

Can you show the money?

Do you enjoy getting in touch with your networks at ECTA conferences, getting to know where they spent their holidays and how their families are? We certainly do. Do you enjoy talking about money with your colleagues? Neither do we.

The following phone conversation from the movie 'Jerry Maguire' (1996) might illustrate why meeting relations can be a challenge:

Why not spend as little money as possible? Indeed. You should not spend a penny more. The web offers databases that provide free access to trade mark information. Conducting searches in these databases can be an option. An even better approach might be rationalized searches for identical or near identical signs. These searches often fit their purpose, whilst struggling against the negative connotation of 'quick-and-dirty', in other words 'done in a hasty, approximate, tem-



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TIDWELL (football player)

I like you, you're nice to my wife, I will stay with you, that's what I'm doing for you, but here's what you're gonna do for me. You listening?

JERRY (his agent)

Mmm. Hmm.

TIDWELL

It's a very personal, very important thing. It's a family motto. So I want to share it with you. You ready?

JERRY

Yes.

TIDWELL

Here it is. "Show me the money." (pause) Show. Me. The. Money.

JERRY

I got it.

TIDWELL

Now doesn't that just make you feel good to say it? Say it with me.

JERRY

Show. Me. The. Money.

TIDWELL

Congratulations. You're still my agent.

Like agent Jerry Maguire IP Practitioners are trying to find a balance between passion for their professions and – the money. The profession of the IP searching and monitoring business is to find the fly in the ointment (which is, we mean no disrespect, your clearance project or IP portfolio).

Why spend money for finding bad news like third parties' prior rights at all? Because. Information is the new world currency and data acquisition the new gold-mining industry. The approach of 'hear no evil, see no evil, speak no evil' should be reconsidered in such scenario. Someone is likely watching. This someone might have opposing interests. Any resources spent for creating a new brand that is being obstructed in long disputes is wasted.

porarily adequate manner, but not exact, fully formed, or reliable for a long period of time'. Streamlined searches involve high expertise as they comprise intelligently anticipating queries in order to retrieve different spellings, twisters, typos and pronunciations and even semantic equivalents. Conducted by skilled professionals screening searches should be capable to prevent cases such as MARINE BLEU vs. BLUMARINE (ECJ case C-343/14 P).

But why do more extensive and more costly searches? Because. The importance of the new product line and the volume of resources spent by different business entities probably deserve appropriate protection. The cases of CLEANIC vs. CLINIQUE demonstrate vividly that a product launch might require as much

legal certainty as possible rather than years of postponement due to court procedures (cf. joint ECJ cases C-374/15 P, C-474/15 P, C-475/15 P). Interestingly, while trade mark proprietors tend to downsize the scope of searches, counterfeiters found out how useful similar wordings might be. Counterfeiters use keywords similar to (rather than identical with) original brands in order to avoid being caught by filters implemented to identify entries for fake goods on online marketplaces (cf. Tim Lince's blog of 13th July 2017 on www.worldtrademarkreview.com). Keywords like Roleingly, Merdusa, Burbry and DSL lead to counterfeits of Rolex, Versace, Burberry and Diesel.

But why consider outsourcing searches rather than conducting searches oneself? Because. Costs can be saved at any stage in a business, they would best be saved at appropriate stages. The benefit for the outsourcing external or inhouse legal consultant is that you can 'show the money' saved. The money is saved by



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applying the best searching strategy for your project's task. The money is saved by re-allocating resources, in particular your time. The money is saved by receiving complex data in executive summary formats that can be handed over to any non-legal addressee.

Outsourcing is also about using someone's very special expertise on possible flies in a clearance project. For instance, this is Volkswagen's device mark EU 981415.



The mark is registered with Vienna Code 16.01.14 (headphone). VW mark EU 1758432



is registered with Codes 18.01.09 (cars), 18.01.23 (stylized cars), 26.11.06 (bold lines), 26.11.12 (curved lines) and 26.11.99 (three lines). Device mark EU 2202737



is registered as 26.11.25 (other lines). Searching specialists would find them, and similar VW marks registered with one or the other Vienna Code. Outsourcing is about using someone's expertise on local specialties like current relocation of a PTO's hardware files or present business trips of the head of PTO who has to sign an official search report before its issuance or the fact that some jurisdictions have different use requirements or classification systems or certification formalities.

A modern IP department is 'the world in a nutshell': a widening range of types of IP rights (e.g. non-traditional trade marks, gTLD), a multitude of different jurisdictions, new channels and ways of cross-border IP rights' infringement, new laws on sensible issues such as data protection, an increasing bulk of administrative work; plus, any-

thing should be handled in a nutshell spending as little resources as possible. Outsourcing is about entrusting some of the numerous tasks with which IP experts cope to skilled professionals. In 2016 business consultancy Deloitte rated the top three motivations to outsource as (1) cost cutting, (2) enables focus on core business functions and (3) solves capability issues (cf. "Outsourcing accelerates forward," Deloitte 2016 Global Outsourcing Survey at <http://www2.deloitte.com/content/dam/Deloitte/us/Documents/process-and-operations/us-cons-sdt-gos-exec-summary-2016.pdf>). Deloitte identified shifting trends why companies decide to outsource; one of these new trends is the importance of starting relationships off on the right foot.

Assemblies of highly qualified professionals at ECTA conferences allow us to strive at perfecting our skills. They also teach us, however, that it is not all about showing the money, but rather about trust in our relations, investing time to learn about and meet our clients' needs and, in a best case scenario, to discover where to spend the next holidays.



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