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REGISTRATION AS A KEY FACTOR FOR THE PROTECTION
OF TRADEMARKS: THE SITUATION IN KOSOVO

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Abstract

Trademark registration has started to become an important element in business both inside and abroad. The purpose of this study is to understand how registration serves to protect trademarks, including answers to some questions about why a trademark should be registered, how to register, which sector is more protected, etc. In the paper, concepts and definitions are used to introduce trademarks. The analysis presented in the sections of this paper is based on the trademark data, to see their growth over the years presented with the statistical properties of the registration. Most of the information was obtained through the data of the institution of the World Intellectual Property Organization (WIPO) and used to understand the activity of trademark registrations and later a concrete analysis of trademark registration for Kosovo and Italy trademarks in Kosovo using data from Intellectual Property Agency (API). The results reflect the current state of trademark registration in Kosovo.

Key words: Trademark, Registration, Protection, Brand, Application, Law.

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List of abbreviations

WIPO- World Intellectual Property Organization

EUIPO- European Union Intellectual Property Office

IP- Intellectual Property

API- Industrial Property Agency in Kosovo

TM- Trademark

SM- Service mark

TRIPS- Trade-Related Aspects of Intellectual Property Rights

WTO- World Trade Organization

3-D- Three dimensional

GDP- Gross Domestic Product

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1. INTRODUCTION

According to the Association For American Marketing (AMA), the trademark is: name, term, sign, symbol, or design, or a combination of these, to distinguish them from competitors. A trademark is considered to be the most common instrument of intellectual property protection. To protect the trademark, it must be registered. This not only protects the name, but also signs, colors, slogans, sounds, formats (2D, 3D), figures, etc.

To protect trademarks, you have to go through a series of processes and conditions. Thanks to the creation of many agreements for registration, and offices for the protection of trademarks, the processes and conditions for registering trademarks inside and outside the country have been simplified.

The purpose of this study is to contribute to a better understanding of trademark registration. Knowing that the applications of trademarks have increased massively, a lot has been studied and analyzed with what dynamics these trademarks are growing such as in which sector, type, etc.

The paper includes a large part of the registration of trademarks in Kosovo, which is focused on explaining the state of registration or protection of trademarks in relation to the current trend. Trademarks in Kosovo in general, against many shortcomings, try to do all procedures and activities to be lawful. The Kosovo Industrial Property Agency deals with registration and all other procedures in

accordance with Law No. 02 / L-54 on Trademarks which was amended in 2011 Law No. 04 / L-026 on Trademarks also in 2015 Law No. 05 / L-040 on amending supplementing Law No.04 / L-026 on Trademarks. Further through this paper we will understand the current situation of Kosovo`s trademarks, and that brand owners should now be aware of the importance of trademark registration.

2. REGISTRATION AND PROTECTION OF TRADEMARKS: LITERATURE REVIEW

2.1 Concepts, functions and types of trademarks by registration and creation

Regarding the trademark, we have many concepts. Since the beginning of trade in goods, specifically the circulation of goods, the trademark has begun to evolve. Even in ancient times, the signs were visible, but over time, interest grew to find ways to distinguish them from each other. The mark called traders' mark appeared during the 10th century which contained signs. From these symbols, trade increased significantly. These marks became "proprietary marks" that identified ownership. The trademark contained two initials. One is that the proprietary mark is used to identify the goods in case of piracy or theft. A trader placed the identification mark on the goods themselves or on the packaging. These merchants identified their property through these marks. The second was the sign that was decided to be in the responsibility of the manufacturer. This made it possible to check whether there are contraband goods and whether the manufacturer was responsible for the defective goods (Bently & Sharman, 2009).

The need for a trademark registration and protection has continuously arisen. The first trademark registrations date back to the mid-19th century. Since the following year, the number of trademark registrations worldwide has steadily increased over the years. The first register is thought to be the British Trade Marks Registration Act of 1875, and the French Manufacture and Merchandise Marks Act of 1857

which was later repealed. Subsequently, the Trade Marks Act, 1875 was repealed and replaced by the Patents, Designs and Trade Marks Act, 1883, which included ease of registration. After the late twentieth century, trademarks were treated as property rights. This right included the prohibition of competitors from abuse. These arguments have changed over time.

When modern intellectual property law first took shape in the 1850s, trademarks were not considered. For the first time in terms of legal protection, trademarks were mentioned in an English case, stating that an action for damages would be based on fraud. There is no particular restriction on what kind of mark is eligible for registration. However, some jurisdictions may require that signs be visually perceptible.

Trademarks have many meanings, sometimes they also have nostalgic memories of past products, such as logos, designs that have been so powerful that they are not forgotten. Trademarks try to provide consumers with information about the source of goods at the lowest possible cost. When consumers find products as quickly as possible through trademarks, the market is also more dynamic. Moreover, when the products are of high quality, the owners increase the value of the trademarks, on the contrary, consumers will not have a good impression of that trademark (Smith, 1997). For many studies, having a trademark gives you an image and a sense of identity, status, or social inclusion (Sakulin, 2011). Trademarks have always been

used to commercialize products and services, which has preserved the image of that company (Florek & Inch, 2008). A trademark, by creating an identity for a good or service, brings it to a particular business. Trademarks represent the activities that a company produces. They are complementary in terms of many resources, which help companies achieve their goals from these resources (Mendonça et al., 2004). It is a symbol that individuates and represents in its context. The person who uses the trademark for the first time and uses the goods or services is its owner. Owners can use their names as trademarks, or letters, words.

The trademark describes the product by informing the buyer of the source of the goods, not the nature of the goods. This has always been used to commercialize products and services, which has preserved the image of that company (Florek & Inch, 2008). A trademark is a distinctive mark that enables the supply of goods or services to be consistently differentiated. A trademark is a mark that facilitates purchasing decisions indicating the origin of the goods. The symbol of origin representing a trademark serves to increase the demand for trademarks to be protected by registration. The mark must always be distinct, representing the origin of that product.

A trademark can also be described as a "valuable form of information" conveying a message to customers about the origin of the product. Those trademarks differ from other trademarks in order to achieve a competitive advantage (Ellwood, 2000).

Trademarks are designed in a flexible manner that aims to serve the needs of the trade and is open so as to be able to adapt to trade changes. They are considered one of the most valuable commercial assets of a company (Aplin & Davis, 2021).

According to Kapferer (1997), a mark is an intangible asset, calculated as one of a company's other intangible assets. A trademark should be easy to speak and pronounce. A good brand is when the public can easily write and talk about it. It follows that a trademark: Must consist of a "sign" or combination of "signs" (usually something that can be represented graphically), in which the meaning described must be discernible. The ability to distinguish can be either inherent in the sign, or acquired through use (Harms, 2012).

Any sign that can be used to distinguish products or services from other similar ones can serve as a trademark. Therefore, there are different types of trademarks that are used to identify and distinguish from others, such as:

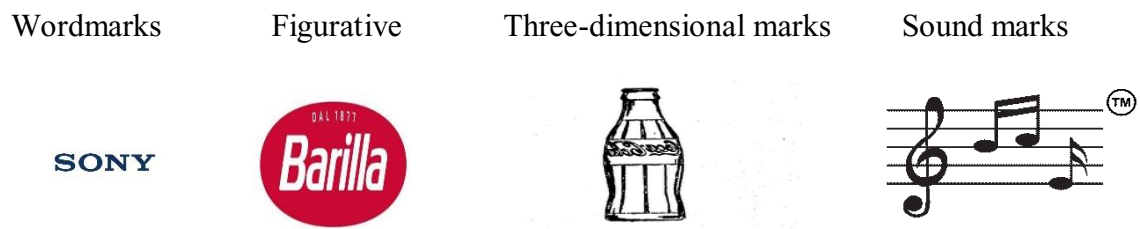


Fig 1. Types of trademarks by registration

-Words: This type of trademark is the most commonly used, and usually includes the name of the owner, company, other word or group of words, invented or used by a person or a company. The names of the owners are generally long and therefore they are not preferred to be used as a name for the company. Companies tend to use a shorter business name or some other type of word that clearly identifies the company (WIPO, 1993). The word type protects the name named by an owner, where the trademark owner can stop competitors from using the same name. On the other hand, one of the disadvantages of this trademark is that it is difficult to protect, only if it is very different from other trademarks. When the competitor uses the same name as the trademark owner, even with a different graphic, it is not enough for the trademark owner's name to be protected.

-Figures: This type consists of designs, symbols, photographs, images, color combinations. Obtaining protection for figurative trademarks is easier if the graphics are recognizable. On the other hand, one of the disadvantages of this trademark is that protection cannot be continued if the graphic design is changed (Lech, 2016).

-Three-dimensional types include the shape of goods or their packaging. The value of a trademark also depends on its form. For this reason, the protection of three-dimensional forms is important. The three-dimensional shape protects a product from others. A 3-D trademark should not be descriptive, but should give the owner the right to use the shape of the product for goods or services. Coca Cola is one of the brands that has registered 3-D with the icon on the packaging. The characteristics of the Coca Cola bottle became quite distinctive, and based on this, it gained the right of protection. And the last one is a sound mark that can be a sound, melody of a product or a service.

To understand the value of trademarks, three approaches are usually considered:

-The cost approach that focuses on marketing expenses, where the analysis is done to understand the ability to serve a brand in the future. These marketing costs drive the growth of the brand's profits in the market.

-The market approach is considered when the trademarks are very similar, and it is more difficult to find differences between the two trademarks. Therefore, in order to understand these differences, different characteristics are used such as the popularity that it evaluates by researching website visits, product sales, as well as the extent of the market in general.

-And the last approach is the income approach that requires cash flows to be estimated to understand the growth of the trademark that is estimated in the future. These flows include how much the trademark was used in the sale of products, the risks involved, etc. This cash flow model helps to analyze the expectations we have for the trademark, because we can understand the longevity of the trademark by analyzing the activity that an owner has for the trademark (STOUT, n.d.).

Functions: As an intellectual property right, trademarks are designed to differentiate from other firms. The increasing importance of trademarks has also increased their functions. We have different functions that trademarks serve. The functions of trademarks have been divided into two approaches, as a traditional approach and secondly a modern approach. The traditional idea has been that the function of trademarks is to serve as an indicator of the origin of goods and services. The modern approach is quality assurance (WIPO, 1993).

Trademarks occupy an important position in the market. It turns a basic product into a unique one. Among other functions of the trademark is to create a good image of the goods or services that indicate a reputation. As a result, the original purpose of brands is to have a sign indicating the origin of the product (Wilkins, 1992). A sign is an important element of any business as it not only identifies a merchant, but establishes that the goods or services bearing the mark come from a unique source. Thus, it facilitates purchasing decisions by showing the origin of the goods. Moreover, brand owners will have an incentive to invest because they will be able to reap the benefits in terms of reputation. Therefore, to serve as an identifier, trademarks must be registered, reliable and durable (Blackett, 2016).

Care should be taken with trademarks to be in accordance with the standards. This refers to the use of various features and functions of the trademarks. These functions are distinctiveness, advertising, origin, guarantee and protection.

The trademark consists of the origin and quality of the products. Mainly through the origin we identify the property of an owner, and the quality that is necessary to create trust in the public. The origin function indicates which product or service is offered under the brand name.

With this trademark it is individualized and creates an identity. The identity of a trademark plays a special role in establishing the exclusive rights granted to the trademark owner. Usually, the designation of an origin consists of a region, a region

which helps to define a product. Only the owners who belong to that region can name it or use it with that name of origin. The protection of designations of origin began in articles 22 to 24 of the TRIPS agreement. Through this, it was determined that the goods with the origin of a territory refer to all the characteristics through the origin of that territory (Alikhan, 2000).

In addition to the fact that trademarks have the function of indicating the origin of products, they also serve in investments if the owner of the trademark uses the trademark for this purpose. Thus, a business has value if it benefits from a trademark that helps in product sales. Due to the valuation of trademarks, consumers are attracted to buying goods that do not have an origin even though it has the same function as other goods. Furthermore, the value of trademarks protects public and private interests, both consumers and producers. Trademarks in terms of ownership should not be made too transparent because the public interest may have consequences. Therefore, private interest should not be given more importance (Fernández, 2017).

The distinctiveness function plays a role in performing the guarantee of origin of trademarks, to fulfill this function the brand must be distinctive according to legal requirements. This function is based on the fact that when a consumer sees a trademark, the consumer expects to receive that product without any confusion

because that product must be distinguished from products that have a different origin.

The idea is for consumers to be able to distinguish the product or service from other similar products. Further, distinctiveness is one of the most important functions of a trademark, because it gives importance to the brand name that a trademark uses. The established brand name must be separated from other trademarks, so that it becomes recognizable (Ellwood 2002).

Ellwood (2002) argues that brand name plays an important role in the functioning of trademarks. Some of them are:

- A brand name identifies the company or product as unique
- A brand name describes the company or product or the essence of the emotional benefit of the brand
- Offer legal protection
- Signify quality

And some characteristics that a company name should have:

-The brand name should be easy to pronounce and write

-The brand name should be usable in the world, avoiding cultural inconsistencies

-A brand name must be protected by law against counterfeiting

-A brand name should be a capital that can be traded, regardless of the company's tangible assets

The function of guarantee is responsible for maintaining the original quality of trademarks. This guarantees the identity of the origin of the trademark product to the consumer or end-user, enabling it without any possibility of confusion to distinguish that product from products which have a different origin.

The advertising function creates an opinion about the product or service. It is important that the sign is prominent when choosing the sign that will be the trademark. This function plays a role in strengthening the brand image. The unfair use of a similar trademark causes damage to the distinctive character. For this reason, companies make various investments for the protection of the trademark through advertising.

From this we can say that the functions of the trademark are common, to distinguish the identity of the company, and to make it easily distinguishable from others (Werkman, 1972), even the law has as its main pillar the function of distinction. If this character is missing, it does not indicate the origin, and it is a reason to be rejected during registration because their characteristics cannot be distinguished.

Types: The development of the economy has oriented trademarks to be present in different forms. Categorized trademarks are very important because they play an

important role in legal requirements, as well as helping entrepreneurs understand how to register and all the other data they need when searching for trademarks (EUIPO, 2017).

Criteria used to classify different types of trademarks are usually related to the functions that mark performs, some others are based on the recognition granted by the national or international trademark regime and others according to the type of sign used to identify the products or services.

Trademarks are diverse and divided into different categories:



Fig 2. Types of trademarks into different categories

The generic mark contains the sign that represents the daily descriptions of a product. Generic signs are those that are not specifically divided in a certain way, but that are assigned to the entire category or type of product or service. These signs have lost their distinctiveness due to overuse. These can be common words like "shoes", "computer", "hours" or "food". And for this according to trademark law, generic trademarks have no right to receive any protection (Gastinel & Milford, 2001).

