



National Workshop on Intellectual Property Management in Business for
Small and Medium-Sized Enterprises (SMEs)

The Appeal of Designs in Getting Noticed by the Customer

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Introduction

- ▶ What is the issue?
Design = IP
IP = Capital
Capital = Economic Development
- ▶ Why it is important to us?
Branding needs original and attractive
Design
- ▶ How this is important?
The Design benefits Branding
and Branding benefits business

What are the Objectives?

- ▶ Understand the basics of trademarks and industrial design and their impact on business.
- ▶ Know how to create a trademark and how to use and manage it within your business.
- ▶ Know the role played by designs in reinforcing brand power and how to apply it to your business.
- ▶ Know the importance of legally protecting your trademarks and designs and the steps to be taken in case your trademark or design is infringed.

How can we reach these Objectives?

- ▶ 1 – Trademarks and Industrial Designs for Increasing the Power of Marketing (TM / ID)
- ▶ 2 – Building the Brand
- ▶ 3 – How to Protect Trademark and Industrial Designs

1 – Trademarks and Industrial Designs for Increasing the Power of Marketing

Legally speaking, a **registered mark** means the legal recognition

A **trade mark** is a recognized mark due to the sustainability of a product or a service

1 – Trademarks and Industrial Designs for Increasing the Power of Marketing

The Value of a Brand

A brand = name, term, sign, symbol, design,
or a combination of them intended to

identify

the goods and services

of one seller or group of sellers and to
differentiate

them from those of other sellers.

How Can Branding Benefit My Business?

1 – Recognition and Loyalty

- ▶ Customers **remember** your business. A strong brand name and logo/image helps to keep your **company image** in the mind of your potential customers.
- ▶ If customers trust your brand, they are likely to **trust you** with unfamiliar products.
- ▶ If customers are **happy** with your products or services, you are building their **loyalty** across your business.

How Can Branding Benefit My Business?

2- Image of Size

- ▶ A strong brand will project an image of a large and **established business** to your potential customers. People usually associate branding with larger businesses that have the money to spend on **advertising** and promotion. Effective branding makes your business appear to be **much bigger** than it really is.
- ▶ An image of size and establishment is important in **reassuring** that you will still be around in a few years time.

How Can Branding Benefit My Business?

3– Image of Quality

- ▶ A strong brand projects an **image of quality** in your business, many people see the brand as a part of a product or service that helps to show its quality and value.
- ▶ If you show a person two identical products, only one of which is branded; they will almost always believe the **branded item is higher quality**.
- ▶ Over time the image of quality in your business will usually go up. But branding **cannot replace good quality**, and bad publicity will damage a brand (and your businesses image), especially if it continues over a long period of time.

How Can Branding Benefit My Business?

4- Image of Experience and Reliability

- ▶ A strong brand creates an image of an **established business** that has been around for long enough to become well known.
- ▶ A branded business is more likely to be seen as experienced in their products or services, and will generally be seen as **more reliable and trustworthy** than an unbranded business.
- ▶ Most people will **believe** that a business would be hesitant to put their brand name on something that was of poor quality.

How Can Branding Benefit My Business?

5- Multiple Products

- ▶ If your business has a strong brand, it allows you to **link together several different products or ranges**.
- ▶ You can put your brand name on **every product or service you sell**, meaning that customers for one product will be more likely to buy another product from you.



▶ For Example:

Sony sells televisions, music equipment, consoles, camcorders, DVD players, video players, and etc all under the Sony brand name.



- ▶ You can also create **separate brand names** for your product ranges, allowing people to see your brand name, and then use the range brand name to work out what they wish to buy.



▶ For Example:

Cadbury's makes a range of confectionary under many different sub-brand names such as Dairy Milk, Boost, Flake, and Time Out. All of these are sold under the product brand, but all feature the Cadbury's brand name on the packaging.



Creating Brands through Trademarks

- ▶ ‘**Trademark**’ is often referred to as a ‘**brand.**’
- ▶ It enables companies to **differentiate** themselves and their products from those of their competitors.
- ▶ ‘Trademarks’ contribute to the definition of the **image and reputation of a business** and its products in the eyes of consumers.

