

Intellectual Property Protection

part I: General introduction and industrial property rights BA and MA programmes in English



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WNE UW, 2025/26

What are we going to / should we talk about and why?



Ptasie Mleczko, Photo: Ra Boe /
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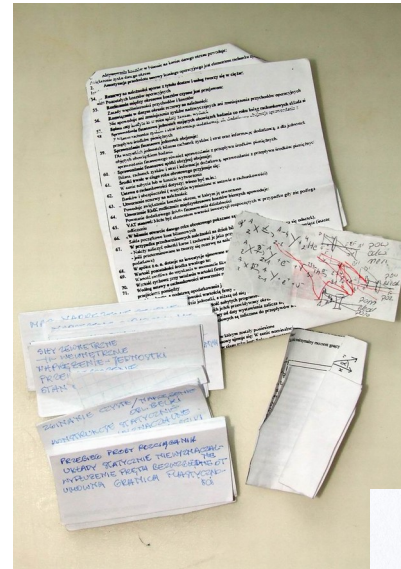


Uniwersytet Warszawski
Wydział Nauk Ekonomicznych

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Nr albumu: 490

Kryzys w Europejskim Systemie Walutowym
w latach 1992-1993
w świetle teorii kryzysów zakaźnych

Praca magisterska
na kierunku Ekonomia
w zakresie Ekonomii Międzynarodowej



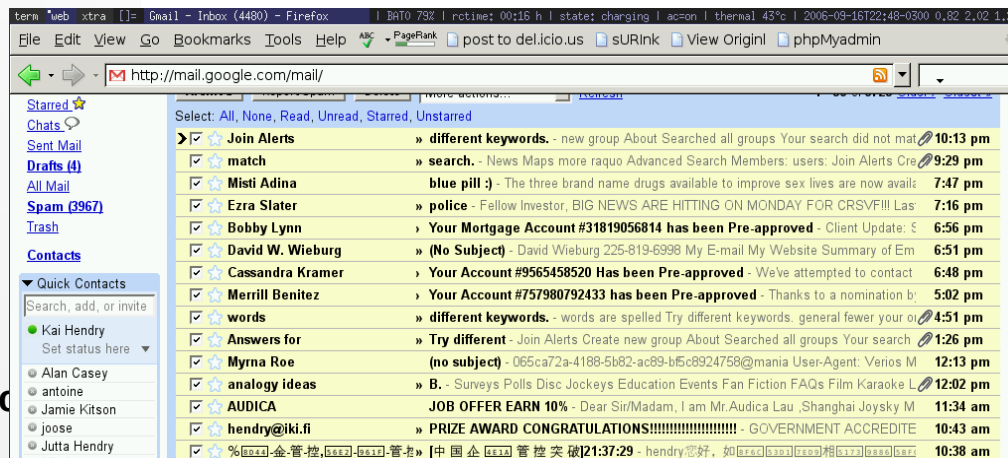
Ściagi, Foto: Hiuppo /
Wikipedia, CC BY 2.5



<https://www.apple.com/pl/>



M. Kopyt - Intellect



Author: Franciszek Kopyt

Kai Henry, <https://www.flickr.com/photos/hendry/245020218/in/photostream/>, CC BY 2.0

Why is this subject (lecture) for?

- **Works are created at all universities; inventions are also created quite often as part of research activity – mainly at technical universities**
- **It is not difficult to create work!!! - for example during your studies:**
 - project for classes
 - presentations
 - thesis (bachelor's, master's degree)
 - scientific publications
- **With works (not just books, mp3, movies, computer programs ☺) as the recipients we meet on every step (everyday) – as a customer and a creator**
- **Out of studying the creation of work, it is not difficult either!!!**
- **Creating own works we use third party works – others may use our works**
- *Contact with patents, trademarks, designs, geographical indications is very common – as a customer and a “producer”*
- *A company where you work / will work can create inventions or protect their intellectual property - or it may purchase such assets?*

**Intellectual Property Law protects the others,
but also protects you (students)!!!**

General concepts of IPP (in Polish legal system)

- IP law as part of civil law
 - comes from the Book Two of the Civil Code „Ownership and other proprietary rights”
 - matters not regulated individually → The Civil Code regulations
- IP Rights as the **absolute subjective right**
 - defines “the sphere / scope of potential action” limited by the legal rules (rights)
 - power can be exercised against all others (*erga omnes*)
 - closed catalogue of rights (*numerus clausus*)
 - relate to intangible assets with intellectual content – independent of the material/physical form, ubiquitous, undefined / lack of explicit governance – **intellectual/mental creations**