Arbitrary mark is when the sign has nothing to do with the general meaning of the term. These trademarks are not preferred to be protected, because the word that is placed is not at all related to the company or the product, so it is more difficult for people to remember it.

Suggestive mark does not directly describe the product or service. This means that the customer must use their imagination to understand what services or goods the company offers. For example, the luxury car brand, Jaguar. It suggests speed and dexterity, but does not immediately show that it is a car manufacturer. Suggestive signs include arbitrary signs as well. Suggestive trademarks are not strong to protect. They mostly contain interesting concepts about a product or service rather than describing it directly (Stim, 2020).

Descriptive mark is a mark that describes only the product. Consumers need to recognize the brand and identify it with the brand. The purpose of any trademark law is to protect trademarks that identify the source of the product. Descriptive trademarks are not offered strong protection because they do not meet the criterion that a trademark must identify the source of the good or service. By using descriptive branding, businesses aim to provide consumers with direct information about goods and services. This gives preference to descriptive trademarks compared to distinctive ones, because consumers sometimes do not have time to select goods and services. However, there are also some disadvantages in using descriptive

marks such as registration and protection of the descriptive trademark is almost impossible. This trademark has a high chance of being rejected by the relevant trademark office. In addition, the applicant must prove much more why thei descriptive trademark should be accepted compared to other trademarks, and this takes a long time and is expensive (Qualityoracle, 2020).

Service marks essentially fulfill the indicative and distinguishing function of origin for services as trademarks do for goods. Trademarks in this category perform similar functions to other trademarks, except that they are used to identify and distinguish services instead of products. They contain useful signs. These signs are used to distinguish the services offered. These signs can be used, for example, in banking, insurance, tourism, health. They are a particular type of trademark that defines protection for non-product items, such as services. However, it is not always necessary to register a service mark for it to enforce legal force.

Moreover, based on the registration, trademarks are divided into:

Individual trademark is used for an individual and is a type of trademark that uniquely distinguishes or identifies the services or goods of a particular company from others. Mostly, 99% of trademarks are individual marks. Protection for individual trademarks is limited to the country where it is registered. Therefore, for protection abroad, it must be applied in each country. However, there are cases

when applicants can register through a single application and have protection in many countries.

Collective marks are used to identify goods or services of manufacturers who have similar interests which can be used to build consumer confidence. The registration of these marks is done by the person who represents it and can be used by the members depending on the conditions and are determined by the appropriate authorities.

The person applying for a collective trademark must state on the application form that the registered trademark is collective and attach to the form a copy of the terms that are for the use of the trademark. The applicant for the registration of a collective mark must specify the persons or undertakings authorized to use the mark, the conditions of membership in the association and the conditions of the use of the mark (SDP, 2011).

Collective marks also determine the geographical origin of the goods and/or services that may be registered. A collective mark is a mark used by the members of an association which indicates the characteristics which are set by the concrete association. The collective mark is not intended to prevent third parties from using the collective mark. Instead, collective marks are registered for the purpose of allowing others to use these marks but under conditions set by the owner. The

collective mark is considered on an absolute or relative basis and may be rejected, taking into account the functions of various regular and collective trademarks (Kosumi, 2008). Collective marks can be used to indicate that an individual manufacturer or trader is a member of a trade association or industry and to distinguish its products from those of other enterprises. Such marks are similar to certification. These marks are warranties that certify or guarantee certain properties or the origin of a product, but are technically different from national laws.

Certification mark is not used by the individual who owns the mark, but is used by authorized users. The trademark owner will be the individual certifying the goods and services that others will use in their business, however, they cannot certify the goods and services to use them themselves. Each entity may own a certification mark, provided it does not supply its own products or services. Regarding the geographical origin, the trademark and certification do not need to prove the origin of the goods and services. The rights of certification marks are acquired through registration in the respective country. The regulation is then drafted which should contain information about the people authorized to use the certification mark. As with collective marks, an applicant wishing to obtain registration of a certification mark must submit to the IP Office the conditions governing the use of the mark, which must include the persons or undertakings authorized to use the mark. The certification body then oversees the use of the trademark, any fees to be paid in

connection with the functioning of the trademark and dispute resolution procedures (SDP, 2011).

2.2 The importance of trademark protection

One of the main tools for trademark protection is registration. A registered trademark prevents third parties from unauthorized use. The protected trademark occupies an important place in intellectual rights. Other trademarks should be careful in distinguishing themselves compared to the trademark which is protected, because a protected trademark only created the identity.

The protection of trademarks has become very valuable, because today they are considered assets for individuals and companies. Businesses want to protect their trademark by registering it, because their trademark will be available as long as it is renewed.

There are two main aspects: protection of the trademark owner and protection for the consumer. Through the protection of trademarks, the owner of the trade mark is protected against the other marks without knowledge or knowing that your trade mark is being misused. In addition, you are given protection against those who intend to deceive, not only in the case of similar trademarks.

When a consumer is satisfied with the quality of a product of a trademark, it can be a reason to continue consuming other products from the same trademark. On the

other hand, during the purchase of a product, consumers may mistakenly buy the product from a company that has used the same name of another trademark, specifically an imitation product. This happens because consumers believe that the product is from the brand they are looking for with the quantities and qualities they need (Heer & Cerilli, 2021). Although consumers spend a lot of time deciding which product to buy before they buy, trademark protection helps reduce the costs of searching to find the product they are looking for and reduces customers losing confidence due to a trademark that creates confusion. In these cases, the reputation of trademarks reduces search costs. But, definitely, this trademark reputation only works when consumers are sure of what they are looking for. Therefore, a trademark with legal norms empowers consumers to prevent confusion about goods and services (Chapagai, 2018).

The basic reason for protecting trademarks, whether through registration or not, is important. First, it provides business people with a remedy against the unfair practices of competitors, which are intended to cause confusion in the minds of consumers by misrepresenting the trademark name. Therefore, the legitimate owner may suffer from the loss of potential customers, as well as damage to his reputation. Second, while we consider a brand as an asset, when a business is sold, or companies merge, the value of that company depends to a large extent on the value of their trademarks.

The first threads of trademark protection have started due to the prevention of consumer confusion about the origin of products. The first when consumers have confused one trademark with another, and the second when it is thought that both trademarks have a connection regarding the sign. Thus, the main important thing about trademarks is protection from illegal division by competitors that can reduce the value of the brand. The protection of public interest has always played a secondary role because first trademark protection always relates to the interests of the trademark owner.

The best way to protect a brand is a registered trademark with special rules that serve to simplify how a brand can be protected. A registered trademark makes enforcement of rights relatively straightforward. Moreover, it gives priority by supporting trade and licensing as well the best alternative forms of market entry. The important advantage of trademarks is that they are inviolable, as they can be licensed many times, through contractual agreements they help to maximize profits.

Furthermore, trademarks can be protected in two ways according to registration and use. Both play a role in defense. Mainly the competent systems that both connect to create protection in trademarks. Even where trademarks may be protected through use, it is advisable to register the trademark by filing the appropriate application form at the national trademark office. After owning the trademark

protection, the owner has the opportunity to enjoy the profit from the work and the investment he has made to develop them.

For any profitable business, trademark protection should be paramount (WIPO, 1992). Protection implies priority once the trademark is registered. The fact that people could sell their products without registering and placing a symbol added to the awareness of other parties to protect their trademark. Without protection, competitors can, through imitation, supply goods and thus trademark holders are adversely affected. Trademark protection has successfully persuaded many legislators, mainly in industrialized countries, to steadily increase the scope of trademark protection.

The genuine management of an owner initiates the protection of the trademark, seeking justice in cases of confusion (Schechter, 1926). Trademark holders have a constant incentive to invest in quality because they will be able to benefit in terms of reputation. Trademark protection prevents market failure by focusing on their investments. These investments determine the profitability and value of the trademark.

In the absence of trademark protection, many irresponsible companies can do great harm by abusing trademarks in many countries around the world. Increasing the number of counterfeits as well as unfair competitors using similar logos makes the

marketing of products or services weaker. The logo is one of the symbols of the trademark. If the logo is not protected, other companies can use it without any restriction or legal penalty. Consumers will have confusion about the products, therefore, establishing trademark laws would at least help consumers identify which product or service to use. Before the trademark is accepted, the company can use the logo with symbols such as TM or SM. These symbols do not protect the trademark, but at least they make other companies aware of the purpose of the design (UpCounsel, 2020).

Counterfeiters, on the other hand, pretend to act like a real company, benefiting from a company's image by counterfeiting products using cheap or unsafe materials. In addition to the fact that counterfeiting damages the reputation of a brand, it reduces the number of sales because consumers buy products or services that are confusing. It also causes losses for retailers who carry legitimate products. This results in the slowing down of original products, and this in the possible loss of income for employees. Unfortunately, the Internet has made counterfeiting even easier. Companies use names and images identical to the original goods. This has made consumers believe that they are buying the goods they are looking for, often with a discount. But, in fact, consumers see that they have only been deceived when they receive the product (INTA, 2020).

Therefore, without protection it is impossible to stop the other party in case of misuse. The trademark should be considered as the most valuable asset therefore, it should be difficult to copy or produce by the competitor.

For trademark many scholars claim that trademark law achieves its policy objectives by guaranteeing what would be monopoly rights, but with significant restrictions on these rights. It should be noted that trademark registration gives the limited monopoly to traders, which include the use of a trademark for what is registered. In general, trademarks with a penetrating character should not be given the right because in that case a monopoly will be caused in the market and in this way there will be no other competitors, therefore they are not protected so much.

If trademarks are properly protected, only then will they be able to fulfill their required functions. There are a number of international and national legislations which appear to provide legal cover in the protection of trademarks. There are two ways to protect a trademark, national protection and international trademark protection. National trademark protection helps the applicant apply for protection in his state at the national office. It is believed that the proposed sign meets the criteria with the legislation of that country. If all the criteria are met then that trademark will gain protection only in that country. International trademark protection helps simplify the trademark registration procedure through an application. The protection of the international trademark registration is regulated

by the Madrid Agreement and the Madrid Protocol and is known as the Madrid protection system. In this case everyone who applies their rules and laws. To protect a trademark internationally, this is not possible unless a national trademark application is filed. That trademark must be identical, and the person applying the same, if the intent is for international protection.

In relation to GDP, trademarks are used more in developing countries. Thus, strong trademarks protection in host countries increases the probability of investing. Furthermore, strong trademarks contribute to intangible assets. Intangible assets play a greater role in increasing market value than physical assets. Therefore, intangible assets are increasing (ICC, n.d.).

Trademark protection provides a basis for foreign registrations facilitating business expansion. Worldwide trademark protection can be invaluable, especially for a brand that has a worldwide market. Given the costs and benefits of filing for trademark protection it makes sense to consider whether an investment in foreign trademark protection would be rewarded in the long run. The cost depends on the purpose of the registration. This is divided into two factors, in the selection of the class of products or services, i.e. in how many types of goods or services will the trademark be included, as well as at what geographic level. It mainly depends on where you want to register at national, European or international level. The cost of registration may also depend on national laws e.g. Europe, USA, China, and in each

country practices may vary greatly and applicants require an authorized person which may cost more (Reddie & Grose, n.d.).

2.3 Effects of trademark registration

When businesses start entering the market, they start competing with trademarks that are already registered and well-known. Many of these businesses do not think that in order to compete with these businesses, their trademark must be registered not only to achieve success but also to have a protection against other businesses with the same characteristics. Businesses have long understood the importance of investing in trademarks such as their name, symbol, logo or trademark image and therefore they want to register their trademark.

If brands cannot register their trademark or because the trademark is not distinctive and contains confusing signs, there is no reason to keep that trademark. The first trademark registration rule is a sign which must be understandable, independent and accurate. A trademark is the first proof of proof of registration and of the rights covered by it. Registering a trademark will provide stronger protection, especially in the event of conflict with an identical or similarly confusing brand. Trademark valuation promotes the distribution of resources in our economy. It increases competition, pushes firms to innovate and reduces market asymmetries leading to a higher level of economic development. The economy of each country is affected by the role that trademarks play in the economy. Many studies show that trademarks

affect economic development, and that it will further influence even more, by changing the structure of the global economy. Trademarks have a birthday - the day of their registration Kapferer (2004), the day of trademark registration is the day that the trademark becomes the property of the holder, which is legally protected against the potential for infringement. To be identified, the company must be registered in the relevant register and receive the status of a registered trademark. Businesses try to be very careful and accurate when deciding how to manage and protect their brands to be better than their competitors.

(Riezebos, Kist and Kootstra, 2003) show that in trademark law, the golden rule applies: "without registration, without rights". If a company withdraws from trademark registration it can not claim rights from the competitor in case of use of the trademark and if a company acts first to register the trademark it fulfills all the rights to prohibit the other company that is unregistered. Trademark protection usually begins with trademark registration. After registering the trademark, the owner gets the right to decide how to use the trademark for protected goods and services. Trademark holders find it easier to identify their goods and services. This function can be justified by economic reasons which is positive. This means that the value of a trademark does not depend on the merits of the goods on which it is used, but on an equal footing with what the owner realizes and improves (Schechter, 1926).

Registration is considered a major legal means of trademark protection because it entitles the owner. Registration seems to be the strongest legal tool for trademark protection because it has the advantage of becoming a lucrative tool for many businesses. The role of trademark registration can have different economic perspectives. But what is most important has an important role in market structure, focusing in particular on practices aimed at maximizing the profits of rights holders.

An increasingly competitive market, the brand will need to register the trademark to be guaranteed. With the growth of businesses and the increasing use of trademarks there was a need for other businesses to identify products and guarantee their authenticity by registering, and thus legal systems to help protect their use of trademarks from others (Blackett, 2016).

The main requirement for trademark registration is that the sign be sufficiently distinctive. If the trademark is not distinctive, it can be concluded that it is not fully protected. Trademark owners must require clear evidence of the use of their brand even after registration, in order to gain distinctiveness. Attestation of acquired distinctiveness has been implemented to support trademark owners and other interested parties and to create common understanding so that the same rules apply to everyone. To achieve distinctiveness for a non-inherently distinctive trademark, the owner of the trademark must comply with the rules governing trademarks. In one case, Adidas filed a lawsuit against Nike, which sold jackets with three parallel

stripes. Adidas claimed that the use of two parallel stripes was a violation of their three-stripe design. Adidas had registered the trademark much earlier with two stripes of the same color. The court estimated that the three lines of Adidas are very well known by everyone, for this reason Nike was assessed to have violated the rights of the trademark (Albrecht, 2005). Therefore, preferably register the trademark because it gives you legal ownership and exclusive rights to use the trademark locally in connection with the goods or services in the registration. You can stop them from using something similar to your sign. In which you can take legal action against violators.

