



Fundamentals of Trademark



Categories of IP Rights

Intellectual Properties

Patent

Trade Mark

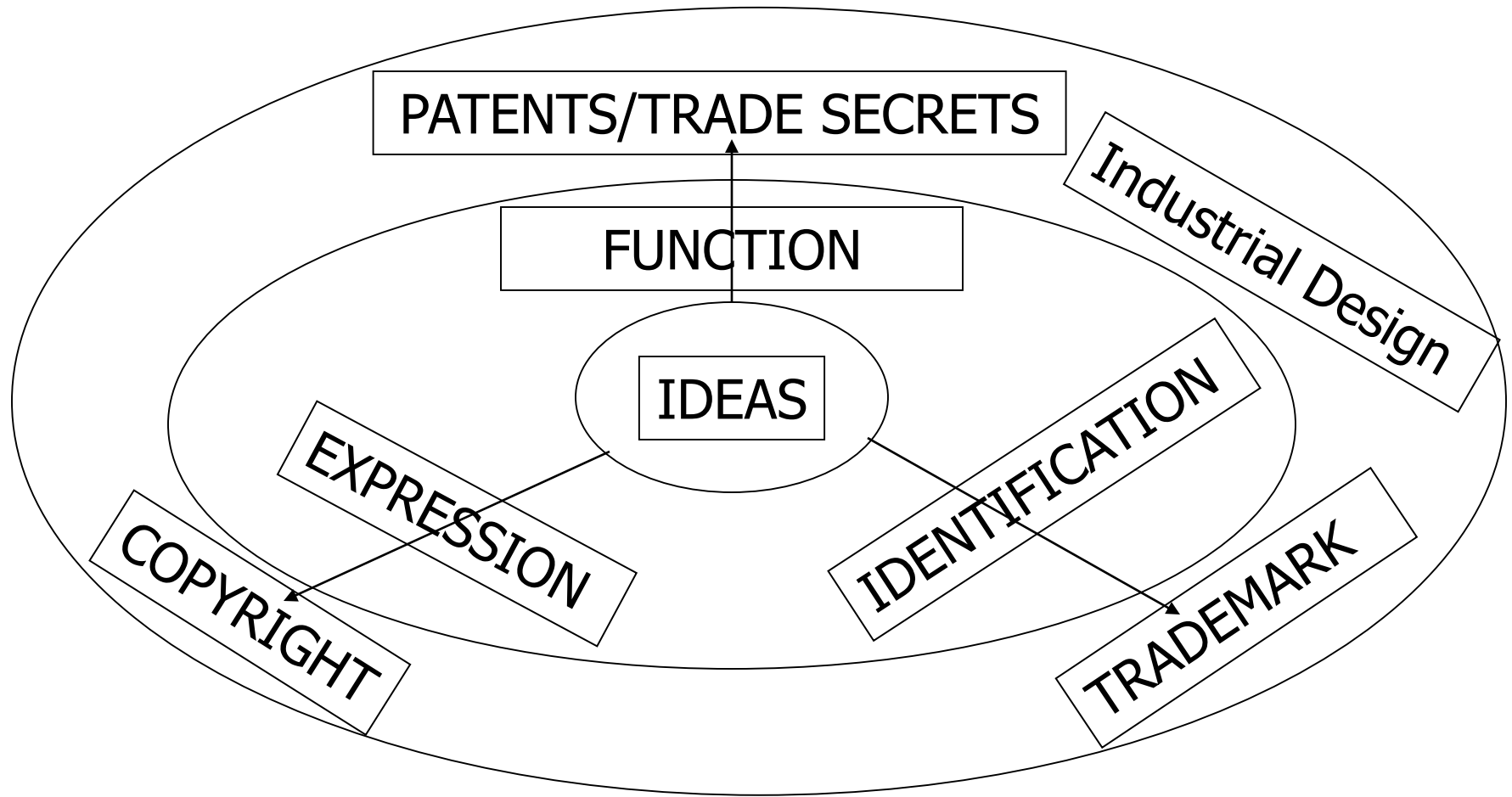
Industrial
Design

Copyrights

- **Intangible assets**
- **Monopolistic right (to make, sell or otherwise deals with)**
- **Limited by Jurisdiction**
- **Limited by Time**



What is your unique selling propositions?



