



AN INTRODUCTION TO
TRADEMARKS

SEMINAR ON INTELLECTUAL PROPERTY RIGHTS
NOVEMBER 25, 2016

HISTORY



- **Used as early as 5000 BC**
- **Used in pottery, ceramics, bricks**
- **Source of ownership**



Clay Stamps
and Pottery



Roman
Bricks



Cattle
Brands

HISTORY



Following is a list of many of the Klondyke and Aravaipa Canyon brands, their owners and the history of the brand, if known.

BRANDS

| | | | |
|----------|----------------------------|---------------|-------------------------|
| A-K | CARL BLEAK | R | ADOLPHO SALAZAR |
| A-4 | JED BLEAK | sw | JAKE SALAZAR |
| Vc | BRIDWELL - HARY - CLARIDGE | Gx | LUPE SALAZAR |
| F | W.H. CLARIDGE & SONS | ES | PLASANO SALAZAR |
| A | ROY CLARIDGE | H | TERESA SALAZAR |
| ≡ | MAE DAVIDSON | TR | TEX SALAZAR |
| ∩ | ED DOWDLE | Y TI | DURWARD SANFORD |
| RX ♀ | CLARENCE DOWDLE | → D | CLAY TURNBULL |
| FI | CA. FIRTH | D | ETHEL DUFFY TURNBULL |
| +6 | J.F. GREENWOOD | X | RODOLFO VALENZUELA |
| Z | PETE GONZALES | IN | A.G. WALKER |
| 9 | PROCTOR (COBRA) | 7K | JAKE WEATHERSBY |
| AM | LACKNER | 7UP | PEGGY WEATHERSBY GILL |
| ≡ | CLAUDE MCNAIR | Y M | MARY WEATHERSBY SMITH |
| 9M | PHIL MCNAIR | 7 | NEVEL JUNIOR WEATHERSBY |
| X□ | GLEN MARBLE | A, D2, T, HAY | D.W. WILSON |
| +1+1 oTo | W.M. MORGAN | WO | W.L. WOOLAN |
| H▷ | MILTON RHEA | VAV S | VON TRAPP |
| RX- | JAY REX & JEFF CLAYTON | | |



BRAND

- a mark made with a red hot iron



SYMBOLS



SYMBOLS



SYMBOLS



We live by symbols

We purchase goods by them

A symbol

Induce us to select what we want

Lead us to believe what we want

SYMBOLS



So, a business owner:

- Capitalize on the drawing power of a symbol
- Put effort to build a symbol to convey the desirability of his products

Once attained:

- The owner has something of value.

Top 10 GLOBAL BRANDS



| | Logo | Brand Value (Sm) |
|----|---|---------------------|
| 1 |  | 170,276 |
| 2 |  | 120,314 |
| 3 |  | 78,423 |
| 4 |  | 67,670 |
| 5 |  | 65,095 |
| 6 |  | 49,048 |
| 7 |  | 45,297 |
| 8 |  | 42,267 |
| 9 |  | 39,809 |
| 10 |  | 37,948 |

2015

| | Logo | Brand Value (Sm) |
|----|---|---------------------|
| 1 |  | 118,863 |
| 2 |  | 107,439 |
| 3 |  | 81,563 |
| 4 |  | 72,244 |
| 5 |  | 61,154 |
| 6 |  | 45,480 |
| 7 |  | 45,462 |
| 8 |  | 42,392 |
| 9 |  | 42,254 |
| 10 |  | 34,338 |

2014

Top 10 GLOBAL BRANDS



 iPhone 6

“Goods/services attract consumers purchasing interests not only due to the goods/services themselves but also to the
MERITS AND VALUES
accumulated in the circumstances surrounding the goods themselves”

Merits & Values of a Brand



Merits & Values of a Brand



You don't buy a bag; you buy an image.

You don't buy a car; you buy reliability.

You don't buy a vacation;
you buy an experience.

**YOU DON'T BUY A
CERTIFICATE OF ATTENDANCE;
YOU BUY KNOWLEDGE OF A LIFETIME**

BRAND vs. TRADEMARK



Brand - a distinguishing symbol, mark, logo, name, word, sentence or a combination of these items that companies use to distinguish their product from others in the market.

Legal protection given to a brand is called
a Trademark.

TM vs. ®



TM - usually used in connection with an unregistered mark to inform the public that the same mark is being claimed as a trademark

® - It provides constructive notice of legal ownership of the mark and advise the public that the mark is registered

Definition of a MARK



any **visible** sign capable of distinguishing the goods (trademark) or services (service mark) of an enterprise and shall include a stamped or marked container of goods;

Republic Act 8293



Function of a Trademark



Consumers face a dizzying array of choices.