2.4 Reasons to register trademarks

If the company has not registered the trademark, it does not give the right to the owner to take measures for misuse, and thus you, even if you have operated before in that business, from non-registration you can suffer until the removal of the products and starting over.

In some countries a trademark can be used without registering it. But, because the use of a trademark generally creates no rights, there is always the risk that another company will register a similar trademark and stop you from using your trademark. This is a weak protection and is subject to risk in general as well as the possibility for others to register before the person who used it in the first place.

Businesses understand the importance of using a trademark, but not everyone understands their protection through registration. Companies can have patents and trademarks at the same time. But when we compare the patent with the trademark, the patent can expire after a while, while with the continuation of the trademark registration, its value can be maintained for longer periods. Many companies have continued to have income as a result of protecting their image from trademarks, even though their patent has expired (Chapagai, 2018). Experience shows that having a good quality trademark leads to companies having great practical and economic profits and advantages. The same were confirmed by Landes and Posner (1987), that when trademarks show sustainable quality, encourage the company to maintain this quality to benefit. With this trend consumers also start to increase their interest by supporting the trademark. This support makes the owners benefit (Newman, 2008).

Moreover, one benefit of trademark registration is that the trademark allows the owner to have registrations in foreign countries. And this makes it easier to get trademark protection in foreign countries if you own the trademark in your own country.

Establishing the value and quality of a company in the market is recognized by the trademark (Prajapati, 2017). The same was confirmed by (Malmberg, 2005) that the registration of trademarks affects the increase in the quality of the company. To

explore this trademark, you need to register, because every entrepreneur or manufacturer wants to protect and promote the value of goodwill and reputation during every deal (Gutterman, 1995).

According to (Prajapati, 2017), another reason to register a trademark is product differentiation, where the logo can communicate your vision, quality or unique characteristic of the company and any organization. Consumers associate the quality of the service or product with the trademark which they differentiate with the name or logo. This makes your company visible in the market and makes you stand out from the competition.

According to Ingelec (2010), the value of a trademark has played a much more important role than fixed assets. By creating a trademark, the company raised its value and achieved success inside and outside the country. Another study analyzes the effect of trademark registration on company value describing that in building the company's value, intangible assets play an important role. One of the most valued intangible assets is the trademark. The trademark affects the prestige of the company. To achieve this prestige, the first step an owner takes is to register the trademark. This registration will add value to the trademark (see, eg, Toivanen et al., 2002).

According to Matalani (2012), apart from good approaches, the company needs a name and image to succeed. To create a strong image in the market, his focus was on IP for trademark registration creating a strong name and image. One of the ways to recognize the company is through trademarks. Therefore, the identity of the trademark is the primary thing. The use of the trademark name is very important in the market, because it encourages people to identify that trademark, and the registration of that name makes the trademarks grow even more. When companies use their trademarks by registering them, they achieve faster growth and a longer-term market position.

If we compare a registered brand with an unregistered one, the customer's trust in the registered brand is even greater and this makes the company grow even more. Unregistered trademarks cannot serve as a guarantee neither for the owner nor for consumers because there is no property for support. This reduces the potential for a company to have profits.

The registration of the trademark has made most of the companies use the advantage to expand abroad. With the international trademark system or according to the Madrid protocol, companies gained the right to register the trademark internationally (Bajpai, 2020). Companies with the registration of their trademarks not only expand internationally but also gain a competitive advantage over their opponents. For example, when a registered trademark is located in a market where

there are not many other brands operating, they often have an advantage that allows them to build strong brand awareness with consumers before their competitors. And with this, it can also increase the image of the trademark as the extension ensures the recognition of the name brand, which facilitates the next steps of the trademark (Rossum, 2017).

Protection is likely to be greater for high-quality manufacturers. Usually, high-quality manufacturers suffer from the possibility of imitation, therefore a greater protection is required. High-quality manufacturers use even more advertising to convince consumers of this quality, and trademark registration plays a somewhat more convincing role that a trademark has better quality than one that is not registered. In this aspect, a trademark must be strong, to be stable against the competitor. A strong trademark will be more difficult to imitate. Thus, the more that is invested in the quality of trademarks, the more the need for the protection of trademarks increases because they can be imitated by others. Increasing quality further increases the protection of trademarks (Fink et al., 2005).

Registering trademarks helps make it easier to advertise your company. Trademarks can be used as a tool to advertise the company because consumers begin to recognize a trademark through the logo. Advertising has become one of the most important instruments for the identity of the company, products or services. On the

other hand, the trademark also plays an emotional role for consumers because they relate more and more to the trademarks day by day.

Promotional activities these days cost a lot. Through trademark legal measures, it is possible to reduce a company's investment costs. If the trademark is not registered and not properly protected, the investment amount can be lost if competitors use the origin of the products, deceiving consumers. Therefore, a trademark should be registered to reduce sales losses.

A company that has more customers will benefit more from trademark registration, because they have higher profits and invest more. The continuation of the growth of trademarks pushed companies to expand into other products. Moreover, knowing that companies must respond to the needs of customers, they must be in good shape with finances to exceed the customer's expectations. In addition, financial performance is required not only for products and services to respond to customer requests, but also to protect against misuse. Sometimes companies do not have the conditions to be balanced with market demands (Kubjatkova & Kolenčík, 2020). Therefore, in order not to have this type of problem, companies must have their trademarks registered, because the trademark can be used as collateral for debt financing, or to attract investments.

2.4.1 Application process

When trademarks decide to further expand trademark protection, they may register their national trademark with the World Intellectual Property Organization (WIPO) which is in charge of the registration procedure. Based on this, almost 193 countries can be protected. In these countries protection is treated the same as applying for a national trademark. Trademark protection varies from state to state, but can be renewed as long as the owner wishes to retain it. The trademark right is protected for the next 10 years with the possibility of renewal again. Protected trademarks can be renewed for periods other than provided that the request for renewal is submitted in time to the relevant offices. Once renewal is requested, the trademark protection will be valid for another ten years from the date of expiry (WIPO, 2016).

In general, all countries have a trademark application form, the use of which is mandatory in certain countries. Trademark applications in different countries are applied according to the interest of the public and competitors. The application form must be completed with the name and address of the applicant. Foreigners must either provide an address for the on-site service or use an agent holding an authorization that must be signed by the applicant. But, in this case you can also ask for certificates from a public notary which usually cost and require more time. Also, the sign we want to present must be shown on the application letter. An applicant, after completing these, must also list the goods for which the mark must

be registered. In case of rejection of the application, before making this rejection the office must inform the applicant of an opportunity to make observations and must be available for appeal. During trademark registration if you do not have much knowledge, it is advisable to have a lawyer who is qualified for trademarks, who helps in the registration process (WIPO, 1993).

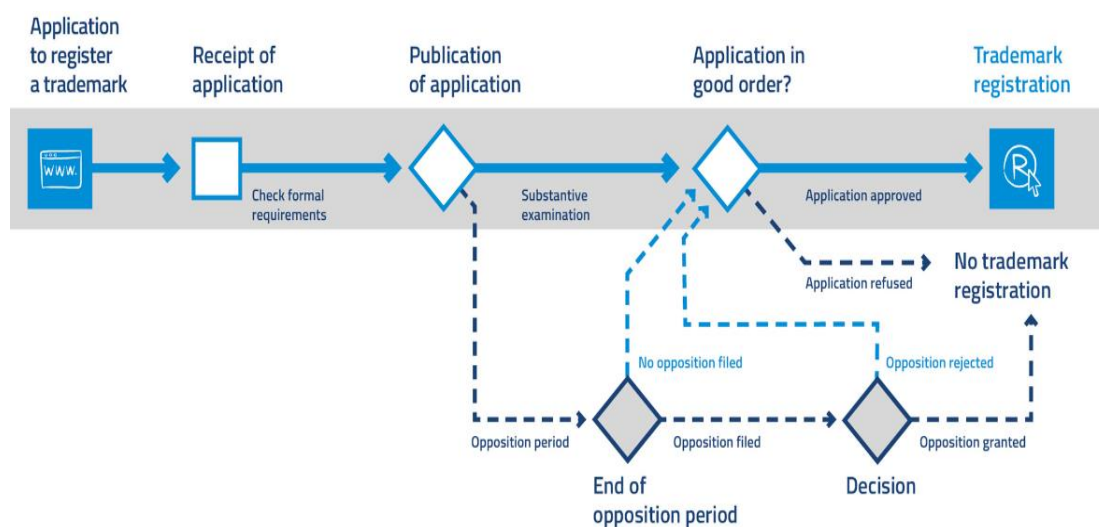


Fig 3. Trademark: from application to registration.
Source: BOIP, Intellectual Property.

If companies encounter identical or similar signs used in goods or services it should not be assumed that they have a common source. Both signs will be allowed to be registered, provided they are used in different fields. Therefore, when registering the applicant is required to specify the goods and services in that market they want to operate (Farley, 2005). The use of a trade mark that precedes the trade mark application is often recognized in many countries as an advantage e.g. if the

trademark application is filed by a person other than the trademark user, then the subsequent registration can be transferred to the first user (Riezebos, Kist and Kootstra, 2003).

The requirements and regulations for filing a trademark are usually transparent and can be used by trademark applicants. However, other documents may be required. For the use of collective and certification trademarks, the conditions are the same, except that they present some differences that must be treated differently (WIPO, 2013).

According to WIPO (2006), each base registration must be the same as the trademark we apply. The compatibility between the trademark and the basic registration is verified by the office of origin. The office of origin verifies whether the goods and services indicated in the application are from the list of goods and services in the basic registration. After the registration of the trademark, the owner can monitor his registration from the database of trademarks, or if he can find if there is any application similar to their trademark. This process is important because it prevents the registration of similar trademarks, and makes it easier to oppose in case of imitation.

Procedures, practices and laws play an important role in the selection of trademarks. Every company, before applying for the registration of a trademark, engages in research to find out if the trademark is used by any other applicant. To use the

trademark, the regulations are the ones that will show the exact requirements that are needed. Usually trademarks are available for use if the goods and services are certified. On the other hand, it may happen that the trademark is accepted only for those types that have special qualification.

Regarding the control over the use of the trademark, it is stated in the regulation that the applicant declares that he has legal control. These regulations are also used to resolve misunderstandings between two trademark users, bringing equality and justice. If the owners do not correct any deficiencies with any changes to the regulations, the trademarks may be declared invalid. Almost all countries require an application form that must be filled in with the required information. All signs to be registered must be mentioned in the form. The sign during the application must be clear and understandable, on the contrary, that sign must explain more than why it is accepted for registration. The trademark sign can be presented in many ways. The presentation of the trademark in color is demonstrated with an example, or if the trademark is three-dimensional, it must be explained why the trademark should be protected in that form, and if the trademark is graphic, the applicant must explain the purpose of why he wants to use this form, so that it is easier to register.

Furthermore, if the registration is international and any change in the registration is required, such as a change in the name or address of the holder, or a change in ownership can be registered only through a single simple procedural step and the

payment of a single fee. Another advantage is that there is only one expiration date and only one registration to renew . During international registration, it is also an advantage for trademark offices because they do not have to review compliance (Alikhan, 2000).

During the procedure of registration of collective and certification marks, supporting documents are required, compared to individual trademarks. Applications with collection marks and certificates, in many countries, have higher fees or additional fees. Applications for certification marks can come from various sources: private individuals, companies, municipalities, government organizations, or any other legal entity that exercises legitimate control over the use of the mark. Certification trademarks do not meet the condition of association like collective trademarks, in the absence of legislation, certification trademarks are forced to be registered as collective trademarks. To prevent this, the certification mark can also be registered as an individual mark if the evidence shows that it consists of a certification mark. In addition, certification marks are required to declare characteristics, standards or other features. All these must be placed in the statement and explained properly. In addition to certification and collective trademarks, the applicant can submit an application as a combination of types of trademarks of goods and services, provided that it is the same for each class of goods or services because the registration must be in only one register (Bazerman & Drangel , 1999).

All trademarks have common rules, but according to their use they are showing differences, therefore their treatment is separate. To compare trademark data, different trademark registration systems are considered. Registration systems can differ from each other, some require a separate application where it must be applied for each good or service requiring protection, while others have a system where the application can be made with one application for all classes that require protection. During registration, the applicant must submit a claim for goods and services used in trade, especially when participating in a foreign country. When some requests for goods and services do not match the application, those goods or services must be deleted. Thus, the identification of goods and services must be specific and the terminology used for the goods and services must be understandable.

Offices for trademark applications deal with many tasks related to the registration of trademarks. Some of them are, for example, the charging of applicants for the registration of trademarks is not appropriate, therefore the offices for commercial applications promote the trademark system as much as possible, in order to simplify the procedures. While these offices aim for the growth and development of intellectual property, they also create partnerships with other interested parties so that trademarks can be expanded as much as possible across countries (Tang, 2022).

Furthermore, during the application of trademarks, applicants need information that their trademarks are legally registered, therefore the offices aim to provide

transparency and legal certainty (WIPO, 2013). If the trademarks are in conflict with the registration requirements, it may be invalid. The Intellectual Property Office has relative reasons for refusal. One of the relative reasons is when the applicant may be refused a trademark because it is confusing or identical to a previous trademark. The sign cannot be used for the same goods or services because it creates confusion in the market. However, with the agreement of the two companies, the mark can be used by both companies if the goods or services are very different. Thus, there should be no confusion at all, because otherwise it will be rejected by the relevant office. On the other hand, when the examiner reviews the application for registration, they check to make sure that all the items required in the application are present. If the application is not in order in office action, then it will be clarified in a formal way why the trademark was not registered. Moreover, the applicant must explain why their trademark should be registered even when the examiner finds that there are obstacles to registration. The applicant may withdraw from the application for trademark registration, because it is mainly time-consuming and expensive.

When registering trademarks, the fee must be specified. Some countries offer a single fee and some include several fees, breaking each one out separately. Although it seems economical to have a single fee, this does not apply if applicants are withdrawn from the registration process due to irregularities, as this may have

consequences for the applicants such as refusal. Two of the reasons for refusal can be considered for absolute and objective reasons. So, trademarks are verified if they are distinct, not confusing, etc. Some countries also consider the relative reason which is used if the rights for trademarks are the same as those of the past. It should also be taken into account that some trademarks are treated as special even when they are not registered, but that trademark should be well known and treated in a more specific way. Under the Trade Marks Act 1999 a well-known trade mark is granted protection not only in relation to those goods and services with which it is associated, but also in relation to goods or services with which it is not associated. As such, these trademarks are protected under national law even when they are not registered. This could be a reason why another trademark application was rejected (WTO, 2021).

