



An Introduction to Intellectual Property

Dirk van Dyk

www.vonseidels.com

Africa's only ISO 9001
Certified IP Firm



Von Seidels
Intellectual Property
Attorneys



Outline

- General IP
- Patents
- Copyright
- Trade Marks
- Registered Designs
- IPR Act and Innovation Office

2

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



What is Intellectual Property

- Any creation (artistic or scientific) that originates from the intellect of a person
 - e.g. book, drug, logo, software code, jewelry design, machine, new process, diagnostic method, phrase, symbol
- Intellectual property rights are legal rights granted over IP
- Help originators reap the fruit of their creation / invention commercially
- Provides monopoly to the originator

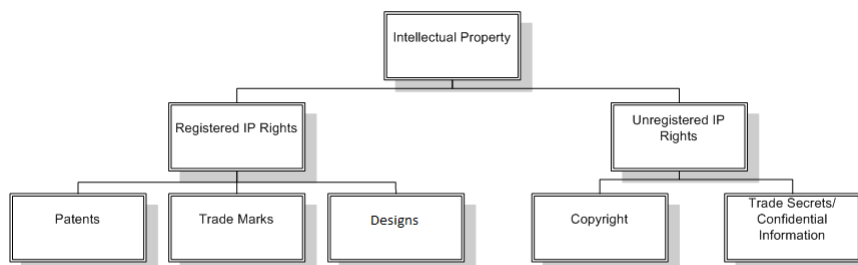
3

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Intellectual Property



4

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Holistic Approach to IP - A single product can involve:

Patents

- New Active Ingredient
- Formulation

Registered Designs

- Aesthetic
- Functional



Trade Mark

- "DUCK"

Copyright

- Layout
- Artwork

Trade Secret

- Formulation

5

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Best way to make something
is protected/not stolen?

6

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Best way to make something
is protected/not stolen?

- Keep it a secret

www.vonseidels.com

7

Von Seidels
Intellectual Property
Attorneys



Patents

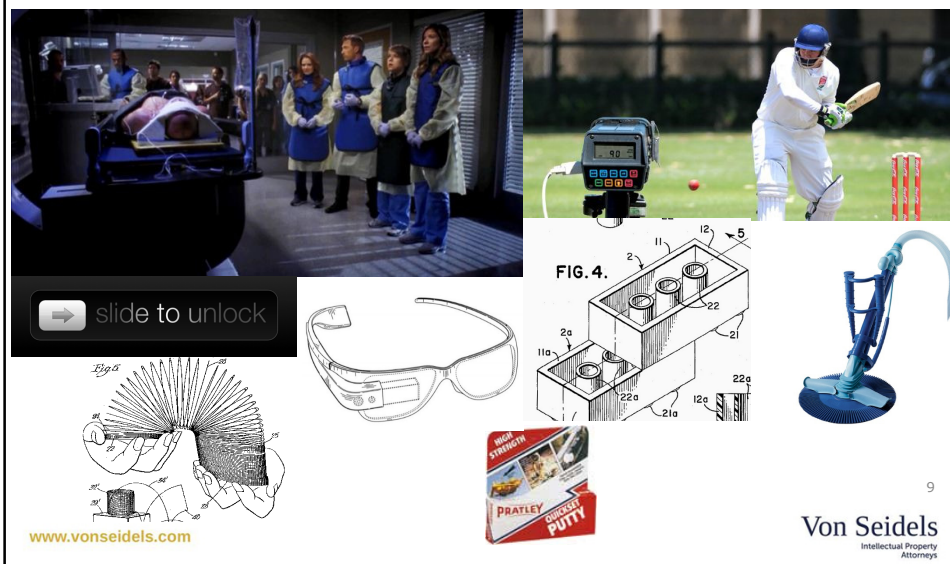
- Limited monopoly granted by State
- Generally valid for 20 years
- What can be patented:
 - New devices
 - New processes
 - New compounds
 - Software*

www.vonseidels.com

8

Von Seidels
Intellectual Property
Attorneys

Patents - Examples



Patents

- Not for "a literary, dramatic, musical or artistic work or any other aesthetic creation" as such

Copyright

- The right to prevent others from copying, adapting, distributing, performing etc. any copyrighted work

www.vonseidels.com

11
Von Seidels
Intellectual Property
Attorneys

Copyright

- “Works”

- Literary works



- Musical works



- Artistic works



- Cinema films



- Sound recordings



- Broadcasts



- Signals



- Published editions

©2009

- Computer programs



www.vonseidels.com

12
Von Seidels
Intellectual Property
Attorneys



Copyright

- Vests automatically
- When reduced to material form (not for ideas)
- No registration needed
- Keep idea to yourself until it is recorded somehow
- Copyright protects only the physical expression of ideas, not ideas themselves

13

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Copyright

- For “original” works:
 - Art work – logos
 - Software
 - Articles
 - Pictures
 - Drawings
- Work is original for copyright purposes if it is the product of someone’s own labour, skill and effort (i.e. not a slavish copy)
- Multiple works possible in a single creation (music video)