- **Source identifier**
- **Differentiator**
- **Quality indicator**
- **Advertising device**

TYPES: According to Composition



penshoppe

WORD



FIGURE



WORD & FIGURE

Have a Break, Have a



PHRASE/SLOGAN/TAGLINE

TYPES: According to Composition



LACOSTE (Perfume)

THREE-DIMENSIONAL FIGURE



**REMY MARTIN
(Brandy)**

STAMPED CONTAINER

TYPES: According to Strength



Coined /
Fanciful

Arbitrary

Suggestive

Descriptive with
Acquired
Distinctiveness

Descriptive

Generic

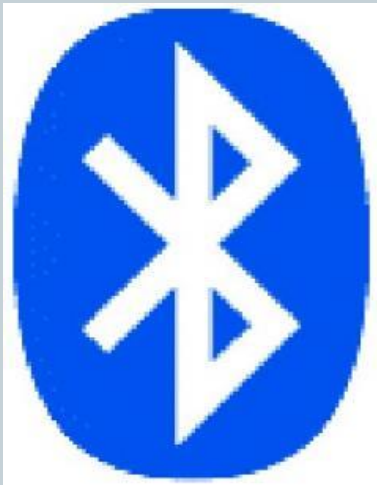
←Protectable

Not Protectable →

FANCIFUL



- **wholly invented words that have no meaning at all apart from their function as source indicators for their owners.**



ARBITRARY



- **dictionary words that have real-world meaning, but whose meaning has nothing to do with the product or service with which they are used.**



SUGGESTIVE



convenience store



store selling slippers



MARKS NOT ENTITLED TO REGISTRATION

(Sec. 123.1 of the IP Code)

**IMMORAL/DECEPTIVE/SCANDALOUS/
FALSELY SUGGESTS A CONNECTION**



MUSLIM

For restaurant selling pork dishes

KALIBOG

FOR ALCOHOLIC BEVERAGES

FLAG/COAT OF ARMS/STATE SYMBOLS



CONFUSINGLY SIMILAR



BIG MAC vs. LC Big Mak (G.R. 143993 18-Aug 2004)

UNLESS:

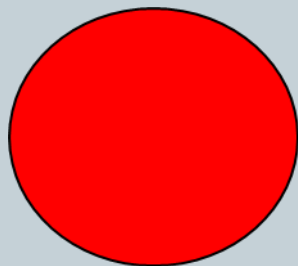


MISLEADING

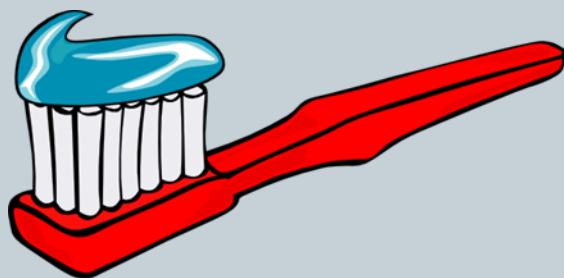


coffee, sugar, mustard and ices

MERELY COLORS OR SHAPES NECESSITATED BY TECHNICAL FACTORS



Unless defined by a shape



CONTRARY TO PUBLIC ORDER AND MORALITY



For restaurant and bar services

FILING DATE REQUIREMENTS



- **Name and contact details of the applicant**
- **Mark**
- **Goods and services covered**
- **Filing fee**

REGISTRATION PROCESS



RIGHTS CONFERRED



- The owner of a registered mark shall have the **exclusive right** to **prevent** all third parties not having the owner's consent from **using** in the course of trade **identical or similar signs** or containers for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use, of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.
- 147.2. The exclusive right of the owner of a **well-known mark** defined in Subsection 123.1(e) which is registered in the Philippines, **shall extend to goods and services which are not similar** to those in respect of which the mark is registered: Provided, That use of that mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered mark: Provided further, That the interests of the owner of the registered mark are likely to be damaged by such use.

MADRID PROTOCOL



- enables multiple country TM applications to be filed in a single country
- consolidated process
- centralized monitoring
- coordination by an international bureau
- provides a common set of standards to be followed by member offices

with MADRID PROTOCOL



- affordability;
- accessibility;
- Predictability (18 months +)

MADRID PROTOCOL



- supports local brands and businesses seeking to sell their products and services in the international market
- makes Philippines a more attractive investment destination for foreign brands because of the ease in protecting their trademarks

THANK YOU!



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