2.5 Factors affecting the increase in trademark registration

The increase in spending on the brand, and the increase of the economic role has led to an increase in trademark registrations. During the last decades, the level of trademark registration has increased significantly, including countries with low and middle incomes. This growth often precedes due to the business cycle. Even today's startups play a role in the growth of trademarks by introducing their brand earlier in the life cycle compared to those trademarks that wait longer to register their trademark, because startups now have more knowledge of trademarks.

According to WIPO (2015), until the mid-1980s, trademark registrations in the world were low, even though many countries adopted privatization and liberalization. With the stabilization of the economy in many countries such as China, USA, Brazil, trademark registrations began to increase. Of these, China has taken the biggest steps after an economic transformation. Moreover, countries with medium and low economies such as the Philippines, Vietnam, Colombia have a significant number of trademark registrations. While in Europe according to (Herz & Mejer 2016), the growth of trademarks especially in developed countries is due to the fact that trademark registration fees have decreased in Europe. This explained all the increases in trademark deposits. This shows that with economic growth, trademark protection has increased even for countries with medium and low incomes.

Relying on the literature, we identify several benefits associated with trademark registration. According to a report by (Wipo, 2013) there are several factors that influence the growth of trademark registrations:

The demand for trademarks has started with the creation of many companies and this continues with the increase of new goods and services. Owners of trademarks, out of a desire to export goods and services to other countries, register their trademark, thus promoting trademark files. The use of the World Intellectual Property Organization has also increased the registration of foreign trademarks, on

the other hand, increasing the exports to the markets, which has increased the need to protect these companies. According to (Baroncelli, Fink and Javorcik 2005), the largest registrations have been in the research and development sector, specifically in the pharmaceutical sector.

About 60-70 percent of the economy consists of service sectors. Privatization of many industries has caused new private companies to create these services themselves. This phenomenon together with the continuous competition of the service sector has made the use of trademarks to be greater (WIPO, 2013).

Based on the fact that the globalization of markets and the globalization of production play an important role in the formation of the market, companies constantly try to offer standardized products. The need to maintain a market position forces companies to seek to expand their business activity. Globalization of markets has pushed many companies to extend their business activity around the world. As trade barriers fall, has encouraged companies to increase their goods and services (Ristovska & Ristovska, 2014). Therefore, globalization has encouraged trademark users to seek expansion abroad in addition to their commitment to the domestic market. This expansion abroad has increased the number of trademark registrations in more countries (Allegrezza and Guard-Rauch, 1999). This has included a high percentage of applications for resident and non-resident trademarks abroad. On the other hand, the globalization of markets increased the variety of

products and services. In addition, this encouraged new or existing trademarks to be known more in the world and this encouraged them to be supported by different investors. Furthermore, trademark registration would increase because for investors, the longer the registration, the more valuable is the trademark.

Digitization has created a boost in trademark applications. Businesses, especially those online, began to increase their services through the Internet and this has increased the registration of trademarks, especially against those who try to misuse an online trademark, which has pushed them even more to register the trademark for protection. Thus, trademark rights have increased the registration of trademarks, constantly adjusting the legal norms. In addition, the trademark offices have developed the processes for registrations through digitization. This has enabled all sectors around the world to have the opportunity to grow and show a position for their brand in the global economy. Moreover, due to its low cost, the Internet has encouraged and contributed to intellectual property as an access to many resources. It has enabled the number of trademarks to increase in the market. The Internet also facilitated the management and access of trademark data and increased awareness of trademarks in general (WIPO, 2001).

The benefit from trademark licensing was one of the reasons for the increase in the number of trademark registrations (Frey et al. 2015). Trademark owners license third parties for the use of these trademarks. These agreements include different

requirements such as exclusivity, territory, purpose, advertising, etc. Through licensing, customers are increased from low cost and new products are added. This encourages owners to invest in trademarks to obtain licenses. In addition, there are many advantages of licensing a trademark, such as increasing the recognition of the company, extending the trademark by merging one trademark with another, which may allow one to apply for a new product. For example, the Monaco Coach car company through a licensing agreement with a truck company called Dodge, made the Dodge company grow because the Monaco Coach company used their logo on the trailer. Moreover, trademark licensing allows trademark owners to allow many other users to manage their trademark, which leads to increased income for the owners. If other users are located in other countries, this allows trademark owners to expand into those countries. The trademark license identifies all the requirements that the trademark has for the licensed products, such as what must be placed, marketing, notices that must be placed, etc. Thus, a license lists the goods and services it allows you to use, sell, and states all the rights of the licensor. Usually, individual, certification and collective trademarks have the advantage of being licensed in different countries. To enter the function, they must be registered in the office according to the law. However, depending on the national laws that each country can impose restrictions on the use of licensing.

2.6 The rights acquired by a trademark registration

The industrialization of countries has increased the interest in the implementation of the protection of intellectual property rights. The growing importance of intellectual property rights has played a role in international trade as well as in various investments, including trademarks. Rights derived from IP protect the rights of those who invest in the well-being of the economy. Trademark rights in each country depend on the trademark laws of those countries. However, trademark owners must continually review rights when their trademark extends to other countries. The registration of a trademark, if not invalidated, gives the owner full rights in the country of registration. This right is reserved unless a license has been obtained from another owner. Any person intending to use a trademark or to use it by a third party may apply for its registration. That person can be either an ordinary person or a legal person. But it also depends on the different laws that countries have which provide that the applicant must operate a commercial activity that includes the goods for which he seeks trademark protection. By registering a trademark owner has many rights such as the ability to provide protection before use or to facilitate the enforcement of rights in the brand. The owner of a protected trademark should have the right to prevent competitors from using identical or similar trademarks.

The registration as well as the certificate of the register are among the evidence to have the right. Trademarks can prove that it is registered using the ® symbol. This

is the so-called exclusive right of the owners of the trademark given to them by the registration of their trademarks.

In order to inform traders about the rights of owning a trade mark and to clarify these rights, registration systems have been developed. Trademark rights are usually acquired by registering a sign as a trademark, some countries make these rights available without registration which refer to unregistered trademark rights, but are only explicitly protected (WTO, 2021)

Registration offers many legal advantages. The biggest advantage is when public notice can be given, preventing anyone from claiming they were unaware of the existence of trademarks. The rights belong to a company simply by the fact of applying for trademark registration. Trademark registration is the procedure for obtaining a trademark right. Some of the rights gained from trademark registration are as:

- Trademark registration gives the owner the full right to the goods or services he has registered.
- In case of trademark infringement the owner has a relief, if identical signs are used for goods or services.
- The owner is given the right to take action regardless of whether others use anything that damages the value or image of the trademark, because nobody can use a registered trademark.

- If the registered trademark is well-known it is not allowed to register the trademark if it is similar to that well-known trademark.
- The right of a registered trademark is that no other trademark may be used in advertising or anything that is public. Advertising should not in any way affect the image and reputation of the trademark of another trademark.

A trademark owner after registration has exclusive rights also about: To authorize others to use the trademark, (eg by exclusivity or licensing agreement). The owner of a trademark may use the trademark himself or to authorize others to use it, usually through a license or other benefit. Trademarks may be assigned to another owner who then acquires the legal rights associated with the trademark. After registration, the trademark owner must use it to better protect his market share by preventing others from copying, use the trademark to raise capital, and license it to other parties to increase profits and value. When protection is exercised in connection with the right of the user, the user automatically assumes responsibility for being held accountable for this. Therefore, another person cannot use a trademark that could cause a registered trademark problem. Except in the case of use of the trademark by another person, there must be a license expressed in its name.

Respectively the trademark rights are valid only within a territory where it is used. The territorial effect of the right to register a trademark gives legal persons or entrepreneurs the right to protect the trademark only in those countries where they

have registered the trademark. Therefore, during the registration, it must be adapted to each procedure of that country that is applied.

2.7 International trademark registration agreements

Awareness of intellectual property, including trademarks, has begun to grow with the demands of subjects for protection. For this reason, the intellectual property system tries to function continuously in economic, social and cultural terms. Intellectual property rights are constantly regulated, when they are not useful, those practices that do not comply with intellectual property rights are usually removed. All practices and formalities are designed to protect the owners from infringement by others. Sometimes legal remedies are not enough to stop people who violate industrial property rights, and especially where the violation has become a profitable business, higher sanctions should be taken (Alikhan, 2000).

During the 90s, there was a flurry of trademark changes. All the laws of the European countries decided to have a harmonization of trademarks. Although each state has continued to have its own conditions, registry and laws, the creation of a partnership has increased as a result of the expansion of markets (Sharpe, 2000). Based on the trademark system, trademark law is very important because it can be used to minimize confusion in trademarks. Care must be taken when establishing rules that do not make the registration of trademarks difficult or slow it down. Therefore, all rules must be set taking into account current and new registrations.

Current registrations must be in such a way as to preserve trademark rights and provide rights for those seeking to register a new trademark (Fromer & Beebe, 2018). Thus, International agreements are designed to balance this by registration of trademarks in countries and to simplify the procedures to apply for those owners who intend to operate in many countries. The need for all these agreements increased because the owners started not being able to implement the trademarks abroad.

The Paris Convention for the Protection of Industrial Property was established in 1883. The Paris Convention for the Protection of Industrial Property is very old. It is an important agreement regarding the processing of trademarks and the registration of rights. It was first created to help people in one country get protection in other countries. In fact, the Paris Convention provides for two provisions. The first is that it guarantees national rights for the member countries and the second provides priority rights. The first provision envisages that member countries treat the trademarks of foreigners as they do with their own citizens. While the right of priority ensures that any person who has submitted a request for the registration of any type of industrial property in this case a trademark from the countries of the Union will enjoy the right of priority in other countries during the defined period (Buch, n.d.).

The Paris and Berne Conventions in 1893 merged to form the United International Office for the Protection of Intellectual Property. According to the Paris Convention, if the trademark is against public order and morals, its registration may be rejected, or it may be rejected altogether. It is declared invalid if it is contrary to morality or public order. The Paris Convention does not have the force of law if the national law is not applied, but all countries base the Community Regulation on Trademarks and the Directive on this convention (Seville, 2016).

This convention is divided into three main categories: national treatment, right of priority, and common rules.

- In the national treatment, the Convention provides that every state that is included in the convention must give the same protection to the citizens and support for the states that are included in the convention. Even owners of trademarks that do not participate in the Contracting States have the right to national treatment if they are residents or have commercial activities in a Contracting State.
- The Convention provides for the right of priority in the case of trademarks. This right means that, on the basis of a first regular application presented in one of the Contracting States, the applicant, within a certain period of time, can apply for protection in any of the other contracting states. In these applications the term "right of priority" applies because applicants seeking

protection in several countries are not required to submit all their applications at the same time, but have 6 or 12 months to decide in which countries they wish to apply protection and organize.

➤ All contracting states must follow certain rules. In terms of trademarks, the Paris Convention does not regulate the conditions for filing and registering trademarks under domestic law. For this reason, applications for trademark registration from the contracting states are not rejected, nor is the registration, if it is not registered in the country of origin. Registration of the trademarks will not affect the validity in other countries as a consequence of any cancellation of trademark registration in other contracting countries. Trademarks are not always protected in this way, because registration can be rejected in some cases, such as:

- a) when the trademark violates the rights of other parties
- b) trademarks that have any imitation or translation
- c) when it is of such a nature that it can mislead the public.

Nice Classification is an international system for the classification of goods and services. This classification is used for trademark registration. It was established through an agreement reached at the Diplomatic Conference in Nice in 1957. Based on this classification, the goods and services which are identified in the trademark registration application must be organized into numbered classes, thus introducing

similar or related goods into groups. This system has helped trademark applicants to facilitate their search during registration. Registers have gone for this by creating approved lists of terms that applicants are encouraged to use when describing their goods and services. These descriptions of goods and services have been compiled to improve the application process. In this way applicants will be sure in advance if they have completed the application properly.

Some offices in countries such as Japan, the USA, and European ones have a file system that contains many classes or otherwise it is called a multi-class system. The offices of Mexico, Brazil and South Africa use a file system with one class, so it is requested that during the application for registration, it is applied for classes in a special way (WIPO, 2021).

The development of countries has increased the variety of goods and services in trade and this has led to them being divided into classes. From this, consumers also choose the product of a manufacturer more easily. If trademark applicants seek to register in multiple classes without including their activity in them, the probability of being rejected is high. Therefore, for a trademark to be successful during trademark registration, it must select the number of classes that it is convinced will operate in those services and goods.

The Nice Classification consists of 45 classes of goods and services (Classes 1–34 cover goods and Classes 35–45 cover services). Contains the description of goods or services which are classified.



Fig 4. Nice Classification of Goods and Services.
Source: Wipo Nice Classification, 11th Edition, Version 2021.

TRIPS is an international agreement, which requires member states to adhere to treaties such as the Paris Convention and The Madrid system. Compiles internal procedures and legal remedies for the implementation of rights. It supplements the Paris Convention by extending protection to well-known service marks and to those marks which are not similar to those for which the mark is registered (Kosumi, 2008).

Trademark rights are acquired by registering a mark as a trademark, some countries make these rights available without registration, only activating them according to usage. In some jurisdictions, such unregistered trademark rights are referred to as common law trademarks. The TRIPS Agreement obliges members to recognize the rights of the owner of the registered trademarks. But, on the other hand it also requires protection for known signs that are not registered. In the past, trademarks were registered and protected primarily for goods. With the growth of the service economy, the importance for them also increased, therefore, the TRIPS Agreement stipulated that service marks should be protected as trademarks for goods.

TRIPS is a system that ensures legal remedies were available to rights holders, in which these remedies were faster during infringement. TRIPS deals with trademark protection with civil law and common law countries. Under the common law system, trademarks are not protected, but as symbols of the trademark name. Registered trademarks under the civil law tradition are protected by themselves, and unregistered trademarks enjoy little protection. TRIPS has several types of signs that are recognized as distinctive and registered as trademarks. However, these types of signs are not published, nor are they included in how the shape of the product or packaging as a product should be. Furthermore, WTO members can choose protection requests, provided that they do not avoid the provisions of the Paris Convention (Calboli & Farley, 2019).

Moreover, the TRIPS Agreement describes the licensing and granting of trademark rights. An owner of a registered trademark must always be able to designate the trademark with or without the transfer of the business to which the trademark belongs.

