union or only for some of its countries.

In the case where you hold European Union rights, such as a European Union Trade Mark (EUTM) or a Community Design of your product, you will be able to enforce them throughout the EU. To put it simply, products being on the way to Europe may be considered as infringing products if they are brought to the EU market with your brand but without your authorisation (i.e. outside of the scope allowed by the distribution agreement). In the case where you know the entry point of your products, you can bring your claim to the competent customs authority. More specifically, you can file an application for action (AFA) with the customs authorities in order to stop the shipment of infringing goods directly at the borders. By this action, you request the inspection of possible infringing goods and, where the customs find grounds for infringement, their consequent seizure. You must, however, give proof of your ownership of the IP right in question, i.e. a copy of your trade mark.

Moreover, since you are aware of the details of the importer (name of the company, description of the goods, cargo companies, etc.), you should include this information in your application. The more details that the competent customs authorities receive about the importer, the more likely it is that they will be able to identify the allegedly infringing goods. Please note that usually your application will be valid for one year but can be renewed and no fees are required upon submitting it.

Furthermore, in case you need protection throughout the EU you should also consider the option of filing a Union application which has the effect of alerting all national Customs authorities. It is possible for a rights holder of an EU-wide right, such as an EU trade mark, to make a Union application.

You will find both the Union and national application forms on the website of the European Commission.
The European IPR Helpdesk
N°24, January - March 2017

QUIZ

Fancy a Little Quiz?

As you know, in every issue we include a quiz to help you develop your patent searching skills using Espacenet. Why don’t you try using Espacenet today? Here comes our new quiz:

My Shopping Robot

Check out this autonomous and self-driven shopping cart. It is designed to follow people with or without reduced mobility in shopping areas and carry their shopped items.

Watch this film to see how it works.

Try finding patents covering such devices using Espacenet.

TRADE MARK QUIZ

Letter Soup

To conclude this learning experience, why not strengthening your knowledge on trade marks with this letter soup? The concepts in bold capital letters below are hiding in this chaotic soup, try to find them!

1. A TRADE MARK is a SIGN capable of distinguishing the GOODS or SERVICES of one enterprise from those of another.
2. The owner of a trade mark is also known as its HOLDER.
3. To qualify for registration trade marks must be DISTINCTIVE and NON-DESCRIPTIVE.
4. To register a trade mark we must submit an APPLICATION.
5. LOGOS can also be registered as trade marks.
6. EU trade marks registrations are managed by the EUIPO.
7. International trade marks registrations are managed by WIPO under the MADRID SYSTEM.

<table>
<thead>
<tr>
<th>X</th>
<th>A</th>
<th>P</th>
<th>P</th>
<th>L</th>
<th>I</th>
<th>C</th>
<th>A</th>
<th>T</th>
<th>I</th>
<th>O</th>
<th>N</th>
<th>O</th>
<th>L</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>N</td>
<td>D</td>
<td>E</td>
<td>O</td>
<td>T</td>
<td>L</td>
<td>H</td>
<td>B</td>
<td>M</td>
<td>G</td>
<td>O</td>
<td>O</td>
<td>D</td>
<td>S</td>
</tr>
<tr>
<td>G</td>
<td>H</td>
<td>I</td>
<td>L</td>
<td>E</td>
<td>M</td>
<td>E</td>
<td>N</td>
<td>O</td>
<td>R</td>
<td>O</td>
<td>N</td>
<td>P</td>
<td>V</td>
<td>L</td>
</tr>
<tr>
<td>B</td>
<td>E</td>
<td>N</td>
<td>J</td>
<td>U</td>
<td>N</td>
<td>I</td>
<td>R</td>
<td>A</td>
<td>M</td>
<td>L</td>
<td>D</td>
<td>J</td>
<td>R</td>
<td>U</td>
</tr>
<tr>
<td>N</td>
<td>G</td>
<td>T</td>
<td>R</td>
<td>A</td>
<td>D</td>
<td>E</td>
<td>M</td>
<td>A</td>
<td>R</td>
<td>K</td>
<td>E</td>
<td>G</td>
<td>J</td>
<td>H</td>
</tr>
<tr>
<td>M</td>
<td>A</td>
<td>D</td>
<td>N</td>
<td>E</td>
<td>D</td>
<td>I</td>
<td>O</td>
<td>F</td>
<td>R</td>
<td>E</td>
<td>S</td>
<td>I</td>
<td>G</td>
<td>N</td>
</tr>
<tr>
<td>L</td>
<td>B</td>
<td>O</td>
<td>A</td>
<td>L</td>
<td>I</td>
<td>N</td>
<td>G</td>
<td>T</td>
<td>E</td>
<td>R</td>
<td>C</td>
<td>R</td>
<td>K</td>
<td>G</td>
</tr>
<tr>
<td>O</td>
<td>I</td>
<td>R</td>
<td>O</td>
<td>W</td>
<td>A</td>
<td>G</td>
<td>A</td>
<td>N</td>
<td>A</td>
<td>M</td>
<td>R</td>
<td>E</td>
<td>S</td>
<td>D</td>
</tr>
<tr>
<td>R</td>
<td>L</td>
<td>H</td>
<td>D</td>
<td>I</td>
<td>S</td>
<td>T</td>
<td>I</td>
<td>N</td>
<td>C</td>
<td>T</td>
<td>I</td>
<td>V</td>
<td>E</td>
<td>A</td>
</tr>
<tr>
<td>A</td>
<td>K</td>
<td>E</td>
<td>L</td>
<td>P</td>
<td>R</td>
<td>I</td>
<td>O</td>
<td>A</td>
<td>P</td>
<td>B</td>
<td>P</td>
<td>W</td>
<td>R</td>
<td>L</td>
</tr>
<tr>
<td>E</td>
<td>N</td>
<td>F</td>
<td>S</td>
<td>S</td>
<td>O</td>
<td>U</td>
<td>P</td>
<td>E</td>
<td>P</td>
<td>I</td>
<td>B</td>
<td>T</td>
<td>S</td>
<td>V</td>
</tr>
<tr>
<td>F</td>
<td>G</td>
<td>E</td>
<td>P</td>
<td>C</td>
<td>Q</td>
<td>C</td>
<td>H</td>
<td>U</td>
<td>I</td>
<td>H</td>
<td>I</td>
<td>Q</td>
<td>I</td>
<td>U</td>
</tr>
<tr>
<td>Q</td>
<td>K</td>
<td>R</td>
<td>N</td>
<td>E</td>
<td>R</td>
<td>T</td>
<td>O</td>
<td>C</td>
<td>S</td>
<td>U</td>
<td>V</td>
<td>H</td>
<td>C</td>
<td>E</td>
</tr>
<tr>
<td>Y</td>
<td>M</td>
<td>A</td>
<td>D</td>
<td>R</td>
<td>I</td>
<td>D</td>
<td>S</td>
<td>Y</td>
<td>S</td>
<td>T</td>
<td>E</td>
<td>M</td>
<td>E</td>
<td>Z</td>
</tr>
<tr>
<td>X</td>
<td>C</td>
<td>F</td>
<td>V</td>
<td>T</td>
<td>B</td>
<td>N</td>
<td>I</td>
<td>O</td>
<td>L</td>
<td>G</td>
<td>R</td>
<td>F</td>
<td>S</td>
<td>W</td>
</tr>
</tbody>
</table>