WE WANT TO PROTECT OUR GOODS / POSSESSIONS

- *Cumulation of protection/rights: Civil Code, Act on Suppression of Unfair Competition, Industrial Property Rights or Copyright ...*

The system of Intellectual Property rights

- Intellectual Property (IP) is doctrinal concept
 - separately from industrial property
 - includes industrial property
- IP as collective concept / IP includes:
 - industrial property in industrial property act and *I.p.p.v. act*: inventions, designs (*utility models, industrial*), trademarks, geographical indications (and designation of origin), topographies of integrated circuits, new plants varieties
 - *regulated by separate act*
 - *suppression of unfair competition*
 - “Creation”: works, subjects of neighbouring (related) rights
 - Others – not precisely and poorly defined: know-how, personal rights, internet domain, business confidentiality / secret, *rationalisation proposals (in industrial property act but not absolute rights)*
- **The catalogue of IP rights (especially industrial) increases together with technological progress (development)**

The idea of IP protection – economic side

- Areas of life based on the creations of the human intellect ...
- Intangible goods and public goods features
 - no restrictions in using by others
 - lack of overexploitation / depletion
- Supply of goods with above mentioned features (through market mechanisms) cannot satisfy demand.
- Answer: the attempt to change the nature of such intellectual goods to that of private goods by the establishing **(intellectual) monopolies**.
- Why? (different theories)
 - utilitarian, personalistic, proprietary, other (e.g. philosophic) theories
 - the theory of reward, incentive, contract, ownership
- **Attempts to introduce other solutions (subsidies, taxes), but the legal monopoly has won.**

National (Polish) sources of law on the intellectual property protection

- The Act of February 4, 1994 on copyright and related* rights (Journal of Laws 1994 item 24 no. 83 as amended – the act from 1994 with /many/ amendments)
- The Act of June 30, 2000 on industrial property law (Journal of Laws 2001 item 49 no. 508 as amended – the act from 2000 with amendments)
- *The act of April 23, 1964 Civil Code (Journal of Laws 1964 No. 16 item. 93 as amended) – only for issues not regulated in above acts (it is not a source of IPP law in the full meaning)*

National (Polish) sources of law on the intellectual property protection

- *The Act of June 26, 2003 on the legal protection of plant varieties (Journal of Laws 2003, No. 137, item 1300 as amended)*
- *The Act of July 27, 2001 on the databases protection (Journal of Laws 2001, No. 128, item 1402 as amended)*
- *The Act of April 16, 1993 on Suppression of Unfair Competition (Journal of Laws 1993, No. 47 item 211 as amended)*
- *The Act of May 17, 1989. Geodetic and Cartographic Law (Journal of Law 1989, No. 30 item 163 as amended)*
- *and others ...*
 - Above mentioned Acts together with implementing regulations – Regulations of the Council of Ministers

**The sources of law on the territory of Poland
are also ratified international agreements,
and from the EU accession
Community Regulation *and Directives of EU***

International sources of law on the intellectual property protection

- **Convention for the Protection of Industrial Property
– Paris 1883**

- *Madrid Agreement (1891 with amendments)*
- *Hague Agreement (1960 with amendments)*
- *Lisbon Agreement (1958 with amendments)*
- *Patent cooperation treaty (1970 Washington)*
- *others ...*



- **Convention for the Protection of Literary
and Artistic Works – Berne 1886**

WIPO portal, https://www.wipo.int/about-wipo/en/visit_wipo.html, 12.11.2024

-
- minimum standards principle / common rules principle
 - the so called “assimilation clause” (national treatment principle)
 - convention priority right
 - the principle of territoriality of protection (upheld)

International sources of law on the intellectual property protection

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) – WTO 1994
 - most favoured nation clause
 - more efficient execution of rights
 - unification of standards of protection
 - confirmation of the minimum standard rule
 - in Poland in force since 2000
- EU Law (in Poland in force since 2004) – Regulations and *directives*, eg.
 - *Directive on Copyright in the Digital Single Market 26.03.2019 [2016/0280 (COD)]*
 - *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence*