The Madrid system

The Madrid Agreement was established in 1891, its purpose was to protect and support trademarks. The Madrid Agreement was signed to create a system for international trademark registration. One of the main goals of the Madrid Agreement is to simplify the process of International Registration of Trademarks. All applications for registration are accepted by the World Intellectual Property Organization (WIPO) which issues an international registration and distributes it to other countries upon request. The Madrid Agreement provides benefits for an applicant for multiple registrations even though the application procedure is in accordance with the domestic legislation of each member state.

The Madrid system reduces the costs associated with trademark registration and reorganization as well as the process. This international registration has many benefits for the trademark owner. After the registration, the owner of a trademark must only submit an application in one language and pay a fee, instead of depositing separately in the trademarks of the various contracting parties and with different fees. Accordingly, this agreement is widely used because it is extremely cost

effective and administrative documentation processes are faster while providing protection. In this agreement, the trademark can be renewed in all countries that enter into this act, by paying the renewal fees without further procedures. As well as trademark name changes (WIPO, 1993).

To have rights in another country, it is not enough for the trademark to be registered in their country. In order to have this right, the national registration must be registered. The change of national law from the international one makes it difficult to protect the trademark. For this purpose, agreements have been made to achieve harmonization.

The Madrid system facilitates the acquisition of trademark protection and the registration of a trademark in the International Register. Therefore, since an international registration is equal, the subsequent management of that protection is much easier.

The Madrid system is one of the most important systems which enables the registration of trademarks. This system registers the trademark in some countries, with only one application which is feasible in the International Bureau. In order to have an international trademark registration, a national registration must first be obtained in one of the Member States of the Union of Madrid. The agreement facilitated the international registration procedure and facilitated the application system, but there were still countries that refused to sign it. Some countries that

have refused to join the Madrid Agreement are the United States, Great Britain, and Japan, due to some restrictive provisions in the Madrid Agreement. The United States considered joining the Madrid Agreement, but after some research found that the agreement contained unfavorable requirements for US trademark owners and was inappropriate. Some of the reasons they did not want to join was that the application under the Madrid Agreement is based on an office of origin registration, this for the US was inadequate because most applications in the United States are long pending and the owners would wait too long until they were registered in the Madrid Agreement, and another reason was that if the trademark is canceled for the first five years in the registration office of origin, it would result in all contracting states. This was unacceptable to the United States (Larson, n.d.).

Registration in the Madrid Agreement, in addition to the advantage, also has disadvantages, such as: if an owner requests that the mark be changed according to the country, the Madrid Agreement does not apply because the trademark according to the registration must be identical to the trademark registered in the home country, or if the applicant wants to register goods and services that are not found in the basic registration, the Madrid Agreement is not appropriate for that applicant. Moreover, when the applicant wants to get protection in a non-contracting country, it is impossible because the protection is limited only to the contracting parties (Japan Patent Office, 2016).

According to WIPO (2021), the Madrid System in 2020 enabled trademark holders to obtain protection in 123 countries. In 2020 the trademark system in Madrid decreased due to the Covid-19 pandemic, which is presented in graph. International trademark applications filed through Madrid decreased by 0.5% to 63,837, which was the first low after many years. While in 2021, the total number of classes specified in the Madrid applications has increased steadily, reflecting an increase in the total number of international registrations (WIPO, 2021).



Fig 5. Trend in Madrid international applications, 2007-2021.
Source: Madrid Yearly review, 2022.

2.8 General statistical studies on trademarks

Intellectual Property (IP) is very important because it allows the creators or owners to benefit from their work or investment by giving them control over how their property is used. Among the main intellectual properties are: Trademarks, Patents, Trade Secrets and Copyrights (WIPO, 2020). Statistics on trademark applications published by WIPO show that trademarks are the most frequently filed form of intellectual property right. Trademarks began to grow rapidly from year to year for many reasons.

To interpret the increase in trademark registrations, we have extracted the statistics that can be seen in the chart below.

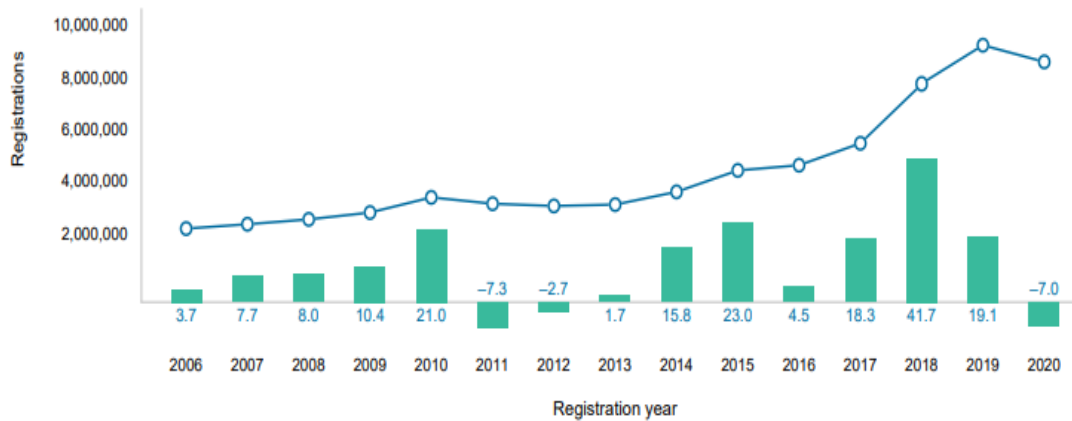


Fig 6. Trend in trademark registrations worldwide, 2006-2020.
Source: WIPO (World Intellectual Property Indicators 2021).

Over the years, interest in trademark registrations has increased. We can interpret this well through the data from the trademark registration agencies. During all these

years we have had about 8.6 million registrations of trademarks registered in the world, however in 2020 there was a decrease of 7%.

The need for the registration or protection of trademarks abroad has generally influenced the increase in the expansion of registration. We can see this well through the data for trademarks that are used as indicators.

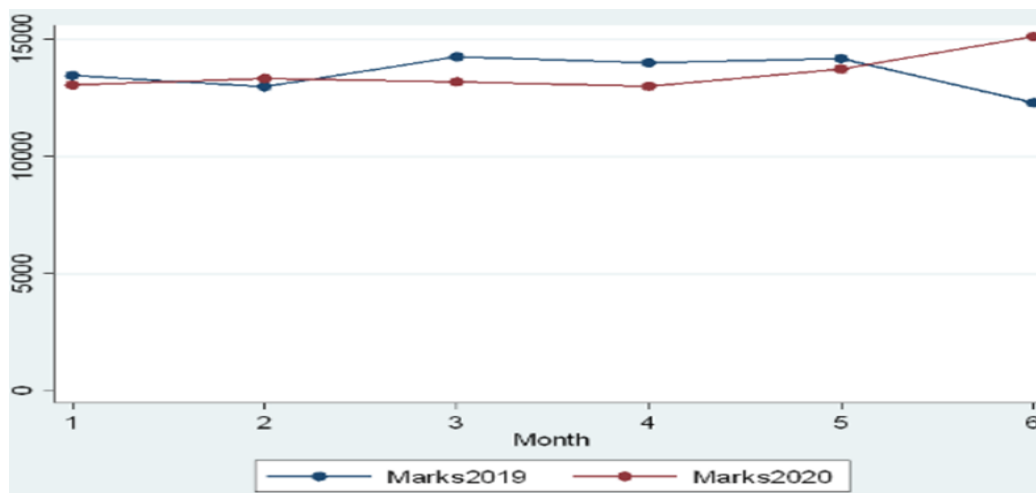


Fig 7. Trademark application trends, January-June 2020 and 2019.
Source: EUIPO, 2020.

According to (Jensen & Webster, 2004), this increase in trademarks refers to the creation of more brands and increased revenue. On the other hand, the figure 6 shows that the application of trademarks has not affected at all the occurrence of (Covid 19). There is no difference between the applications during 2020 and the numbers in 2019. Even during the year in June 2020, the last month, application of trademarks were larger compared to a year ago (Drivas, 2020).

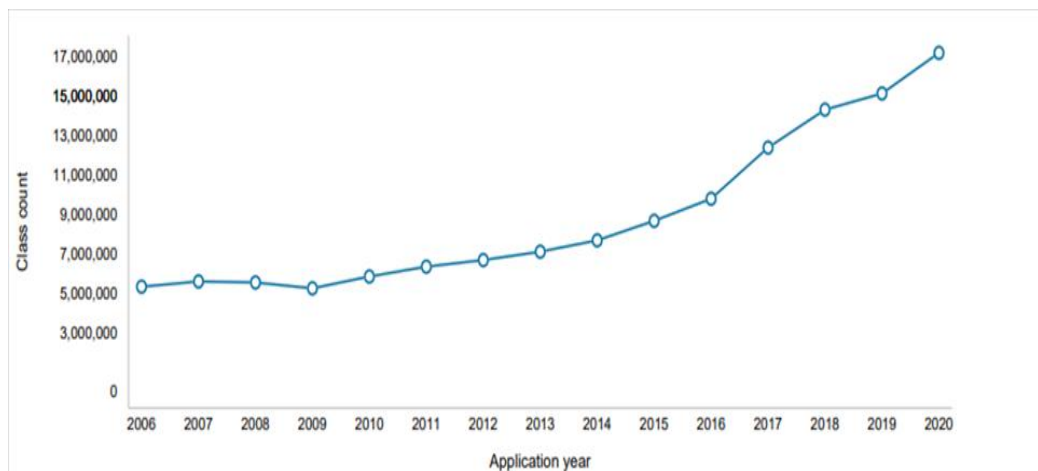


Fig 8. The total number of classes specified in trademark, 2006-2020.
Source: WIPO (World Intellectual Property Indicators 2021).

(Lybbert et al, 2014) show that the countries that experienced great growth were countries with medium and high per capita income while countries with low incomes based on per capita income did not have any increase in trademarks. Based on figure 7 in 2020, trademark applications increased by 16.5%. About 13.4 million trademark applications had been assessed filed worldwide in 2020. Trademark applications in 2020 were four times higher than in 2006. These increases were high despite the pandemic and small declines in 2008 and 2009. Total trademark applications in 2020 grew by 13.7% in comparison to last year, which reached an estimated value of 17.2 million. Considering that trademarks refer to the classification of goods and services during the application for registration, these applications are useful for making international comparisons.

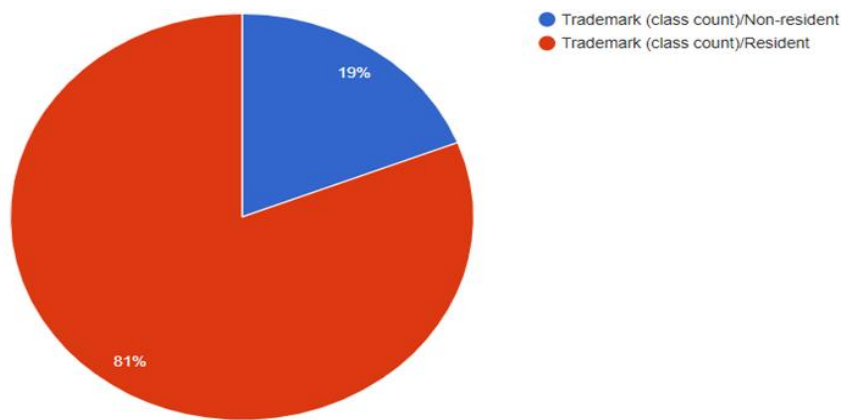


Fig 9. Trademark application Resident and Non-Resident between 2011-2020.

Source: Calculations based on data from WIPO.

Analyzing the applicants of trademarks between the Resident and Non-Resident outside their own country in WIPO, we conclude that we have more residents who applied for trademarks(class count) 85,142,700 (81%) during the period 2011-2020 compared to non-residents (class count) 20,011,000 (19%). We notice that a large part of the applications come from resident residents. Generally, resident owners register their trademark in the country and then decide to open in foreign markets. Companies are investing a lot in applying for trademarks to maintain their position in the market. All these increases in trademark applications show economic growth. This shows that many owners are aware that by registering trademarks they will get many benefits, either in trade or as a company in itself.

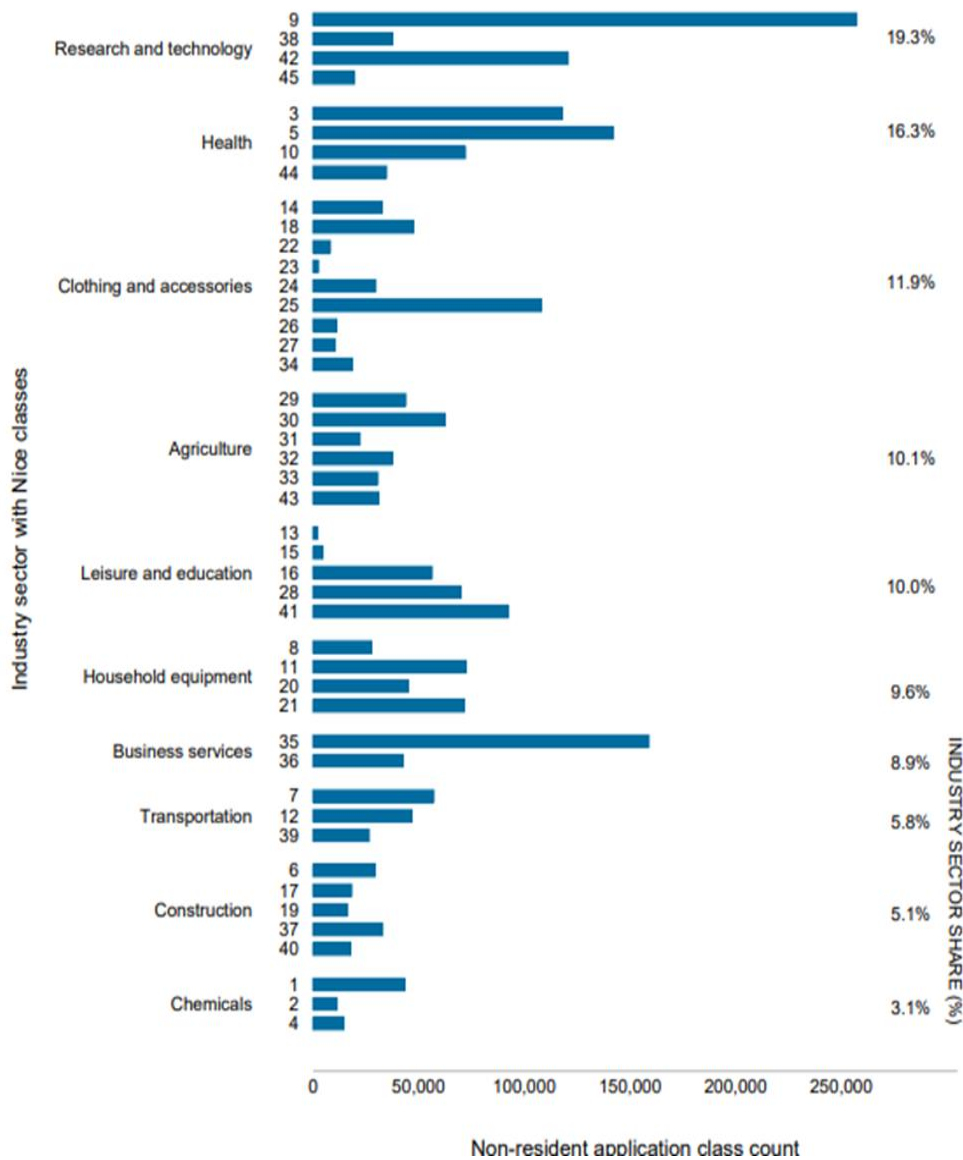


Fig 10. Non-resident trademark applications by industry sector, 2020.
Source: WIPO Statistics Database, 2021.