FORMS OF IP



Protects GOODWILL & BRAND EQUITY

What Is a Trademark?

Just as your name identifies you and distinguishes you from others, a trademark identifies the *source* of a product or service and distinguishes it from the source of other products or services.



T M



S M
S M



What Is a Trademark?

a logo	a slogan	a word
a numeral	a domain name	a scent
a color	a building	a sound
a letter	a device	a shape
a phrase	a package design	a combination of any of these



A TRADEMARK IS MADE OF :

Any Distinctive Words, Letters, Numerals, Pictures, Shapes, Colors,
Slogans, Logotypes, Labels

- **Examples:**



Less traditional forms

- Single colors (Louis Vuitton)
- Three-dimensional signs (shapes of products or packaging)
- Audible signs (sounds)
- Olfactory signs (perfume)



Trademarks can be:

Domain Names



- **AMAZON.COM**
- **PRICELINE.COM**
- **YAHOO.COM**



Trademark Legislation

- Trade Marks Act 1976
- Trade Mark Regulations 1997
- Paris Convention
- Madrid Protocol
- Duration of Protection
 - Before 1/12/1997 - 7 years
 - After 1/12/ 1997 - 10 years



Trademark Classification

- Classification of Trademark
- Nice Classification of Goods and Services

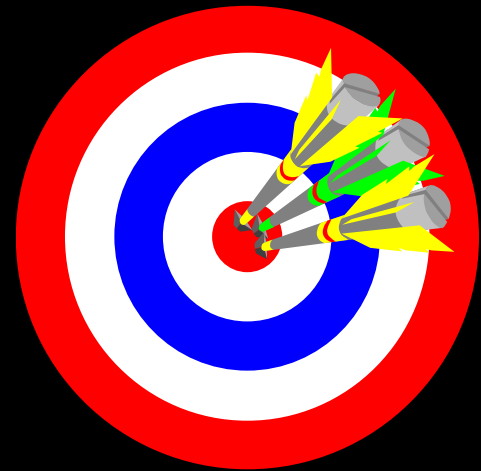
Class 1-34 : Goods (TM)

Class 35-45 : Services (SM)

Channel Classes:

