Corporate Branding: Safeguard Your Company Brand

Intellectual property rights are crucial to enhance corporate branding, and the value of a company’s products and services, especially in the digital age. Among these rights, corporate brand plays a central role. When a customer has to choose between several products or services in the same category, decisions are based on several aspects: quality, reliability of the company, customer service and marketing strategies. Often, the choice is influenced by the emotional connection with a known brand, which makes the brand a decisive element in the consumer’s preference.

A company that is able to establish a relationship of trust with its customers, generating the perception that its products are among the best available, has a greater chance of maintaining and expanding its customer base. Being easily recognizable compared to competitors therefore becomes essential to capitalize on the efforts invested in building a positive reputation.

The brand is one of the main tools to differentiate a company from others, acting as an identifying symbol of its products or services. Defined as a “sign” that associates specific goods or services to a specific economic operator, the brand facilitates communication between companies and consumers, influencing market choices thanks to its distinctive and informative function.



Corporate Branding: The Main Functions for the Brand

The main functions of corporate branding include:

Distinctive Function : allows the products or services of a company to be identified from those of competitors, facilitating recognition by the consumer.

Indication of Origin : guarantees consistency in quality, associating the product with a specific origin, even geographical.

Attractive Function : exploits brand awareness to build customer loyalty, reassuring them of the quality of the product or service purchased.

Counterfeiting or misuse of a trademark can cause significant damage to a business. A trademark that is not properly protected can mislead consumers into believing they are

dealing with the original business, resulting in them receiving an inferior product or service and damaging the business's reputation.

Trademark Registration: An Essential Protection for Businesses

In the Italian legal system, the regulation of trademarks is primarily contained in the Civil Code. **Article 2569 of the Civil Code** establishes that whoever registers a trademark, capable of distinguishing products or services, acquires the exclusive right to use it for the product categories for which it was registered.

In addition to the general regulations of the Civil Code, trademark protection is regulated by **Legislative Decree no. 30/2005**, the Industrial Property Code (CPI) . According to Article 7 of the CPI, all signs that can be represented graphically, such as words, drawings, numbers, sounds, shapes of products or packaging, and combinations of colors, can be registered as trademarks, provided that they are suitable for distinguishing the products or services of one company from those of others.The brand must be a distinctive sign and not just describe the characteristics of the product. It must have an identity that makes it recognizable, avoiding direct connections with the product itself.

In this context, a trademark cannot claim exclusivity over commonly used words unless they are used in a creative and non-descriptive way. This differentiation is the basis of the distinction between "weak" trademarks, which use more common terms, and "strong" trademarks, which are more distinctive.

Why is it Important to Register a Trademark: Legal Protection at the National and International Level

Although not mandatory, trademark registration is necessary to exercise the exclusive rights provided for by Article 20 of the CPI . Registering a trademark allows you to **protect yourself from unauthorized use, imitation or counterfeiting** , preventing consumers from confusing a trademark with a similar one belonging to another company.

Furthermore, registration allows the owner to **grant the use of the trademark to third parties through licensing agreements.**



A trademark can be registered at a national, community or international level. National registration guarantees protection throughout the Italian territory and is requested at the Italian Patent and Trademark Office (UIBM) or the Chambers of Commerce. The UIBM verifies that the registration

application complies with the CPI rules and, if there are no obstacles, proceeds with the technical examination to ascertain that there are no absolute impediments. Once the procedure is completed, the trademark is registered and the owner obtains the exclusive right to use it for ten years, with the possibility of renewal.

Community registration, on the other hand, protects the trademark throughout the European Union and is requested at the EUIPO (European Union Intellectual Property Office). Alternatively, it is possible to submit the application at the central industrial property offices of the Member States, which will forward the request to the EUIPO.

Finally, international registration protects the trademark in all countries that adhere to the Madrid Agreement and Protocol , offering protection on a global scale.