Industrial Property Rights – indicative information

- Industrial property rights refers to goods that, in particular
 - extend the state of the global technical knowledge (an invention)
 - individualise product or entrepreneur (e.g. trademark)
- Industrial Property Protection allows to monopolise a certain part of economic activity (it protects intellectual property used in business activity; it changes the structure of the market)
 - **Protection that comes from Industrial Property Rights is related only to the profit and the professional use**

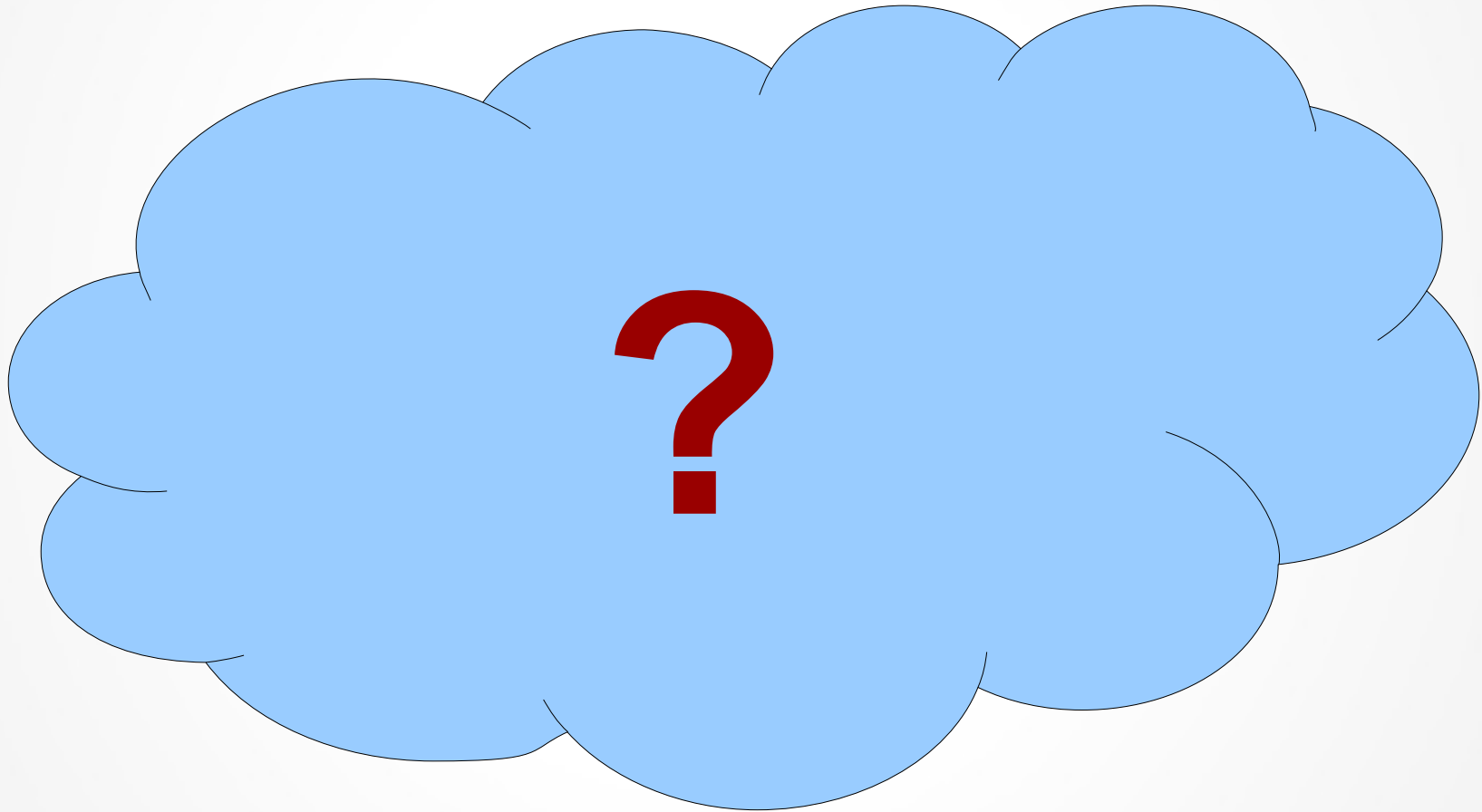
**Industrial Property Protection allows
the right holder to obtain (extraordinary) profit**
(possibility of extraordinary profits)