14

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Copyright

- Beware: Ownership!
- Author:
 - Literary, musical, artistic work: Person who first makes or creates
 - Photograph: Person responsible for composition
 - Sound recording: Person who made arrangements
 - Cinematograph film: Person who made arrangements
 - Broadcast: First broadcaster
 - Programme-carrying signal: person emitting signal to satellite
 - Published edition: Publisher
 - Computer program: Person who exercised control

15

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Copyright

- Beware: Ownership!
- Author generally the owner
- Where a person **commissions** taking of a photograph, painting or drawing of portrait, making of gravure, making of cinematograph film or making of sound recording and pays for it, the person who commissions the work is the owner
- When work is made in course of employment under contract of service or apprenticeship, employer the owner
- Assignment of copyright must be in writing

16

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Copyright

- Be careful of using images, logos, designs, graphics, etc. from a website. It may be easy to copy, but still enjoys copyright protection.
- License fees or permission may be required for use

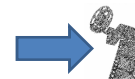
www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

17

Copyright

- Infringement:
 - Reproducing the work
 - Publically performing the work
 - Broadcasting the work
 - Renting out a copy of the work
 - Making an *adaptation* of the work



18

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Copyright

- Infringement?



www.vonseidels.com

19

Von Seidels
Intellectual Property
Attorneys

Copyright

- Duration:
 - 50 years from
 - Year of death of author (Anne Frank)
 - Year of first publication/broadcast

www.vonseidels.com

20

Von Seidels
Intellectual Property
Attorneys

Trade Marks



www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

21

Trade Marks

- Protect brands and product identity
- Able to **distinguish**, not likely to cause deception/confusion
- Indefinite term of protection (provided renewed every 10 years)
- No relationship with company and domain names
- Use of TM or [®] symbol
- Value accumulates in brand
- Can lose brand if you don't protect it

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

22

Trade Marks

- Any sign capable of being represented graphically
- Able to distinguish

- Inherently

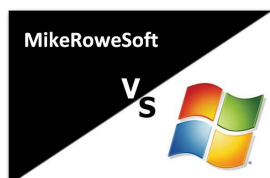


- Through use

EXCLUS1VE BOOKS

- Marks compared on

- Appearance
- Sound
- Meaning



23

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Trade Marks

- Distinctive, not descriptive
- Kodak
- Apple
- "Mobile Telephone Network" – A good trade mark?

24

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Trade Marks

- Requirements:
 - Not substantially similar
 - Appearance
 - Sound
 - Meaning/Concept
 - Not likely to cause confusion

25

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



Trade Marks

- Value of business may lie in the trade mark
- Patents, registered designs and copyright have a limited lifespan

26

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys

Trade Marks

- World's most valuable brands, Forbes 2015

- \$145.3 bn



- \$69.3 bn



- \$65.6 bn



- \$56 bn



- \$49.8 bn



- \$39.5 bn



www.vonseidels.com

27

Von Seidels
Intellectual Property
Attorneys

Trade Marks

- Beware of misuse and infringement

www.vonseidels.com

28

Von Seidels
Intellectual Property
Attorneys

Registered Designs



www.vonseidels.com

29

Von Seidels
Intellectual Property
Attorneys

Registered Designs

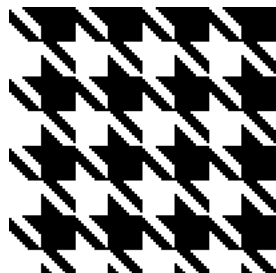
- Protects shape / appearance of products
- Territorial
- Filed in specific classes
- Valuable, relatively low cost protection
- Prevents (at least) direct copying
- Only for articles to be manufactured in an industrial process

www.vonseidels.com

30

Von Seidels
Intellectual Property
Attorneys

Registered Designs



www.vonseidels.com

31
Von Seidels
Intellectual Property
Attorneys

IPR Act

- Intellectual Property Rights from Publically Financed Research and Development
- **Objective:** IP rights emanating from public funds should be *identified, protected, utilised and commercialised for the benefit of the people of the Republic*
- Applicable to:
 - Any institution which acquires IP from publicly funded R&D
 - Including collaborations (co-ownership), partially publicly funded inclusive
- "Full cost" funding by a private entity is not considered to be protected by the IPR Act

www.vonseidels.com

32
Von Seidels
Intellectual Property
Attorneys



IPR Act

- Technology Transfer Offices (Innovation Office) set up to ensure the University complies with this Act
- IP policy of University to be adhered to – TTO acts in terms of this policy
- TTO's used in the commercialisation process
- IPR Act recognises the rights of researchers and institutions

33

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



IPR Act

- How does a TTO help the students?
 - TTO looks after the IP you created.
 - Benefit to researcher/inventor/creator
 - Assists, supports or takes care of commercialising process: Due diligence, market analysis, start-up costs, protection of IP, research and development, license agreements, Royalty payments and agreements.

34

www.vonseidels.com

Von Seidels
Intellectual Property
Attorneys



IPR Act

- The TTO can only assist you if they know about the IP that you created
- Speak to your TTO!