Using the Nice Classification, trademark applications can be attributed to 10 industry sectors. The grouping of the 45 Nice classes in these sectors is important. Based on trademarks applications by industry sector only in 2020, research and

technology are leading the way in the most important fields that seek to be protected abroad for a long time in 2020. Second, in health (16.3%), clothing and accessories (11.9%) and the agriculture sector (10.1%). Free time and education (10%) together with home parts continue to have a high percentage in this sector. And the sector with the fewest applicants who want to protect the trademark are (5.1%) construction and (3.1%) chemicals. Given that companies are more aware that if they apply for trademark registration in other countries, they will expand the sales of goods and services, and this is prompting them to focus more on trademark registration to increase expansion of the brand in other sectors as well. Often a trademark registration in the country of origin is not enough to be competitive in the market and bring prosperity to the economy. Therefore, foreign trademark applications can be a benefit to a country.

3. TRADEMARK REGISTRATION IN KOSOVO

3.1 Process and conditions to register a trademark in Kosovo

The role of intellectual property is becoming increasingly important in international trade. The Government of the Republic of Kosovo is constantly trying to take steps towards drafting a state strategy for the protection of intellectual property rights, including trademarks, which aims to create a modern infrastructure through the construction and strengthening of its institutional and legal capacities. Trademark protection in Kosovo is achieved through registration. API decides that if the registration is in accordance with the country's legislation, if the application is found to be invalid, it can be rejected for registration. The procedure for applying and registering a trademark can be described as follows: An application for a trademark can be submitted directly to the relevant office in the API. After receiving an application, this application receives a date and the API starts the review process. During this time, the request is published and the third party can object to this publication. API decides to reject the trademark or to reject the opposition.

Moreover, when applying for a trademark, several basic factors or elements need to be considered. These are:

- Trademark registration application form,
- The appearance of the sign,

- List of goods and services where the mark will be applied, indicating the Nice classification categories,
- Applicant information,
- Authorization, when the application is submitted through an authorized representative
- Proof of priority, if the right of priority is required
- Examination,
- Publication of the trademark application,
- Objection, within 3 months,
- Registration or rejection of the trademark.

All these trademark registration processes can be divided into five parts:

- Searching for a Trademark - Problems over intellectual property infringement, especially in trademarks, are continuing in various parts of the world. Thus, enterprises may infringe the trademark of another by taking the same name or a similar name for goods or services. Claiming a violation often faces a lawsuit, and then in litigation which can be costly, time consuming and bad for the image of the enterprise. To prevent this it is important to research the relevant market, register and know the laws, before deciding on a name, if it is already in operation. Anyone can see names through databases, so your name will also be displayed through this search.

Companies can not claim ignorance of trademark search. Thus, searching is a very important step which helps an owner to see if anyone is entitled to that trademark. Trademarks are listed based on registered data. This provides public notice to anyone who inquires whether that trademark exists. Proper trademark information allows trademark owners to make the right decisions. The better the research, the faster we reach the goal. Sometimes, trademark search can be an expensive procedure and is usually performed by a search company with a fixed fee. To do some research on whether or not a brand is well-known, we need to analyze the public as well. Or doing research on the registration period, usage, number of places where that brand is registered.

- Before filling out the form, you should know to which class the goods and services for which the trademark is registered belong. You need to know all the information about the type of the brand you want to register, e.g. is it an individual, collective, or certification mark. Also, proof of payroll and taxes.
- Application Review Process - after the application is completed it is reviewed and evaluated if you have met all the conditions or if there is something that leads to the rejection of the application. If all the conditions are met, the application is accepted and a date is set.
- Publication and Opposition - After a successful application, your application will be published, through which third parties will be offered the

opportunity to oppose this application. If anyone objects to your application they can do so within 3 months with a clear statement.

- Trademark Registration - If no objection is filed within 30 days, your trademark will be registered and registered in the Trademark Register. And the trademark will be valid for 10 years from the date of registration. After that, they can be renewed for additional periods of 10 years.

The online application for a trademark in Kosovo is without any extra payment. If the trademark is not rejected by the property office, the payment to keep an individual trademark is 40 euros, while for collective or certification trademarks applications is 80 euros. A registered trademark is protected for ten years with no further fees incurred during this period. After ten years, the term of protection for your trademark can be extended for another ten years against a renewal fee.

Any person who has a regular national presence in a Convention country has the right of priority if the same application is submitted to the Kosovo API Office within a period of six months from the date of submission of the first national application. If the owner of a trademark does not use the trademark in Kosovo within a period of 5 years from the date of publication of the registration, and there is no justification for this, then that trademark may be revoked. Moreover, if the trademark has not been used during an uninterrupted period of five years, this trademark may lose protection.

It can be seen from all that the protection of the trademark is at the core of the trademark laws. Trademark law, whether regional or national, guarantees the owner of a registered trademark the right to protect their trademark against unauthorized use. They are protected within the country of registration in accordance with their trademark law. The Law on Trademarks of Kosovo stipulates that a registered trademark is property personal (Article 26), and that the trademark application will be treated as property interest which can be transferred (Article 29). By granting trademark rights, we encourage manufacturers to establish a brand name, and to enrich the market with a variety of goods and services from which consumers will have the opportunity to choose easily and cheaply (Kosumi, 2008).

Increasing the use of trademarks and the use of trademark marks without permission causes owners to start enforcing the law to protect their trademark. The alternative way of trademark protection can be realized through registration in the legislation. The registration certificate is a proof of validity in all legal processes. Trademarks in Kosovo are regulated by the Law on Trademarks of Kosovo (Law No. 2 / L-54), which entered into force by UNMIK Regulation 2006/38 on 28 June 2006. This law provides for the protection of trademark rights, trademarks, and from collective and certification marks. The law is in full compliance with EU requirements, and with internationally recognized best practices and standards.

To register a trademark in Kosovo must comply with a series of requirements. These requirements are as:

- ***Distinctive character***

The unfair use of a similar trademark causes damage to the distinctive character. For this reason, companies make various investments for the protection of the trademark through marketing. According to the Law on Trademarks in Kosovo 6.1.2 trademarks to be accepted must distinguish the goods or services of a person or company with other persons or companies.

- ***Not exclusively descriptive***

According to Article 6.1.3 of the Law of Kosovo TM, a proposed trademark should not be exclusively descriptive of the type, quality, quantity, purpose, value, geographical origin, time of production of goods or performing services or showing other features of goods and services, but may be partly descriptive. Only if it is accompanied by logos that are very distinctive, then registration can be provided.

- ***Not contrary to public order and morality***

According to Article 6.1.6 of the Law on Kosovo TM, trademarks may not be contrary to public order and morals. This means that care must be taken in the use of signs so as not to offend people, in terms of value and morality.

- ***Does not contain a geographical indication***

According to Article 6.1.11 of the Law of the TM of Kosovo, trademarks may not have any geographical indication which identifies the designation of origin or a geographical indication that is in force in the territory of Kosovo.

- ***A national flag or something related to it and other state emblems should not be identical***

According to Article 6.1.8 of the Law of the TM of Kosovo, it is prohibited to use emblems, symbols, flags as trademarks that are provided by the Paris Convention¹.

The legal position sought during the search of the applicant for registration gives rise to interests of a proprietary nature. For the registration of the brand and the protection it offers, it is not final only if the brand does not violate the legitimate rights of third parties, but during the appeal all procedures will be reviewed if it meets the essential conditions (Harms, 2012).

Different regional and international agreements have been created due to variety and every five years a new version is released. Kosovo also uses the NICE Classification Agreement. Trademarks are described according to the latest version

¹ [Assembly of Republic of Kosovo, Law on trademarks](#)

of the international classification established by the Nice Agreement (Kosumi, 2008).

International registration of trademarks designated different for the Republic of Kosovo in The Madrid Agreement. Therefore, if a company plans to protect a trademark in more than one country, it can also be realized at the regional level. Kosovo unfortunately, is not yet a Member State of this Union, applications for international registration can not be requested on the basis of national registrations in Kosovo. For this reason, the applicant from Kosovo must apply with the application for trademark registration in each country separately in industrial property offices, and it takes a long time, and it is expensive. As a result Kosovo can do so, first possessing a trademark registration in one of the neighboring countries such as Northern Macedonia or Albania, which are member countries of the Union of Madrid, then the citizens of Kosovo could apply for registration as an international trademark. This has been the experience of some Kosovo companies which have exported goods and services abroad (Kosumi, 2008).

The Madrid System in Kosovo can only be used by persons and companies who are citizens of one of the countries of the Madrid Union, who reside there or have a company in those countries that are part of the Madrid System (Pohl Consulting & Associates, 2009).

3.2 API-The institution that regulates the registration and protection of the trademarks in Kosovo

The growth of trademark activities is accompanied by an increase in the global aspect, and at the same time encourages changes in them. A trademark is permanent, so it can last as long as we continue to register it. To protect a trademark in a country, you must register nationally in that country. All businesses today need trademarks that can be effectively protected from misuse in the marketplace. Trademark owners currently enjoy stronger protection in more jurisdictions than ever before. However, Kosovo has shortcomings in terms of full implementation of trademarks, as well as the formation of laws in trademarks. Kosovo has had and still has many challenges that can affect the effective protection of trademarks. It can be difficult to trust the legal system because there have been mixed, and sometimes not very clear results regarding the protection of trademarks in Kosovo. Therefore, care should be taken that the signs are not descriptive of the product or service, because in general they can not be registered as trademarks, they only remain in the public domain. Some of the requirements that must be met to be a valid trademark in Kosovo are as signs should not impede the exclusive rights of owners who have registered the trademark before.

However, the Intellectual Property Agency (API) must grant exclusive rights to trademark owners to prevent third parties from using them. Trademarks in Kosovo must be registered with the Kosovo Industrial Property Agency (API) and, then the

registration of the trademark is continued at the request of the trademark owner or any person authorized under the legal provisions or contract, provided that the continuation tax to be paid.

The Office maintains Trademark registers and the Trademark Agents Register. After completing all the procedures for trademark registration, it is published by the Industrial Property Agency. This publication is important for searching for trademark applications.

The Industrial Property Agency as a body within the Ministry of Trade and Industry, is the key institution for the protection of intellectual property. The Agency drafts the legislation and undertakes the examination, drafts and maintains the registers, as well as compiles the application data. The Industrial Property Agency is the central administrative body of the Ministry of Trade and Industry and is responsible for the legal protection of inventions, trademarks, industrial designs, appellations of origin, geographical indications and topographies of integrated circuits, as well as other matters arising from international agreements to which the Republic of Kosovo is a signatory.

The Agency the tasks are:

- Trademark registration, industrial designs, integrated county topographies, designations of origin and geographical indications;
- Contributes, develops and promotes the protection of industrial property;
- Compilation and maintenance of the register defined by the Basic Law;
- Provides information services related to industrial property objects;
- Proposes, compiles and publishes the Official Bulletin of the API, which contains data on application and rights granted for industrial property;
- Initiates and proposes the ratification of international agreements in the field of ownership industrial;
- Organizes testing for authorized representatives in the field of property rights industrial;
- Prepares proposals for the adoption of laws and bylaws in the field of ownership industrial;
- Cooperates with other bodies in order to implement the legal provisions that regulate industrial property;
- Represents the Republic of Kosovo in international ownership organizations industrial.

The Industrial Property Agency continuously receives applications for the registration of industrial property. Out of 6720 payment slips in 2021, the agency has realized revenues in the amount of 368,791.00 euros. During 2020 the agency has realized 377,305.00 euros, while in 2019 it has realized 399,765.00 euros and most during 2018 of 9034 payment slips have generated 589,911.00 euro. The number of applications for trademarks is mainly an average trend, while the local one has increased. But in general the applications of 2021 there were 1950 trademark applications. In 2021 there was a decrease in the number of applications compared to previous years. This decrease is attributed to Covid 19 and by the lack of promotional activities during that time. However, API has shown a good performance and now continues to contribute to raising awareness of the importance of trademarks through promotional activities. These activities include publications related to trademark applications, trademark registration decisions, register changes, trademark extensions, as well as conferences, information seminars and media promotions (API Annual Report, 2021).

4. METHODOLOGY

This paper is generally descriptive and based on literature review. Based on secondary data, I discussed trademarks including registration, types, trademark law in Kosovo and the value it gains after its protection. In order to better understand the trademarks in Kosovo, I analyzed the brands of Kosovo and Italy (as foreign brands) with their activity in Kosovo and compared them in general. I extracted detailed information on all trademarks registered by Italian companies and Kosovo companies from the database. During this process, I obtained information on the number of registered and unregistered trademarks, the type they are registered and the industry.

For this research, quantitative data was observed by the Industrial Property Agency (API) in Kosovo. The entire database is organized by product classes, trademark types and other processes that characterize the trademark registration process. Quantitative data were used to understand the current state of trademark registrations in Kosovo. The analyzed period for Kosovo and Italian brands in Kosovo covers 10 years starting from 2012 to August 2022.

5. THE RESULTS ON THE REGISTRATION ACTIVITY OF KOSOVO AND ITALIAN BRANDS IN THE KS

Trademarks in Kosovo, like any country, are protected according to the procedures they have, as well as foreign trademarks, in this case Italian trademarks all have rights in Kosovo as long as they have national registration. Nationally acquired rights do not mean that a brand is known in one country. Therefore, according to the Kosovo trademark, whoever registers it first becomes the owner. This means that the registration of a trademark in Kosovo is necessary. As we mentioned earlier, a local or foreign entity can own a trademark in the Republic of Kosovo. An entity that is not a citizen of the Republic of Kosovo or does not have a registered business headquarters, such as Italian owners, are obliged to engage authorized local trademark attorneys for the purposes of submitting a request for trademark registration.