Industrial Property Rights – indicative information

- Economic aspect of Industrial Property Rights
 - economic (proprietary) rights, counted into assets of enterprise
 - modification of the structure of the market
- Industrial Property Rights (IRP) include:
 - **patents** → for inventions,
 - **registration rights** → trade marks, designs / industrial and utility /, geographical indications, topographies of integrated circuits
- **IPR arise on the basis of an administrative decision as a result of an application by the authorised entity (the first one by default)**
 - EXCEPTIONS: protection for an unregistered Community design and trademark (and in a sense a well-known trademark)
 - Industrial Property Rights are subjected to **expiration** or **invalidation** (cancellation)
 - Industrial Property Rights are subjected to **depletion**
- The Act on industrial property law in Poland – one act regulating (almost) the whole area of industrial property - rare case worldwide

A puzzle

(during our lecture)



Industrial Property Rights in examples: Patents

- Patents shall be granted – regardless of the field of technology – for any inventions which are **new**, which involve **an inventive step** and which are **susceptible of industrial application** (art. 24 Industrial Property Protection)
 - Monopoly for products, devices, methods, uses
 - Monopoly (exclusive rights) to **exploit for profit or for professional purposes** in the territory of **Poland** for **20 years** (art. 63 Industrial Property Protection)
 - **Some exclusions / limitations**: *art. 28 and 29 Industrial Property Protection*
 - right to obtain patent for a creator
 - Invention made by students – rights belong to the student
 - subject to depletion
 - Possible to **commercialise**: by self use, by devolve (sale) or licensing
- **There is a common/unitary patent in UE** (works on this from 2012, in force from 1.06.2023 among 18 countries among of 25)
 - some cooperation on European and International level

Patents – national, regional and international protection

- Patent in PL – Industrial Property Protection Act
- European Patent Convention EPC (1973) – Munich Treaty
- Patent Cooperation Treaty PCT (1970) – Washington Treaty

	Applying	Obtaining	Description
PCT	+	-	-
EPC	+	+	- (<i>exceptions</i>)
Poland (national law)	+	+	+
<i>UE Patent – still not in force</i>	+	+	+

- **Unitary patent in UE**
 - Two regulations UE 1257/2012, 1260/12
 - finally as **enhanced cooperation** (not “treaty institution”);
 - Spain, Croatia – NO; Poland – finally signed, but without ratification
 - already started on 1 June 2023, acceptance in 26/25 states (!), ratification – 18 states (GB withdrawal 2020)
 - common office and intellectual property court issue
 - patent documents translation issue
 - fee issue
 - more: <https://www.epo.org/applying/european/unitary/unitary-patent.html>

Industrial Property Rights in examples: Patents

FIG 10

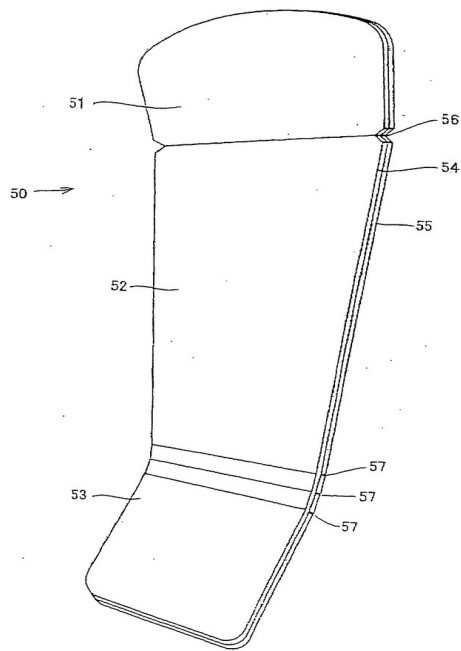
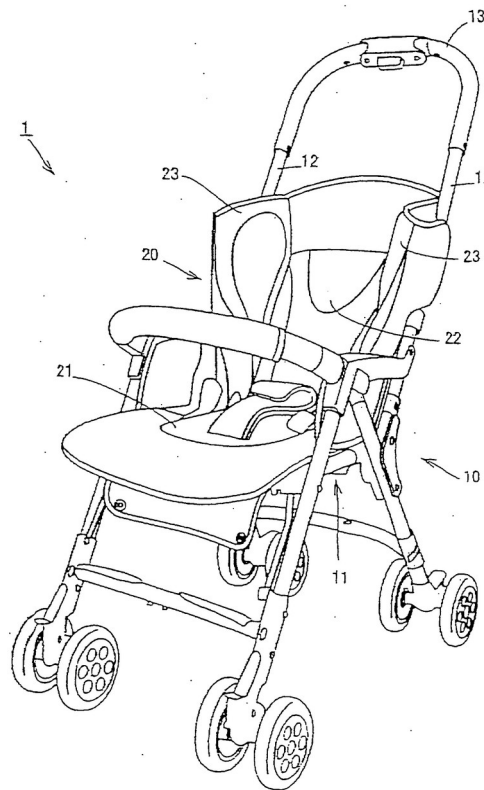


