

INTA's View on Legislation for Famous/Well-Known Trademarks

APRAM/INTA event: Marques notoires et de renommée: Vers une meilleure harmonisation de leur protection?

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Background of Famous and Well-Known Trademark Framework



- Article 6*bis* Paris Convention
- Article 16 TRIPS Agreement
- WIPO Joint Recommendation Concerning Protection of Well-Known Marks
- INTA conducted a survey of 77 jurisdictions
-> no common standard applied throughout the world and...

Much Has Changed...



- How “we” communicate
- Business models
- Logistics
- Consumer behavior



The global framework and its systems for protecting well-known trademarks are stuck in the 20th century and do not reflect, or incorporate, 21st century realities.

~ The Famous and Well-Known Marks Committee,
April 26, 2023

i.e.

The WKM framework is not only unharmonized in how it's implemented, but it doesn't reflect how businesses, consumers, and even criminals think and operate today.

Businesses

- Less reliance on brick-and-mortar – online, Metaverse
- Global communications reach (online advertising, social media, influencers)
- Fast and global distribution capabilities

Consumers

- Global communication access (social media, friends and family, foreign media, etc.)
- Global exposure (travel, study abroad, etc.)
- Global access to goods/services (e-commerce)

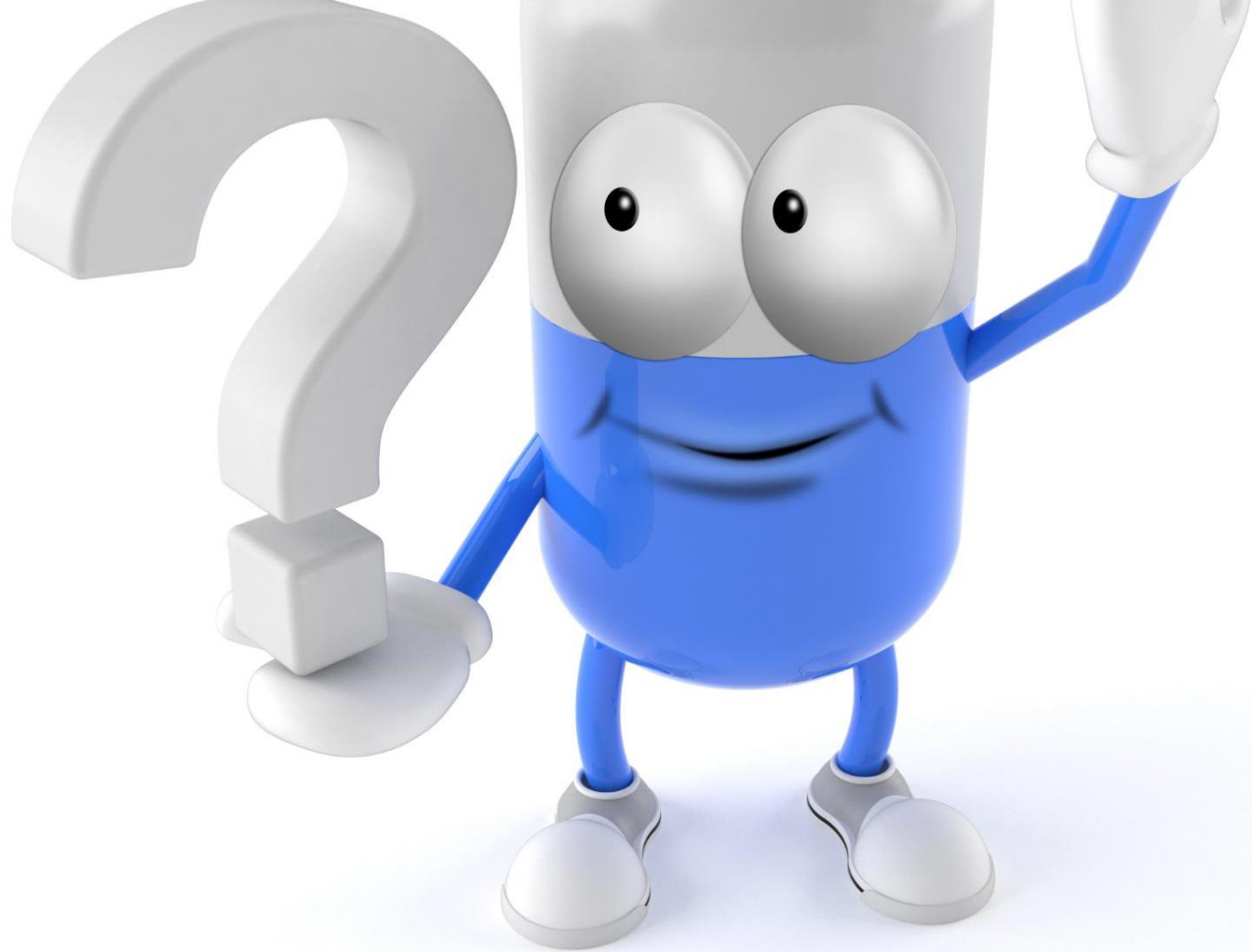
Even criminals

- Same access to global information; scouring for the next rising brand
- Same access to global sales platforms (e-commerce)
- Same access to distribution channels
- Counterfeiters and bad faith actors have learned how to exploit gaps in the existing system and take advantage of the peculiarities of different legislations to target well-known marks.

Need for an Updated Framework, Key Principles:



- Reality-based understanding of awareness
- Cross-class coverage
- Availability without local use or registration -> global notoriety ok
- Thoughtful approach to social media and online “brand presence”
- Not public at large as “relevant public”.



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