Creating Brands through Trademarks

-----> **As a result**

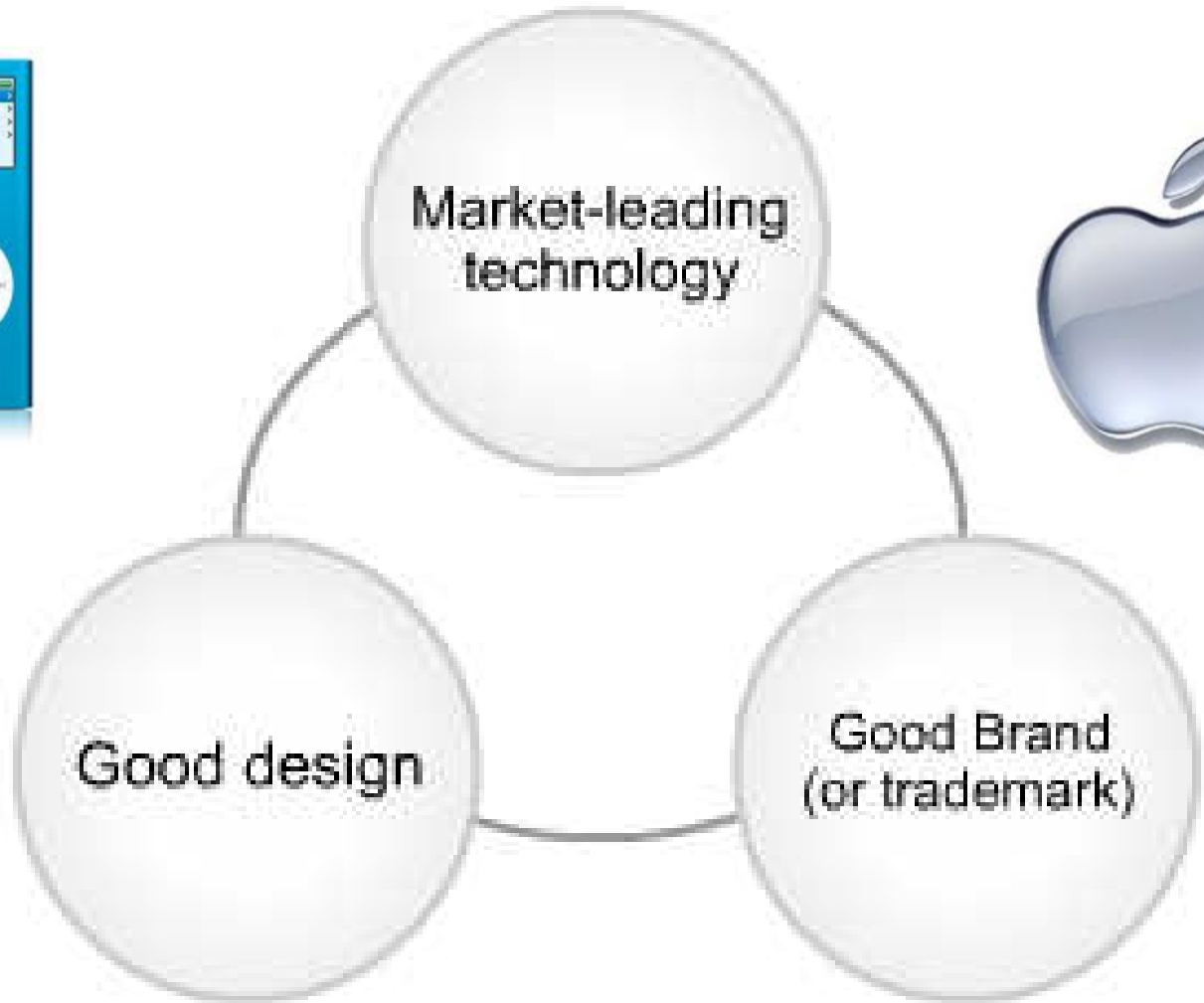
- ▶ Positive Image → Trust → Loyal Clientele → Business Goodwill in the long term
- ▶ Satisfied Consumers → Emotional Attachment
- ▶ Brand → Cultural Image → Consumers Linked to Product

Trademark

- ▶ Definition: a **sign** capable of **distinguishing** the **goods or services** provided by one enterprise.
- ▶ Character: is a visible distinctive word, letter, numeral, drawing, picture, shape, color, logotype, label or a combination of one or more of these.
- ▶ Requirements: Distinctive (inherently or have acquired distinctiveness through its use).
- ▶ The trademark rights:
 - Are territorial
 - Are enforceable in courts
 - The court may, at the request of the owner, prevent any person from selling counterfeiting products.

Strengthening Brands through Industrial Design

- ▶ The brand plays important role in **attracting consumers**.
- ▶ But often it is the **external appearance** that may first catch the eye of a potential consumer.
- ▶ Good **design often wins passionate brand loyalty** as in the case of Apple's iPod.



What is an Industrial Design?

- ▶ It refers to a product's overall form and function.

When it is comfortable to sit on a chair and we like the way it looks → it's a "good industrial design"

- ▶ Designing = developing the product's **functional** and **aesthetic** features taking into consideration issues such as the product's marketability, the costs of manufacturing or the ease of transport, storage, repair and disposal.