FIG 1



European Patent: EP 1 475 293 B1 (*already expired*)

Claims:

A baby carriage (1) ...
characterized in that said seating surface core (53) and
said back surface core (52) are constituted by a core
(50) continuously extending from said seating surface
sheet part (21) to said backrest sheet part (22), and said
back surface core (52) has a tapered configuration in
which a width is increased toward the upper side thereof
and the seating surface core (53) has a reduced width
as compared with said upper side of the back surface
core (52).

....

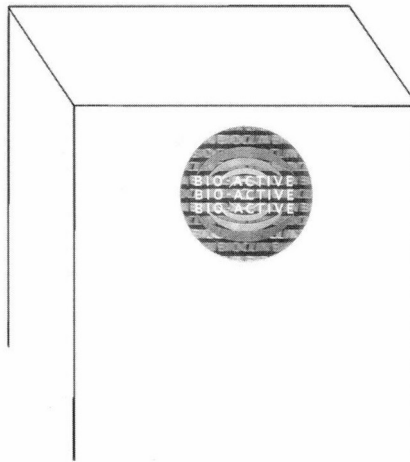
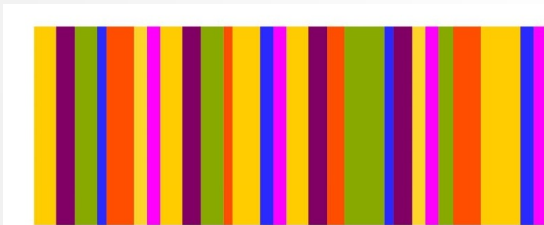
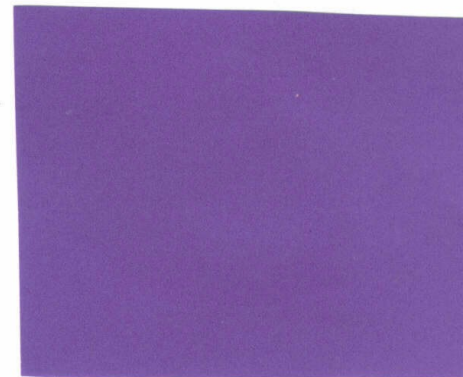
Questionable use of patent protection

- Patent trolls
 - base on imprecisions in description/claims of patents
 - acquire patents solely for use in disputes relating to the infringement (do not use patents for own productions)
 - base on similarity to rare products
 - sometimes take advantage of a little knowledge of regulations (disability to defend) by small businesses, but also massively attack the big companies
 - popular mostly in the USA
 - favourite company: Apple
 - e.g. NetAirus Technologies LLC vs Apple (2010)
 - invention of a smartphone – Richard L. Ditzik

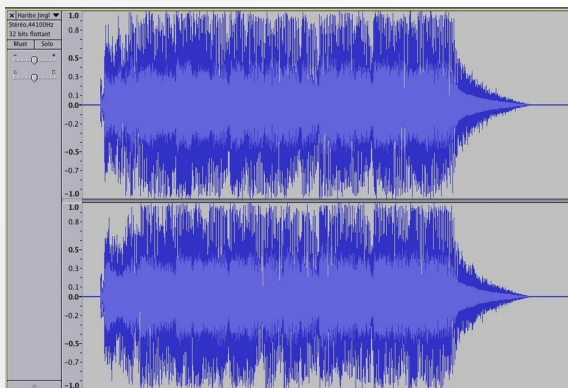
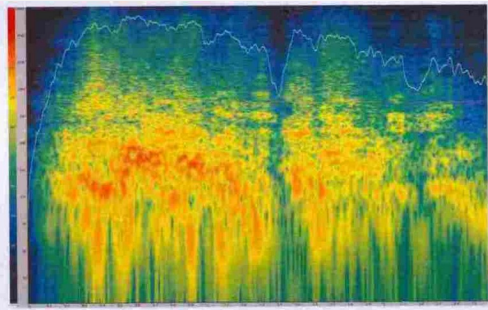
(source: iMagazine, 2/2014 (38), www.imagazine.pl)

