Trademark Protection

(part of **Intellectual Property Protection of Software II** lecture held 27th October 2010)

MVV59K Software Law

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- **Definition**

- **Examples**

- **Legal Provisions**

Trademark Protection

DEFINITION

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*"A trade-mark is a **word**, **design**, **number**, two-dimensional or three-dimensional **form**, **sound** or **color**, or a combination of two or more of these elements which a trader uses to **distinguish** his/her products or services from those of his/her competitors and serves to establish goodwill with the consumer."*
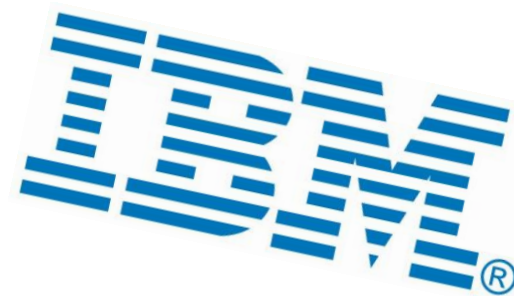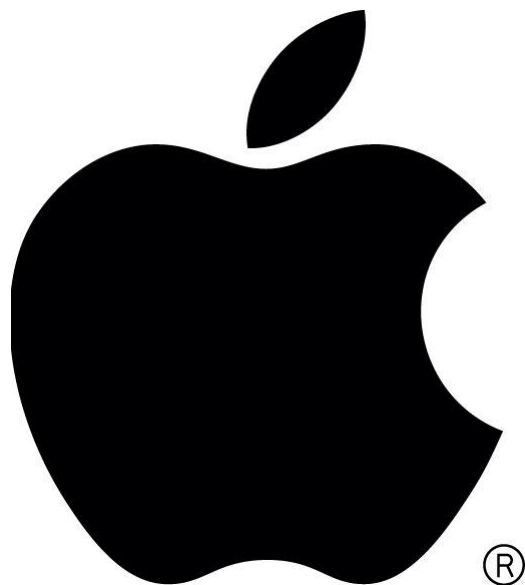
(Intellectual Property Institute of Canada)

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EXAMPLES

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Famous Technology Companies Trademarks

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Famous Software Trademarks

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LEGAL PROVISIONS

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International

- **Paris Convention** for the Protection
  Of Industrial Property
  (Madrid Protocol, Madrid Agreement)

Czech Republic

- Act no. 441/2003 **on Trademarks**

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Estabilishment of the Protection

1) Filing of the **Application**
2) **Formal examination** of the Application
3) **Substantial examination** of the App.
4) **Publication** of the Application
5) Opened for **comments** and **objections**
6) **Registration** of the Trademark

Effects of the Protection

- Exclusive right to use the trademark **in relation to the goods or services** covered by the trade mark

- Right to apply to the court for an **order prohibiting an infringement**, appropriate **satisfaction**, **surrender of unjustified enrichment** or claim the **damages**

Limitations of the Protection

Not possible to prohibit another person from:

- Using their **own name** or corporate name
- Indications of kind, quality, time of production and other **characteristics** of goods or services
- **Prior** usage
- **Exhaustion**

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Trademark as Object of Property

- Change of ownership (written contract)

- Licensing

- Security, levy in execution or in bankruptcy proceedings

Termination of the Protection

- In Czech Republic registered for **10 years** (renewal upon request)
- **Surrender** of trademark rights (proprietor)
- **Revocation** (official authority)
- **Invalidation** (official authority)

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CONCLUSIONS

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- Trademark **protects the exclusive connection** between the manufacturer or reseller and the software itself

- No special legal provisions regarding the protection of software exists

Thank you for your attention!

Time for your questions …

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