Class 16 Printed Materials

Class 35 Retail Outlet

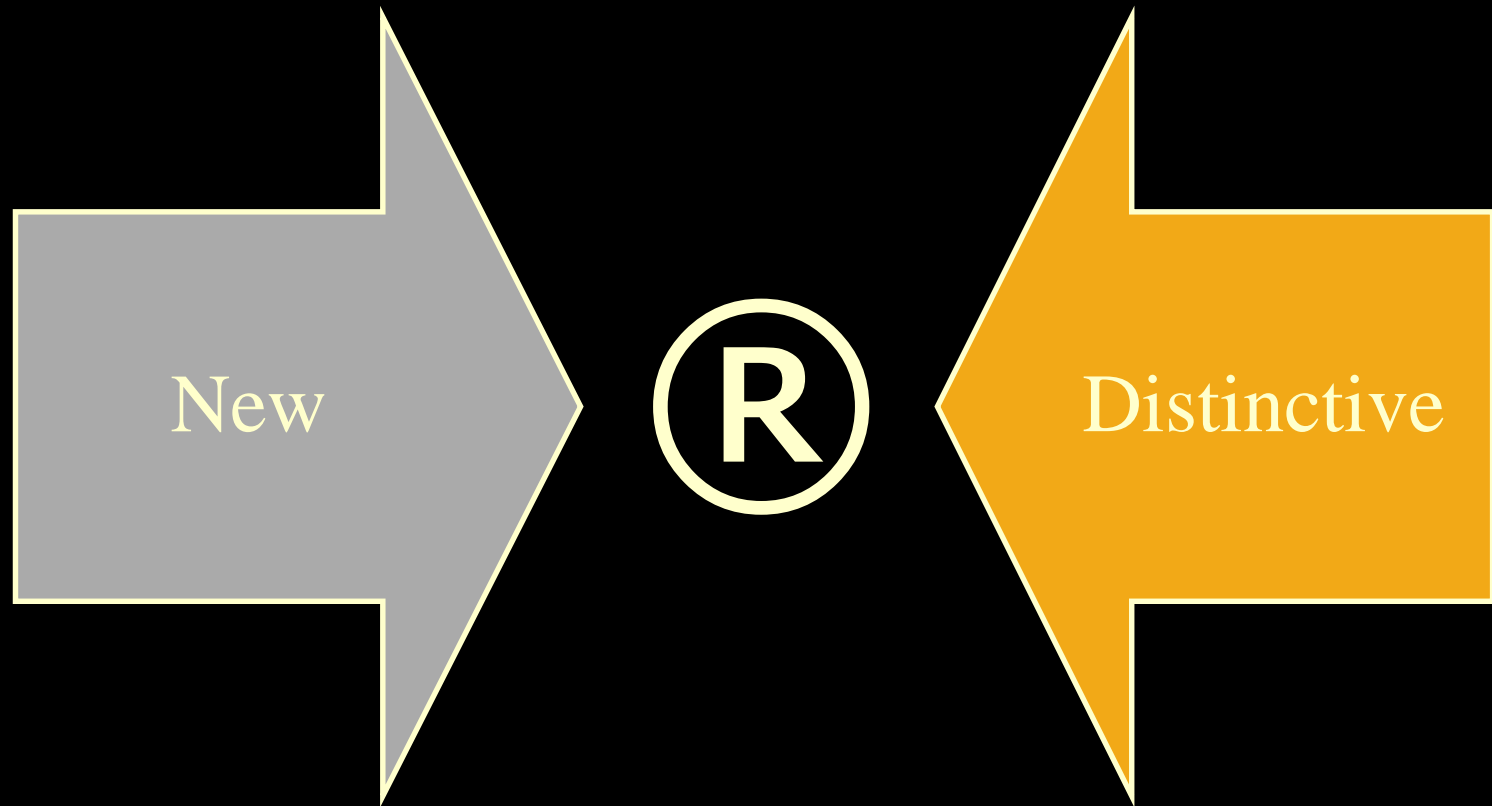




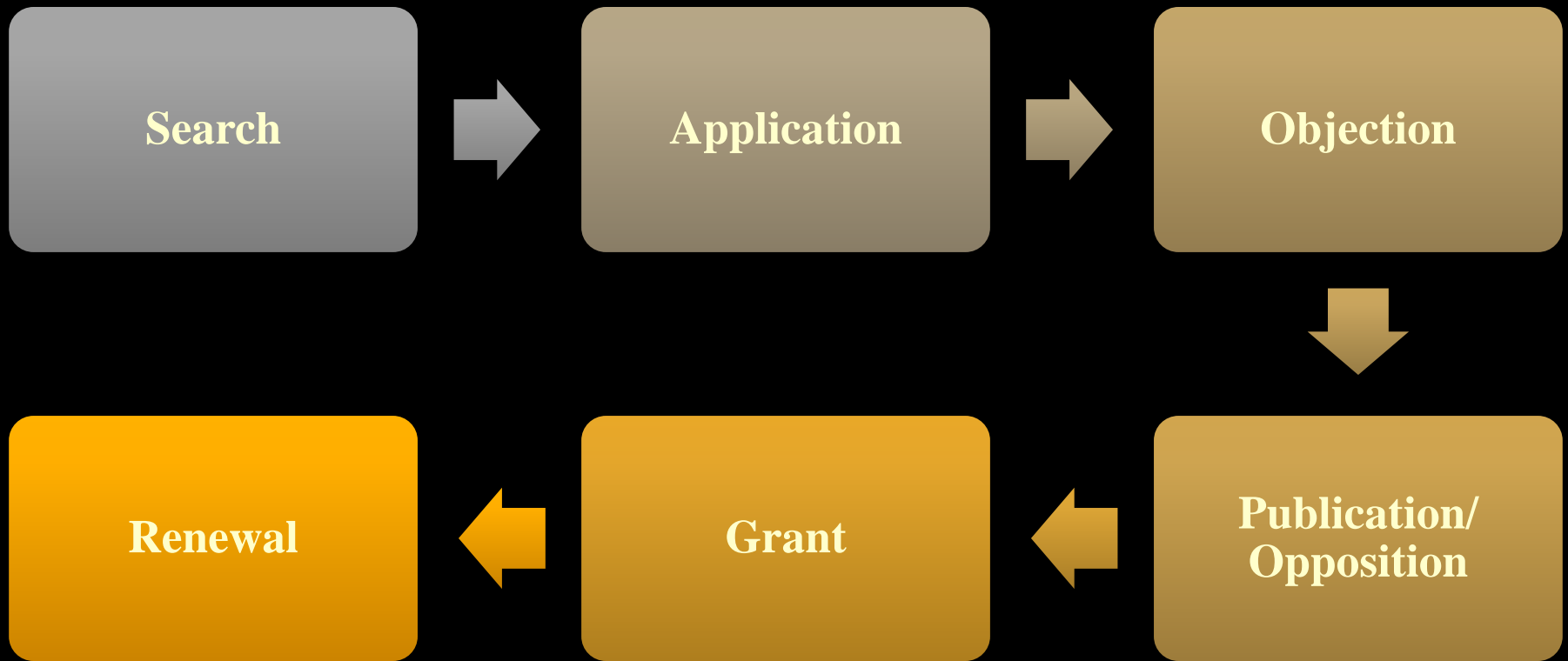
Trademark Application Process



Trademark Registration Criteria

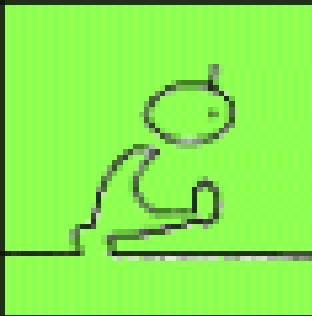


Trademark Procedures



Term of Protection

Initial Validity Period : 10 years from the date of application.



Renewal Period :
Indefinitely on payment of
renewal fees every 10 years.



Overseas IP Filing Strategy



- File in country where the market is largest.
- File in country of manufacture/ production base.
- File in country where it is cost effective: customer/ patent cost.
- File in country where you are prepared to enforce infringement.



First to File Jurisdictions

- No trademark rights without registration
- Afghanistan; Argentina; Austria; Bahamas; Bahrian; Benelux; Bolivia; Brazil; China (not including Hong Kong & Macau); Columbia; Ecuador; Germany; Guatamala, Indonesia; Iran; Iraq; Japan; South Korea; Laos; Lebanon; Mexico; Nepal; New Zealand; Oman; Pakistan; Peru; Philippines; Qatar; Saudi Arabia; Sri Lanka; Switzerland; Taiwan; Republic of Congo; Thailand; Turkey; United Arab Emirates; Venezuela; Vietnam.



First to Use Jurisdictions

- Trademark can be registered with first to use evidence
- Australia; Botswana; Brunei; Canada; Cyprus; Gambia; Ghana; Hong Kong; India; Iraq; Ireland; Israel; Jordan; Kenya; Lesotho; Malawi; Malaysia; Mauritius; Myanmar; New Zealand; Nigeria; Panama; Sierra Leone; Singapore; South Africa; Swaziland; Tanzania; Uganda; United Kingdom; USA; Zambia; Zanzibar; Zimbabwe



First to File vs First to Use

- A majority of countries have first-to-file vs. first-to-use trademark priority systems
- A first-to-file for registration system means registration is a necessity
- Without registration, a subsequent filer can only register the trademark in the jurisdiction by:-
 - (a) proving well known status
 - (b) invalidating the prior trademark based on
 - (i) bad faith
 - (ii) non use





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