Industrial Property Rights in examples: Trademarks

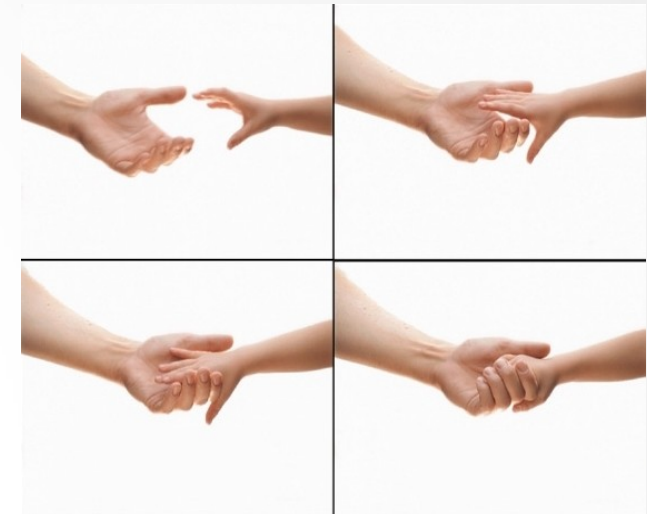
TYMBARK



Industrial Property Rights in examples: Trademarks



The sound mark is a sound of a lion roar having a duration of approximately 2.5 seconds. It is composed of two successive roars (0 to around 1.4s and 1.4 to 2.6), the second one having a slightly lower amplitude. The sound is non-harmonic, has fast ($>15\text{Hz}$) non-periodic amplitude envelope modulation (perception of sound roughness) and has dominant frequency content in the low and low-medium range (approximate -6dB range: 40 to 400 Hz for both roars with a peak at 170 Hz for the first one and a peak at 130 Hz for the second one). The perceived dominant frequency range (related to the spectral centroid) of the first roar increases until around 0.35s and decreases afterwards. In the second roar, it increases until around 1.7s, decreases until around 2.2s, increases again until around 2.3s and decreases afterwards.



The smell of fresh cut grass

Industrial Property Rights in examples: Trademarks

- **Trademark:**
 1. Any sign capable of **distinguishing** the goods of one undertaking from those of other undertakings... may in particular be a word, including the surname, drawing, letter, number, colour, spatial form, including the shape of the good or packaging, as well as sound. (art. 120 IPP – own translation)
- **The role (function) of the trademark:** to distinguish – designation of origin, to guarantee – qualitative, to advertise
- **The right of protection – 10 years – can be prolonged** (art. 153 IPP)
 - *Well-known trademarks* vs Famous trademark***
- National vs regional and international (Madrid system) application
 - CTM (UE): uniformity (one registration in EUIPO – Alicante); autonomy and coexistence with national protection.
- Depletion (art. 155 IPP) – with some exclusions
- The consequences of non-use (art. 157 IPP) – **It is not allowed not to use!!!**
- One may mark with ® but it is not necessary (art. 153 par. 1³ IPP)
- Interesting cases:
 - **GUCCI vs GUCIO case (VI SA/Wa 807/10)**
 - **Ptasie mleczko (LOTTE WEDEL SP Z O.O.) - 30.06.2014 (R.266762)**
 - **BigMac trademark in EU - 2019**

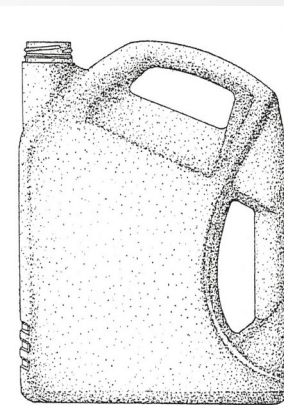


Phil Dragash, <https://pl.wikipedia.org/>

Industrial Property Rights in examples: Designs (industrial)

A design: Any **new** and having **individual character appearance** of the whole or a part of a product ... (art. 102 IPP)

- **always physical form (2D or 3D) and visible**
- **A right in registration** – just registration without examining the conditions (just formalities)
 - in EU protection of non-registered designs (only against copying and shorter time of protection - 3 years)
- **protection for 25 years divided into 5 years periods**
- national vs regional (EU) protection and international application (as TM) – covers all the groups of goods and solutions but application for specific group of goods
- do not apply to computer programs – but the appearance yes; what about people?