Patents, Industrial Designs and Trademarks Registration Act (2008)

Article 20 – For the purpose of this Act, any composition of lines or colors or any three dimensional form, whether or not associated with lines or colors, is deemed to be an Industrial Design, provided that such composition or form gives a special appearance to a product of industry or handicraft.

Character of an Industrial Design

▶ Types:

It may consist of **three-dimensional** features, such as the shape or configuration of an article,

or of **two-dimensional** features, such as images, pictures, drawings, and so on that rely on patterns line or colors.



Character of an Industrial Design

▶ Products:

Products of **industry**, **fashion** and **handicrafts** from technical and medical instruments to watches, jewelry, luxury items, toys, electrical appliances, cars and architectural structures;



from **textile designs** to sports equipment or packaging and containers products.

Also, **electronic desktop icons** generated by computer code, type faces, the graphic display on computer monitors, mobile phones



Character of an Industrial Design

- ▶ Protection:

- It must be **new or novel**.

- It must be **original**.

- It must have an **individual character**.



Article 21 – An Industrial Design is registerable if it is **new and or original**. An Industrial Design shall be new if it has not been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way

Character of an Industrial Design

Rights:

- (1) Prevent unauthorized copying or imitation by third parties.
- (2) Exclude all others from making, offering, putting on the market, importing, exporting, using, selling, or stocking for such purposes by others of product in which the design is incorporated.

Article 28 – Rights conferred by Registration of the Industrial Design, duration and renewal of the same shall be as follows:

- ▶ a) The exploitation of a registered Industrial Design in Iran by persons shall require the agreement of the owner thereof.
- ▶ b) Exploitation of a registered Industrial Design means making, selling or importation of articles incorporating the said Industrial Design.
- ▶ c) The registered owner of an Industrial Design may institute court proceedings against any person who performs any of the acts referred to in the subsection (b) above without his consent, or performs acts which make it likely that future infringement will occur.

Character of an Industrial Design

- ▶ Duration:

Varies from **5 to 25 years**:

In most countries, protection of industrial designs requires registration in a particular class but the protection is not limited to the goods in that class of goods.

In some countries, mostly in Europe, a copyright-like protection is also available to unregistered designs.

Article 28 – Rights conferred by Registration of the Industrial Design, duration and renewal of the same shall be as follows:

d) The registration of an Industrial Design shall be valid for a period of **five years** from filing date of the application for registration.

2– Building the Brands

How to select a mark?

- ▶ Shall support business goals and objectives.
====>
- ▶ Wide range of issues to consider:
 - The relevant **languages**
 - Culturally determined meaning of **colors**
 - Technical requirements for **printing** or **digitizing** a mark
 - The **legal** requirement that arise out of the relevant trademark law

- The market of the trademark: national or international →

challenge to create or select a mark that has no meaning or does not have a **negative** meaning or **connotation** in any of the relevant languages.