Corporate Branding: Prior Rights Check for Trademark Registration

Before proceeding with the registration of a trademark, it is essential to:

– Verify that the trademark meets the legal requirements of legality, truth, originality and novelty.

– Select the appropriate class for trademark protection, based on the Nice Classification, which divides goods and services into categories.

A crucial step is to ensure that the trademark is new, that is, that it is not identical or similar to existing trademarks registered in the State or countries where you intend to file your application. Verification of anteriority is particularly important if the trademark refers to products or services identical or similar to those of an already registered trademark.

The concept of novelty does not refer to the absolute originality of the sign, but rather to the **lack of use** by others in the same specific field. To be considered “new”, the trademark must not have been previously used as a distinctive sign for similar or identical products or services in the territory of the State in which it is desired to be registered.

The Italian Patent and Trademark Office (UIBM), like many other international offices, does not independently verify the novelty of the trademark during the examination of the application. Therefore, even if a trademark is accepted and registered, it may later be invalidated at the request of an owner of a prior trademark.

Trademark Registration

The purpose of a trademark search is to **identify any trademarks already registered that are identical or similar** to yours and that could cause legal problems, such as oppositions or accusations of infringement. Although not mandatory, this search significantly reduces the risk of civil or criminal litigation.

The search for prior art can be carried out independently, by consulting the public databases available online. It is advisable to contact professionals in the sector, who use private databases and can provide more accurate advice. These experts can suggest strategies such as modifying the trademark or choosing the most targeted product classes, to optimize the chances of successful registration.



Corporate Branding: Distinctive Character

The distinctiveness of a trademark is an essential factor for its registration and protection. It consists in the trademark’s ability to differentiate a specific product or service from other similar ones on the market. A trademark is considered distinctive when it uses terms or symbols that do not directly describe the product or service, but identify it in a unique way.

“Strong” trademarks have a high degree of distinctiveness and enjoy greater legal protection, as even minimal variations by third parties could be considered confusing. **“Weak” trademarks** , on the other hand, have more limited protection as they are easier to differentiate with minor changes.

Distinctiveness may concern the entire trademark, even if some elements taken individually are not particularly original. It is essential to evaluate this aspect before registration to ensure effective protection and prevent possible violations of the law or conflicts with existing rights.

Trademark Protection: Counterfeiting, Unfair Competition and Opposition Procedure

Counterfeiting-

Trademark protection is divided into various legal actions that an owner can undertake to protect corporate branding rights.

One of the main actions is **against counterfeiting** , which occurs when an unauthorized person uses a trademark identical or similar to the registered one, causing confusion among consumers. The trademark owner has the exclusive right to prevent its illicit use and, even in the absence of malice or intent to copy, can take action to stop the infringement. In the event of counterfeiting, it is possible to request an urgent measure to immediately block the use of the trademark by the competitor, as well as compensation for the damages suffered. Furthermore, the owner can request the destruction of the counterfeit products and the publication of the sentence to inform the public.



Unfair Competition-

Another form of protection is the action against **unfair competition** , regulated by art. 2598 of the Civil Code . This occurs when a competitor uses distinctive signs similar to those of another entrepreneur, with the intent of generating confusion among consumers.

Unfair competition can also manifest itself through servile imitation, which consists in reproducing the distinctive features of a trademark, leading the public to confuse the products or services. In this case too, the trademark owner can request the blocking of the illegitimate use, compensation for damages and, if necessary, the publication of the sentence.

Opposition Procedure-

Finally, there is the **procedure for opposing** the registration of a trademark, an additional protection tool. After the application for registration, the trademark is published, allowing the legitimate subjects to oppose if they believe that the new registration violates their rights. The opposition must be filed with the Italian Patent and Trademark Office (UIBM) for national trademarks, which evaluates its admissibility. If accepted, the opposition can lead to the rejection of the registration of the contested trademark.

It is always advisable to consult experts in intellectual property law to evaluate the protection options, not only during registration, but also in the subsequent phase, monitoring the activities of competitors to prevent any infringements.