OHIM: 000000013-0001 OHIM: 001246920-0001

M. Kopyt - Intellectual Property Protection - WN

OHIM: 000602248-0001

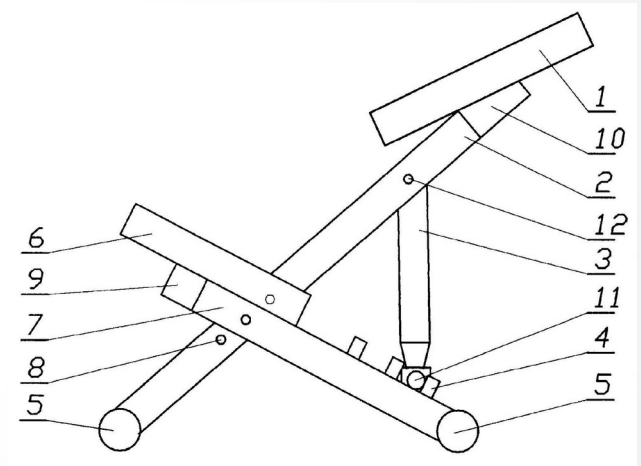
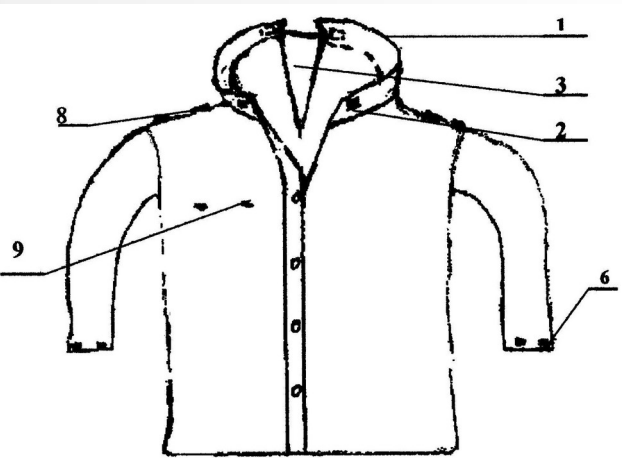
Other IP rights (non obligatory information)

Any **new** and **useful solution** of a **technical nature** affecting shape, construction or durable assembly of an object shall constitute a utility model. (Art. 94)

- characteristics similar to inventions (so called „small invention”) – „an inventive step” is not required
- **A rights of protection – 10 years**
- Specific in the Polish legal system
- Example: Stool UZY: (11) 60988

Shirt:

UZY: (21) 115879,
(22) 03-01-2006



Industrial Property Rights in examples: geographical indications

Geographical indications shall be **word indications** which in an explicit or implicit manner designate the name of a place, locality, region or country (territory), which **identify a good as originating** in that territory, where a **given quality, reputation or other characteristic of the good is essentially attributable to the geographical origin of that good**. (Art 174 IPP)

- **Protected Designation of Origin (PDO)** a **Protected Geographical Indication (PGI)** a **Traditional Specialities Guaranteed (TSG)**
- A right from registration
- **Without a time limit** right (but quality/the way of production controlled)
- National and Community stage for EU Indications
- Database of Origin and Registration (EU): 49 registrations from PL (03.10.2025r.)
 - some (3) pending registrations
 - <https://ec.europa.eu/agriculture/eambrosia/geographical-indications-register/>
 - <https://ec.europa.eu/agriculture/eambrosia/geographical-indications-register/tsg>
- Only food and alcoholic products ☺