One of the ways to have a successful and protected brand is trademark registration. Therefore, data on trademark registrations can provide interesting insights into how these trademarks are used in commerce. All trade marks, including developing countries, are registered by the appropriate institutions. In Kosovo, as we mentioned before, trademarks are registered through the Agency for Industrial Property (API), which is the central administrative body of the Ministry of Trade and Industry. To

better understand the activity of trademarks in Kosovo, in all graphs below we will illustrate our findings about the Kosovo and Italian trademarks.

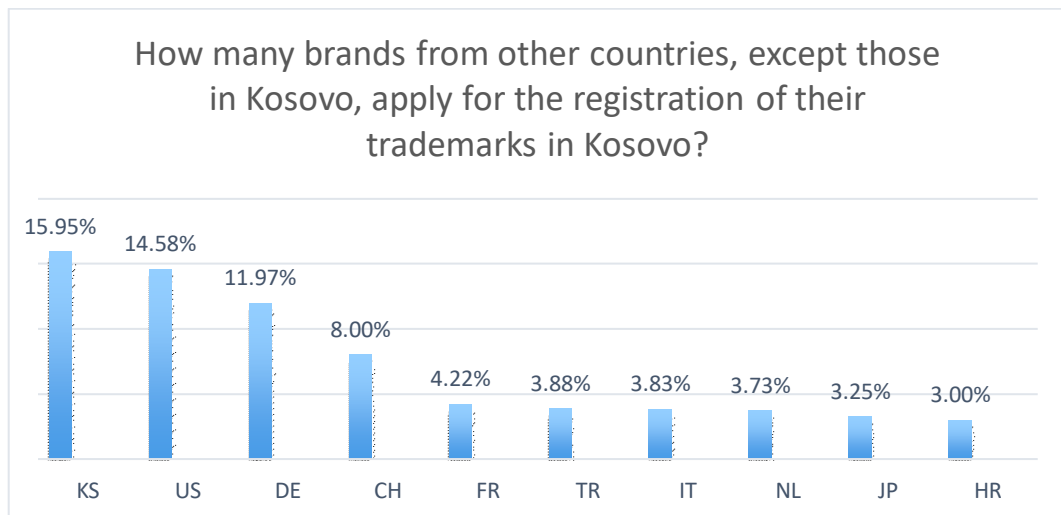


Fig 11. The 10 countries with the most applicants for trademarks in Kosovo, 2022.
Source: API (Industrial Property Agency in Kosovo).

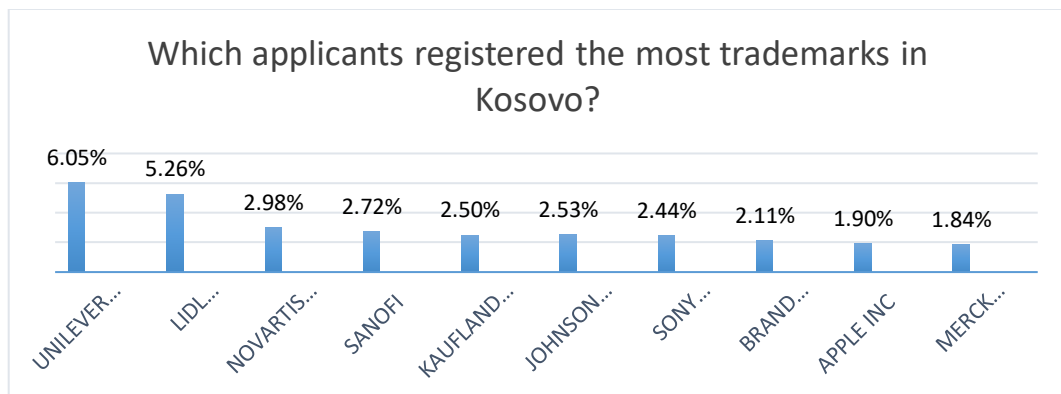


Fig 12. Top 10 applicants for trademarks in Kosovo, 2022.
Source: API (Industrial Property Agency in Kosovo).

Kosovo has had shortcomings in the full implementation of trademarks compared to other countries, which has resulted in shortcomings in the law on trademarks and obstacles in the registration of trademarks in the country. But despite this, we can

state that in Kosovo there is now a system that has facilitated the registration of trademarks. As can be seen from the figure 11 the registration of trademarks from brands in Kosovo are generally active. To better understand the intensity of trademarks in Kosovo we have also obtained data on foreign brands operating in Kosovo (see Figure 11 and 12). Based on those results we may estimate that Kosovo has a system of trademark protection and regular trademark activity, which has not at all stopped foreign brands from registering their trademark in Kosovo. Most of these foreign trademarks prove that Kosovo is a country where trademarks can be used strategically, despite any deficiency compared to other countries.

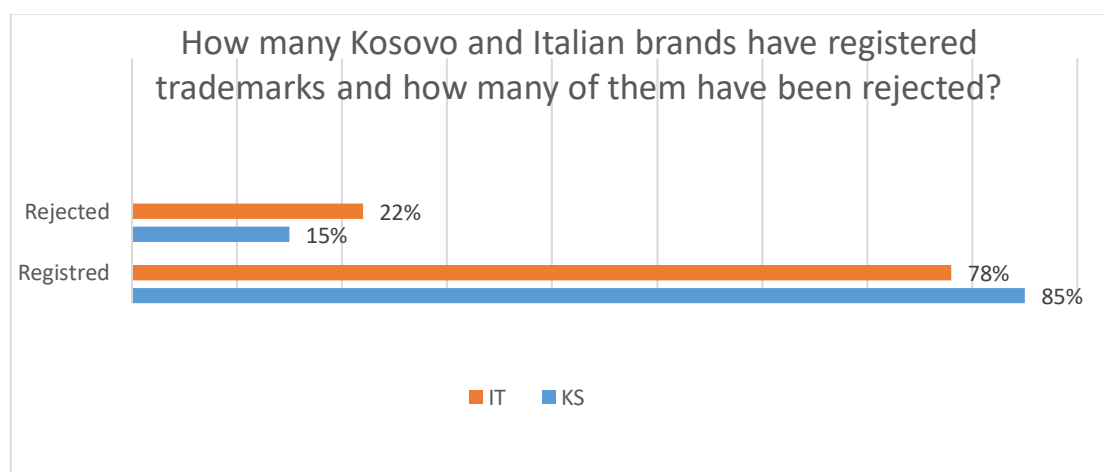


Fig 13. Kosovo and Italian brands that have registered and those rejected in Ks (2012- August 2022).

Source: Own calculations based on (Industrial Property Agency in Kosovo).

To understand whether trademark protection is a motive for brands to register trademarks, we observed the data from Figure 13, and based on this we understood how many of the brands in Kosovo have registered the trademark and how many of

them are rejected in Kosovo. Moreover, in the data we have added the activity of Italian brands to have an overview of a foreign brand operating in Kosovo. Based on this result, we can estimate that most brands are aware of the importance of trademark protection in Kosovo through registration, where within these brands there are trademark registrations for many goods or services related to one brand, which shows that brands want detailed trademark protection for all their activities. However, even though some brands are rejected, they are a reflection that these brands want and have expressed the desire to protect their brands.

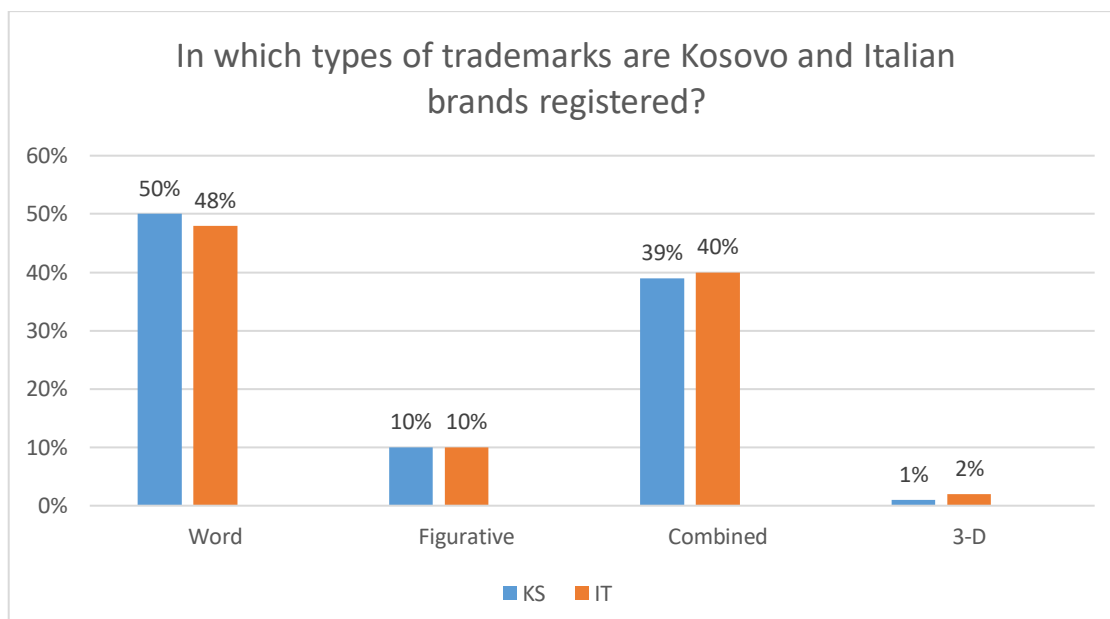


Fig 14. Registration of Kosovo and Italian brands according to the type of trademarks in Kosovo (2012-August 2022).

Source: Own calculations based on (Industrial Property Agency in Kosovo).

Trademark owners can register a trademark in different types. In Kosovo, brands can register their trademark in word, figurative, combined and 3-D type. From the different types of trademarks, it is sometimes difficult to choose which type of registration is most suitable to protect the trademark.

The requirement to register trademarks by type depends on how the trademark is protected in the country. In Kosovo, according to figure 14, there are no significant differences in preferences for any type of trademarks between Kosovo and Italian brands. In general, the results show that in Kosovo brands are more likely to register their trademark in word and combined type. Based on this, we can estimate that most brands believe that their trademarks in Kosovo are more protected with words,

letters, numbers, or with their logo. Moreover, Figure 14 in the paper we used to determine that the least registered trademarks are figurative and 3-D. In Kosovo, there are more conditions for registering figurative trademarks and 3-D and they must have very high distinctiveness in order to use. Based on this we can estimate that in Kosovo the level to request protection and the right to obtain protection in figurative and 3-D trademark type is lower compared to other types of trademarks.

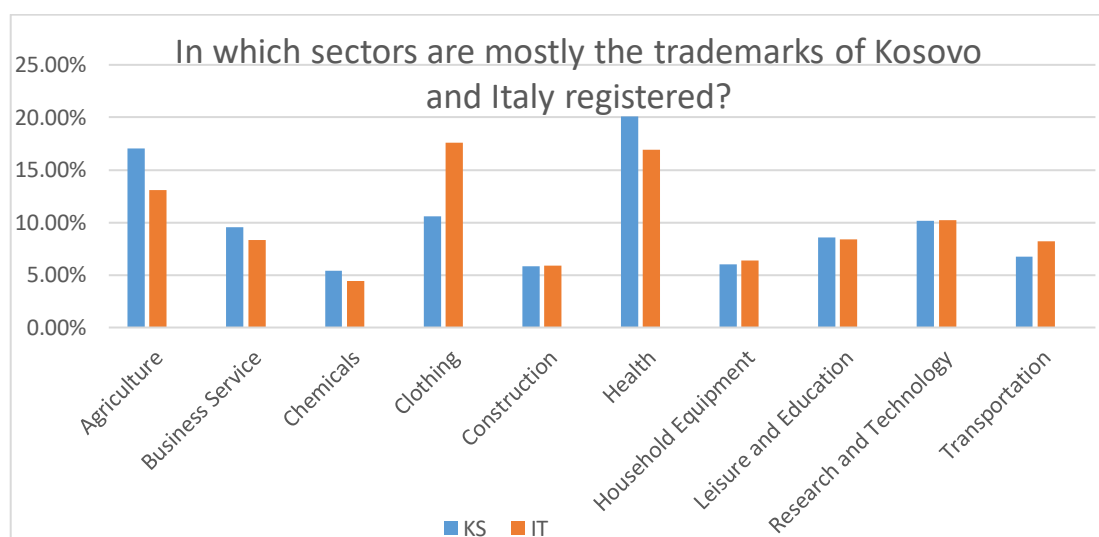


Fig 15. Trademark registration of Kosovo and Italian brands according to the sector in Kosovo (2012-August 2022).

Source: Own calculations based on (Industrial Property Agency in Kosovo).

A trademark can only be protected in relation to the goods or services to which it is applied. Goods and services for which trademark registration is required must be classified according to the NICE classification system. Nice classification is divided into 10 industry sectors. Some sectors are more likely than others to protect a trademark. In Kosovo, trademarks are present in all sectors. Figure 15 shows the

registration of Kosovo and Italian trademarks by sector in Kosovo. The results show that Kosovo brands have the highest registration focus in the health (20.1%) and agriculture sector (17.02%), compared to Italian brands, which is mainly the clothing sector (17.06%) in the first place, followed by the health sector (16.09%). On the contrary, the least requested sector for trademark protection for Italian and Kosovo brands is the chemicals sector. Based on this, we can estimate that when activity related to goods or services is high in a sector, the intensity of trademark protection is also high. In Kosovo, the activity of the health and agriculture sector is high, which shows that there is a variety of products and when the activity of the sectors is high, stronger protection should be required. Meanwhile, Italian trademarks in Kosovo are mostly registered in the clothing sector (Fig 15). This is because, in general, Kosovo brands have not paid attention to increasing activity in the clothing sector due to the lack of many resources. Furthermore, trademark registrations in the chemical sector, for both Kosovo and Italian trademarks, are the lowest. Thus, as far as the chemical sector is concerned, we cannot conclude that it is not active at all, but in Kosovo this sector is developing and tends to change over time.

6. CONCLUSION

Trademarks have gained great importance in recent years due to the expansion of brands with different goods and services. The increase in goods and services has created the need for these brands to be identified as trademarks and to be protected from others. The way to protect a trademark starts with its registration in the relevant authorities according to the law. There are a number of international and national legislations that provide legal cover in the protection of trademarks. All countries mainly have common rules, however, if a trademark that wants to expand and register outside the country must be registered according to the national rules of that country. Through international systems, trademarks receive support and the registration process is simplified, such as one of them is the Madrid system where brands gain the right to international registration and protection of their trademarks in the countries that are in this system. Trademarks are important to be divided into appropriate categories because they play an important role during the legal requirements to protect the trademark. Trademarks by category are divided into Generic, Arbitrary, Suggestive, Descriptive and Service marks. Trademarks are also divided by registration as: Word, Figurative, Combined, and 3-D.

