

Intellectual Property: Trademarks

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SUBJECT(S): Entrepreneurship

GRADE LEVEL(S): 9, 10, 11, 12

≡ OVERVIEW:

In this lesson, students will learn about trademarks and trademark law. They will learn about a famous case in which one retailer had to pay a large amount of money for trademark infringement. Then they will watch a video that describes what a trademark is, why a company would want to file for a trademark, and the process to obtain a trademark. Next, students will read the Knowledge@Wharton article: “An Olive Oil that Has Global Aspirations,” which highlights the importance of filing for a trademark. Finally, students will get the chance to create their own trademark for an assigned business.

≡ NBEA STANDARD(S):

- Entrepreneurship, VIII. Legal

≡ RELATED ARTICLES:

- [“Three Students Take Their ‘Smart Straw’ to Market and Raise Awareness about Sexual Assault”](#)
- [“The Value of Intellectual Property”](#)
- [“Snap Caps, Sharks and Sparks: Maddie Bradshaw, Teen Millionaire”](#)
- [“Designer Christian Louboutin Goes to Court to Protect His Precious Red Soles”](#)

Common Core Standard(s): Technology and digital media, vocabulary acquisition and use, key ideas and details.

Objectives/Purposes: In this lesson, students will learn about the function of trademarks and trademark law.

Knowledge@Wharton Article:

“An Olive Oil That Has Global Aspirations”

Other Resources/Materials:

- Trademark Information Network (TMIN) Video:
<http://www.uspto.gov/trademarks/process/TMIN.jsp>
- Construction paper
- Crayons
- Permanent markers

Activity:

1. (5 mins) Begin this lesson with an example of trademarks and trademark infringement by mentioning a recent or famous case that would be of interest to your students. Then, tell them more about the case and show pictures of the original trademark and the company that is being accused of trademark infringement. Ask students what they think of the verdict and whether they think the trademark was truly violated or if the images merely look similar. I will use the following example in class:

- On May 5, 2008 Adidas America Inc. won a \$305 million dollar trademark case against Payless for willfully infringing against Adidas’ trademark. The jury in this case went through 268 images of shoes and concluded that of that 268, 267 shoes had copied the Adidas trademark.

2. (10 mins) Explain the concept of Trademark to students:

- A trademark is a word, phrase, symbol, or design, or a combination thereof, that identifies and distinguishes the source of the goods of one party from those of others.

- A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than goods...
- A trademark typically protects brand names and logos used on goods and services.
- Owning the legal rights to a trademark allows you to:
 - Give public notice of your claim of ownership of the mark.
 - A legal presumption of your ownership of the mark and your exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration.
 - The ability to bring an action concerning the mark in federal court.
 - The use of the U.S. registration as a basis to obtain registration in foreign countries.
 - The ability to record the U.S. registration with the U.S. Customs and Border Protection (CBP) Service to prevent importation of infringing foreign goods.
- You can establish rights in a mark based on use of the mark in commerce, without a registration.
- When can I use the trademark symbols TM, SM?
 - If you claim rights to use a mark, you may use the mark for the designation to alert the public to your claim of ownership of the mark, regardless of whether you have filed an application with the United States Patent and Trademark Office (USPTO). However, you may only use the federal registration symbol after the USPTO actually registers a mark, and not while an application is pending. You may only use the registration symbol with the mark on or in connection with the goods/services listed in the federal trademark registration.

3. (5 mins) Now that students have a brief introduction to the concept of trademarks, have them brainstorm some famous trademark logos.

4. (10 mins) To highlight the importance of registering trademarks, have students read the article: “An Olive Oil that Has Global Aspirations,” and discuss the following questions with a partner:

- What factors should a business consider if it wants to sell/ export its product?
- What are the main barriers for exports?
- How much does the company pay each year to protect its trademark? Why is this important?

Go over these answers as a class as well as any reflections students may be willing to offer on what they read or discussed.

Tying It All Together: Now, have students work in groups to create their own trademarks for a business that they have been assigned. The business that students may create a trademark for include:

- An architecture firm that renovates historical buildings.
- A fashion company that sells trendy, eco-friendly designs.
- A makeup company whose mission is to empower impoverished women to put their best face forward.
- A computer company that raises awareness about hunger and famine.
- A shoe company that donates part of its profits to cancer research.
- A grocery store that caters to the health conscious.

Make sure that students come up with a name, symbol or logo, and a tagline or slogan for the business that they have been assigned. Have students draw their trademark using construction paper and crayons or markers. Then have each group share their TM with the class.

Practice Outside of the Classroom: For students that may have an entrepreneurial spirit, have them think about whether or not their products or services will need a trademark and if so, what will that trademark look like?

What Worked and What I Would Do Differently: Students loved the activity to create a trademark, logo and slogan for a business that they were assigned. For this activity I would keep the groups small and it is probably best to have students work with a partner. Also, to explain the trademark information, I would make a Power Point presentation that includes a few examples of famous trademarks. You can also tell the story of why that company has a certain trademark or symbol. Good trademarks to use are those of Microsoft, McDonalds, and Apple.