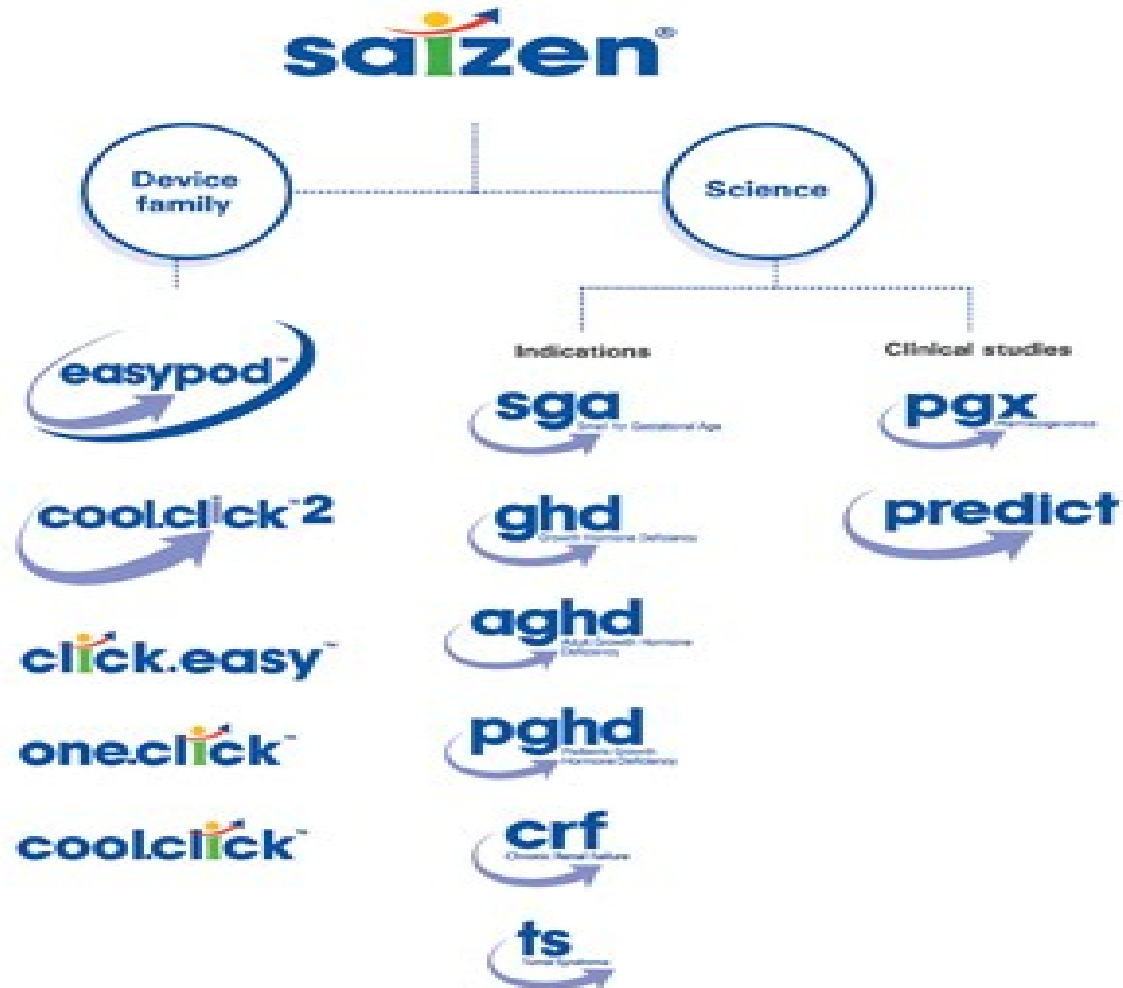
The five–points checklist

- ▶ **Legal Requirements:**
 - ▶ In compliance with the trademark law
- ▶ **Language Requirements:**
 - ▶ Easy to read, spell, remember, retrieve
 - ▶ Not generic or descriptive of the product or service
- ▶ **Trademark Search:**
 - ▶ Not identical or confusingly similar
- ▶ **Connotation:**
 - ▶ No undesirable or negative connotation in any language
- ▶ **Domain Name:**
 - ▶ Availability of the corresponding domain name

Example of easily accepted words:

- ▶ Coined words → no meaning / invented words
 - ▶ KODAK
- ▶ Arbitrary words (fanciful) → does not describe the product
 - ▶ ELEPHANT (for cell phones)
- ▶ Suggestive Words → describe some attributes of the product
 - ▶ Airbus/Nescafe/Swatch (Swiss watch)

Branding Strategies



Multi branding



Family branding



LG



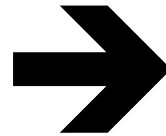
Product extension



Line extension



Brand extension



3– How to protect industrial design

1– Registration:

- ▶ **Its importance:** improves the competitiveness of a business and brings in additional revenue in one or more of the following ways:
 - Prevent counterfeiting.
 - Secure a fair return on investment made in creating and marketing the relevant product, and thereby improves profits and the commercial value of the company and brands.
 - May be licensed to other for a fee.

1 – Registration:

- ▶ File an application at the national bureau along with copies of an adequate number of drawing and/or photographs that depict all the essential distinctive features of the design.
- ▶ The prescribed fee has to be paid. In some countries, you may be required to file, or have the option of filing, a written description or statement of novelty of the design.

1 – Registration:

▶ **Rights of the owner:**

- Using and preventing others from using the industrial design
- Importing and preventing others from importing any product related to the industrial design, or possessing such product for the purpose of selling it

Multi-protection

The same product might be eligible for multi-protection:

- Designs & Patents (or Utility Models)
- Designs & Copyright
- Designs & Trademarks

Designs & Patents

- ▶ Design protects aesthetical features of a product (it is primarily ornamental), whereas its functional features (functional improvements) can be protected by a patent or a utility model

Designs & Copyright

- ▶ A cumulative protection by design law and by copyright law is possible. Knowing that copyright protection last longer than design protection.

Designs & Trademarks

- ▶ If a product's design becomes a distinctive feature of that product, it can be protected as a 3D trademark (in some countries).



- ▶ Once a design acquires distinctiveness through its use in the market it may qualify for trademark registration.

- ▶ This is the case of the Coca-Cola bottle which is a three-dimensional mark or trade dress.



Coca-Cola Bottle Evolution

- ▶ The shape of the bottle was initially an industrial design and only later it was registered as a trademark in many countries.

In short

- Industrial designs protect the ornamental or aesthetic aspect of a product or part of a product.
- Designs should be registered – it is necessary to file an application.
- There are mandatory requirements for registration.
- There are several types of protection available and sometimes they overlap.

Thank you

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