First, in Kosovo, trademarks are protected under the trademark law and protection is achieved through registration. They are designed according to the type and are distributed in all sectors in a flexible way that aims to serve the needs of the trade

and is adapted to all the trends that have changed. However, in order to assess the state of trademarks in Kosovo, we can note that Kosovo has had deficiencies in terms of the full implementation of the formation of laws in comparison with other countries that are in the United Nations and that sometimes there have been unclear results regarding the protection of trademarks. However, despite this, we can see from the data that Kosovo in general has continuous trademark activity not only from Kosovo brands but also from foreign brands. We can conclude that Kosovo now has a system of trademark protection, which has not at all stopped foreign companies from registering their trademarks in Kosovo, despite any shortcomings.

Secondly, the analysis reveals that trademark protection is a motive for brands to register trademarks in Kosovo, whether from Kosovo or Italian brands, because within these brands there are trademark registrations for many goods or services that are related to a brand that shows that brands want detailed trademark protection.

Thirdly, the registration of trademarks by type depends on how much protection there is in these types of trademarks. We see from data that Kosovo and Italian brands are more likely to register their trademark in word and combined type. We estimate that most brands believe that their trademarks in Kosovo are more protected with words, letters, numbers, or with their logo, and with fewer applications in the registration of figurative and 3-D types because the level to

request protection and rights for to obtain protection in the figurative and 3-D type of trademark in Kosovo is lower compared to other types of trademarks.

Finally, when activity related to goods or services is high in a sector, the intensity of trademark protection in that sector is also high. The results show that Kosovo brands have the highest registration focus in the health (20.1%) and agriculture sector (17.02%), compared to Italian brands, which is mainly the clothing sector (17.06%) in the first place, followed by the health sector (16.09%). On the contrary, trademark registrations in the chemical sector, for both Kosovo and Italian trademarks, are the lowest. All that shows that there is a variety of products and when the activity of the sectors is high, stronger protection should be required or verca when there is not the activity of the sector the protection is low.

REFERENCES

- Allegrezza, S and Guard-Rauch, A. (1999) 'The determinants of trademark deposits: an econometric investigation (a case study of the Benelux)', *Economie Appliquée*, Vol. 52, No. 2, pp.51–68
- Albrecht, C., 2005. Adidas strips competitors of two-stripe designs. *Hogan Lovells International LLP*, 15 March.
- Alikhan, S., 2000. *Socio-economic benefits of intellectual property protection in developing countries*. s.l.:WIPO Publication.
- API , 2021. *Annual Report*. [Online] Available at: <https://kipa.rksgov.net/desk/inc/media/F00D6BBA-E8B5-4AD0-B063-4967FD528710.pdf> [Accessed 5 April 2022].
- Aplin, T. & Davis, J., 2021. *Intellectual Property Law*. 4th ed. s.l.:Oxford University Press.
- API, n.d. *Trademarks*. [Online] Available at: <https://kipa.rks-gov.net/page.aspx?id=2,28> [Accessed 5 April 2022].
- Baroncelli, Eugenia, Carsten Fink, and Beata S. Javorcik. 2005. "The Global Distribution of Trademarks: Some Stylized Facts." *The World Economy*, 28: 765-782.
- Bajpai, S., 2020. *Reasons how Trademark Registration Impact your Business*. [Online] Available at: <https://corpbiz.io/learning/can-trademark-registration-impact-your-business/> [Accessed 15 May 2022].
- Bazerman, S. H. & Drangel , J. M., 1999. *Guide to Registering Trademarks*. s.l.:Wolters Kluwer Law & Business.
- Bently, L. & Sherman, B., 2009. *Intellectual property law*. 3rd ed. s.l.:Oxford University Press.
- Blackett, T., 2016. *Trademarks*. Springer.

Buch, N., n.d. International instruments relating to trademark: Broadening the horizons of protection. *thelawbrigade*.

Calboli, I. & Farley, H. H., 2019. The Trademark Provisions in the TRIPS. *SSRN*, 22 October.p. 36.

Centre, I. T., 2004. *Secrets of Intellectual Property*. s.l.:Stationery Office Books .

Chapagai, R. R., 2018. Economic Perspectives of Trademarks. *The Saptagandaki Journal*, February.

Drivas, K., 2020. *EUIPO trademark applications withstood the first wave of the Covid-19 pandemic*. [Online] Available at: <https://voxeu.org/article/trademark-applications-indicator-post-covid-economic-activity> [Accessed 15 June 2022].

Farley, C.H., 2005. Why we are confused about the trademark dilution law. *Fordham Intell. Prop. Media & Ent. LJ*, 16, p.1175.

Fernández, N., 2017. The role of trademarks. *UNA Revista de Derecho*.

Fink, C., Javorcik, B.S. and Spatareanu, M. (2005) 'Income-related biases in international trade: what do trademark registration data tell us?', *Review of World Economics*, Vol. 141, No. 1, pp.79–103.

Florek, Magdalena. & Inch, Andrea. (2008). "The Trademark Protection of Country Brands: Insights From New Zealand", *Journal of Place Management and Development*, Vol. 1, No. 3.Pp. 292-306

Frey, C. B., A. Ansar, S. Wunsch-Vincent. 2015. "Defining and Measuring the "Market for Brands": Are Emerging Economies Catching Up?." *The Journal of World Intellectual Property* 18 (5): 217–244

Fromer, J. C. & Beebe, B., 2018. Are we running out of trademarks? An empirical study of trademarks depletion and congestion. *Harvard Law Review*.

EUIPO, 2017. *Guidelines for examination of European Union Trade Marks*. [Online] Available at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/law_and_practice/trade_marks_practice_manual/WP_2_2017/Part-B/02-part_b_examination_section_2_formalities/part_b_examination_section_2_formalities_en.pdf [Accessed 27 April 2022].

SDP, 2011. *Trademark Practice and Forms Treatise Chapter - Kosovo*. [Online] Available at: <https://www.sdpkosove.com/articles/2011/05/trademark-practice-and-forms-treatise-chapter-kosovo> [Accessed 17 June 2022].

Gastinel, E. & Milford, M., 2001. *The Legal Aspects of Community Trade Mark*. s.l.:Kluwer Law International.

Gutterman, A., 1995. *The Law of Domestic and International Strategic Alliances*. s.l.:Quorum Books.

Harms, L. T., 2012. *The Enforcement of Intellectual Property Rights*. s.l.:World Intellectual Property Organization.

Heer, C. & Cerilli, D., 2021. *Changing Trademark Use: What to Do as Your Business Evolves*. [Online] Available at: <https://www.heerlaw.com/changing-trademark-use> [Accessed 6 June 2022].

Herz, B. & Meje, M., 2016. On the fee elasticity of the demand for trademarks in Europe. Volume 68, pp. 1039-1061.

ICC, n.d. *Intellectual Property: Powerhouse for Innovation and Economic Growth*. [Online] Available at: <https://iccwbo.org/content/uploads/sites/3/2011/02/Intellectual-Property-Powerhouse-for-Innovation-and-Economic-Growth.pdf> [Accessed 14 July 2022].

- INTA, 2020. *Counterfeiting (Intended for a non-legal audience)*. [Online] Available at: <https://www.inta.org/fact-sheets/counterfeiting-intended-for-a-non-legal-audience/> [Accessed 29 July 2022].
- Japan Patent Office, 2016. *Introduction of the Madrid Protocol*. [Online] Available at: https://www.jpo.go.jp/e/news/kokusai/developing/training/textbook/document/index/introduction_of_the_madrid_protocol_2016.pdf [Accessed 24 July 2022].
- Jensen, Paul H., and Elizabeth Webster. 2004. "Patterns of Trade-Marking Activity in Australia." *Australian Intellectual Property Journal* 15: 112–126.
- Kapferer, J.N. (1997): "Strategic Brand Management: New Approaches to Creating and Evaluating Brand Equity", Kogan Page, Dover, NH.
- Kapferer, J. N., 2004. *The New Strategic Brand Management*. s.l.:Kogan Page.
- Kubjatková, A. & Kolenčík, J., 2020. Trademark evaluation of the selected company. *ResearchGate*.
- Landes William and Posner Richard (1987): Trademark law: An economic perspective, *Journal of Law and Economics*, Vol. 30(2), pp. 265-309.
- Larson, A., n.d. *Protocol relating to Madrid agreement concerning international*, s.l.: s.n.
- Lech, M., 2016. *Word or figurative trademark – which one is better?*. [Online] Available at: <http://www.trademarks-blog.eu/word-or-figurative-trademark/> [Accessed 12 August 2022].
- Malmberg, C. (2005). Trademarks Statistics as Innovation Indicator ? - A Micro Study (No. 17).
- Mar, A., 2021. *Trademark Registrations Explained: Word vs. Logo Marks*. [Online] Available at: <https://www.helium10.com/blog/trademark-registration-explained/> [Accessed 20 August 2022].

- Mendonça, S., Pereira, T.S. and Godinho, M.M., 2004. Trademarks as an indicator of innovation and industrial change. *Research policy*, 33(9), pp.1385-1404.
- Newman, D.E. (2008). "Portraying A Branded World", U. ILL. J. L. TECH. & POL'Y, 357, pp. 367– 79.
- Pohl Consulting & Associates, 2009. *Strengthening the Intellectual Property Rights System in Kosovo*. [Online] Available at: <https://kipa.rksgov.net/desk/inc/media/C9948B76-D6E5-4408-A34D-71BD28AA1AA8.pdf> [Accessed 15 June 2022].
- Prajapati, P., 2017. *Advantages of Registering Trademarks*. [Online] Available at: <https://www.legalwiz.in/blog/advantages-of-registering-trademarks> [Accessed 21 April 2022].
- Plakolli-Kosumi, L., 2008. *Trademark protection and enforcement*. [Online] Available at: <https://juristat.files.wordpress.com/2012/08/menaxhimi-ekonomik.pdf> [Accessed 5 April 2022].
- Qualityoracle, 2020. *Descriptive Trademarks 101: Everything You Need To Know*. [Online] Available at: <https://www.qualityoracle.com/descriptive-trademarks-101/> [Accessed 5 June 2022].
- Reddie & Grose, n.d. *Trade marks information for consumers and small businesses*. [Online] Available at: <https://www.reddie.co.uk/trade-marks-information-for-consumers-and-small-businesses> [Accessed 9 August 2022].
- RIEZEBOS, R., KIST, B. and KOOTSTRA, G., 2003. *Brand management*. Prentice-Hall.
- Sakulin, W., 2011. Trademark protection and freedom of expression. Wolters Kluwer Law & Business.
- Ristovska , K. & Ristovska, A., 2014. The Impact of Globalization on the Business. *Core*.
- Rossum, J.-E. v., 2017. *5 benefits of international expansion*. [Online] Available at: <https://www.bizjournals.com/bizjournals/how-to/growth-strategies/2017/12/5-benefits-of-international-expansion.html> [Accessed 8 August 2022].

- Seville, C., 2016. *EU Intellectual Property Law and Policy*. s.l.:Edward Elgar Publishing Limited.
- Smith, G. V., 1997. *Trademark Valuation*. s.l.:John Wiley & Sons.
- Stim, R., 2020. *Patent, Copyright & Trademark*. s.l.:Nolo.
- STOUT, n.d. *Tricks of the trade(mark): An introduction to Trademark Valuation*. [Online] Available at: <https://www.stout.com/en/insights/article/tricks-of-the-trademark-an-introduction-to-trademark-valuation> [Accessed 5 June 2022].
- Schechter, F.I., 1926. Rational Basis of Trademark Protection, The. *Harv. L. Rev.*, 40, p.813.
- Sharpe, C., 2000. *Patent, trademark, and copyright searching on the Internet*. Jefferson, N.C.: McFarland.
- Tang, D., 2022. *WIPO: the IP Office of the future*. [Online] Available at: <https://www.worldtrademarkreview.com/report/special-reports/q4-2021/article/wipo-the-ip-office-of-the-future> [Accessed 12 August 2022].
- UpCounsel, 2020. *Trademark vs. Logo: Everything You Need to Know*. [Online] Available at: <https://www.upcounsel.com/trademark-vs-logo> [Accessed 29 July 2022].
- Valle, C., 2020. *Word mark v. Figurative mark: which one to choose?*. [Online] Available at: <https://www.safenames.net/resources/blogs/safenames-blog/2020/07/24/word-mark-v.-figurative-mark-which-one-to-choose> [Accessed 20 August 2022].
- Werkman, C. J., 1974. *Trademarks: Their creation, psychology and perception*. London: Longman.
- Wilkins, M., 1992. The neglected intangible asset: The influence of the trade mark on the rise of the modern corporation. *Business History*, 34(1), pp.66-95.

WIPO, 2010. *Using Trademarks and Brand Names as a Dialogue for Success*. [Online] Available at: <https://www.wipo.int/ipadvantage/en/details.jsp?id=2649> [Accessed 21 June 2022].

WIPO, 2013. *World Intellectual Property Report*, s.l.: World Intellectual Property Organization.

World Intellectual property organization, 2001. *International conference on intellectual property , the internet, electronic commerce and traditional knowledge*. [Online] Available at: https://www.wipo.int/edocs/mdocs/ip-conf/bg/en/wipo_ectk_sof_01/wipo_ectk_sof_01_1_7.pdf

World Intellectual Property Organization, 2020. *What is Intellectual property?*. [Online] Available at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_450_2020.pdf [Accessed 21 July 2022].

World Intellectual Property Organization, 2021. *WIPO IP Facts and Figures*. [Online] Available at: <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-943-2021-en-wipo-ip-facts-and-figures-2021.pdf> [Accessed 7 August 2022].

WTO, n.d. *Part II — Standards concerning the availability, scope and use of Intellectual Property Rights*. [Online] Available at: https://www.wto.org/english/docs_e/legal_e/27-trips_04_e.htm [Accessed 1 July 2022].

WTO, 2021. *Article 16 of the TRIPS Agreement mandates special protection for well known marks*. [Online] Available at: https://www.wto.org/english/res_e/publications_e/ai17_e/trips_art16_jur.pdf [Accessed 12 August 2022].

WIPO, 2016. *The Madrid System for the International Registration of Marks*. [Online] Available at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_418_2016.pdf [Accessed 22 May 2022].