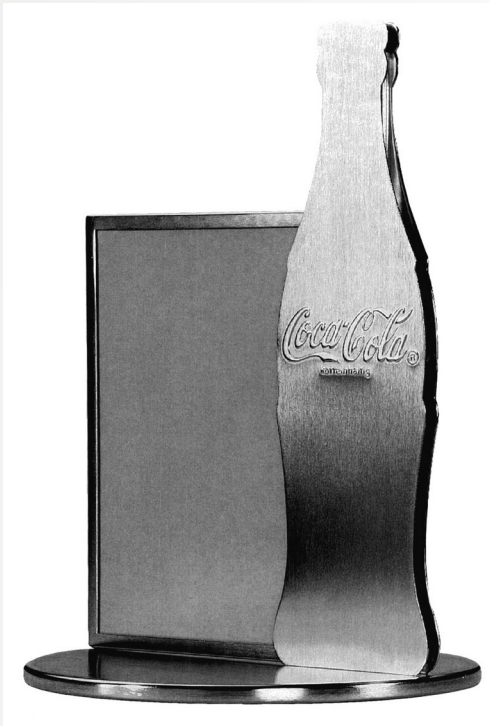
*Kiełbasa pradziadka z Dukli
Jabłka sandomierskie
Polish Oat Goose (Polska gęś owsiana)
(last applications / registration from PL)*

Other IP rights

(non obligatory information)

- **Topographies of integrated circuits:** *[Protection of] solution consisting of a three-dimensional arrangement of the elements, however expressed, at least one of which is an active element, and of all or some interconnections in an integrated circuit (art. 196)*
 - *since 1980s in the USA*
 - *A right in registration*
 - *original, is not widely known before and is a product of the human intellect*
 - *Protection period – 10 years from the application filling or availability on the market (max. two years before filling the application)*
 - *A few applications in Patent Office of Republic of Poland*
 - *because rapid changes in technology or application abroad or ...*
 - *recently some applications*

Patent vs Trademark?

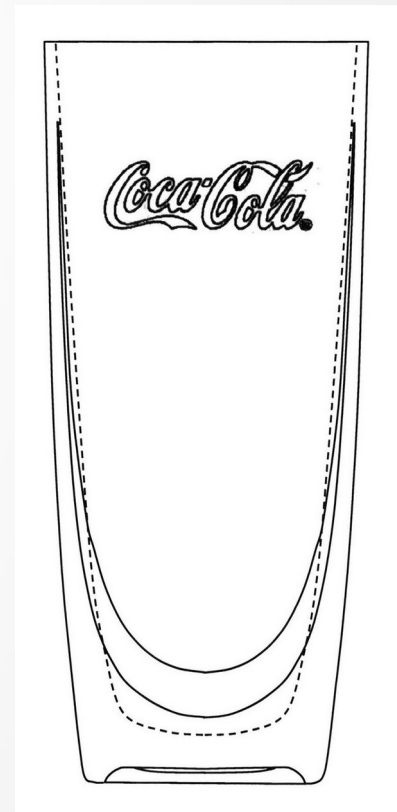


OHIM: 008792475

OHIM:
000033550-0003
000289681-0001

**Could Coca-Cola be protected as
a geographical indication (or designation of origin)**

And what about protection as a design?



Act on Suppression of Unfair Competition (SUC)

(non obligatory information)

- *Purpose (Art. 1): The Act governs the prevention and combating **unfair competition in the economic activity**, in particular in industrial and agricultural production, in construction works, trade and services – **in the interest of general public, entrepreneurs and customers.***
 - *a **customer** - in some interpretations - may also commit a prohibited act*
- *Subject matter (Art. 3 par. 1): **The act of unfair competition shall be the activity contrary to the law or good practices** [legal norms, establish customs etc.] **which threatens or infringes the interest of another entrepreneur or customer.***
- *The act on SUC does not describe any new rights but only protects the interests of entrepreneurs or customers.*

Act on Suppression of Unfair Competition

(non obligatory information)

- The list of UC acts (Art. 3 par. 2) – not closed: The acts of unfair competition shall be in particular:
 - misleading designation of the company, [e.g. collision with trademark]
 - false or deceitful indication of the geographical origin of products or services,
 - misleading indication of products or services, [e.g. collision with trademark]
 - infringement of the business secrecy,
 - inducing to dissolve or to not execute the agreement,
 - imitating products, [so called parasitism]
 - slandering or dishonest praise,
 - impeding access to the market, [e.g. dumping]
 - bribery person holding public office,
 - unfair or prohibited advertising,
 - organising a system of pyramid selling and
 - conduct or organize activities in consortium system
 - unreasonable extensions of payment periods for goods delivered or services provided
 - [also some cases of premium(s) sales]
-
- **Unwanted commercial information (SPAM)** is also treated as the Unfair Competition act – according to the other legal regulations (acts).

Thank you for your attention