F A N N E D T E R C R K G
Is this Fruit Ripe?

We often wonder if a fruit is ripe. One can easily imagine a portable sensor that can determine the ripeness of fruits and vegetables. Farmers could use the device in the fields to determine the ideal harvesting time for apples and other fruits. Or they could use it in storage facilities to sort fruit and vegetables by ripeness. It could also be adapted for end users, helping them to avoid the unpleasantness of using rotten fruits for the tart.

Try finding patents covering such devices using Espacenet.

Step one: To find similar patents, identify the most pertinent aspects of the invention – common technical features that may be found in related patents – and for each aspect, define a comprehensive set of synonyms. To perform the search, the following concepts – groups of synonyms covering the different aspects of the invention – can be defined:

- fruit* veget*
- ripe*
- sens*
- portab*

Several combinations can be tried. The following one ripe* fruit* sensor yields the following list of documents.

Out of which you will find:

EP2720174 (A1) - Measurement of the ripeness of cocoa fruits

JP2004226357 (A) - DETECTING DEVICE OF DEGREE OF RIPENESS AND SUGAR CONTENT OF FRUIT

Step 2: As a second step classification symbols assigned to some relevant documents can be used to cover the concepts to be combined. In our case we will use the symbol G01N33/025 covering the investigating or analysing materials (Fruits or vegetables).

Combining this symbol with ripe* yields following additional results:

US2006127543 (A1) - Non-invasive colorimetric ripeness indicator

US2007079644 (A1) - Ripe melon detector

US2013298651 (A1) - Ripe Fruit Indicator

The search can be pursued using more general classification symbols and synonyms. It can be concluded that this field is quite patented and that innovating in this area can greatly benefit from gathering all patent prior art covering this field.
The European IPR Helpdesk project receives funding from the European Union’s Horizon 2020 research and innovation programme under Grant Agreement No 641474. It is managed by the European Commission’s Executive Agency for Small and Medium-sized Enterprises (EASME), with policy guidance provided by the European Commission’s Internal Market, Industry, Entrepreneurship and SMEs Directorate-General. Even though this Bulletin has been developed with the financial support of the EU, its content is not and shall not be considered as the official position of the EASME or the European Commission. Neither EASME nor the European Commission nor any person acting on behalf of EASME or of the European Commission is responsible for the use which might be made of this content. Although the European IPR Helpdesk endeavours to deliver a high level service, no guarantee can be given on the correctness or completeness of the content of this Bulletin and the European IPR Helpdesk consortium members are not responsible and may not be held accountable for any use which might be made of this content.

The support provided by the European IPR Helpdesk should not be considered as of a legal or advisory nature.

The Bulletin is published three-monthly by the European IPR Helpdesk and it is distributed free of charge.

All issues of the Bulletin are available at www.iprhelpdesk.eu/library/bulletins.