

Protecting your IP rights in a changing world

Intellectual Property

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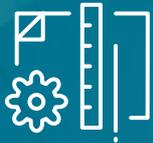
The pandemic that will define 2020 has put many types of intellectual property in the spotlight – particularly, of course, in life sciences. Who will develop an effective vaccine or vaccines for Covid-19, and how will their intellectual property rights be balanced against the world’s urgent need to exploit those rights? The same question will be asked in relation to any drugs that appear to be effective against the virus. But 2020 has highlighted many other aspects of IP as well.

New systems are being developed for tracking and tracing not only infections, but also the movements of individuals. Remote working on an unprecedented scale is boosting a host of related technologies. Broadcasters are finding new ways of creating content, and businesses are discovering new techniques for remote engagement with their customers. Some owners of IP that has traditionally been based in the ‘old’ world are striving to find ways to monetise it online. The development of dozens of technologies has been boosted – the CEO of Microsoft believes we have seen two years of digital transformation in two months.

At the other extreme, some distressed businesses, ranging from retailers to publishers, are focusing on their IP rights because those rights are among their few remaining assets with any real value. The crisis will likely see some well-known businesses fail, but some of their brands will re-emerge under new ownership. Some franchise agreements and other contracts that include IP will unexpectedly come up for renegotiation. If lockdown or other restrictions have slowed your R&D or design development, are you at risk of losing out in a first-to-file system? Or perhaps you are running a platform that suddenly has insufficient content? Have you made the necessary technical, environmental restrictions to qualify for protection?

Whatever your opportunities or challenges may be in our strange new world, an effective IP strategy will include both commercialisation and enforcement. CMS can help you devise and execute that strategy.

Our dedicated team of over 450 specialist lawyers, scientists and patent attorneys can draw on a wealth of understanding and experience to meet your business needs – experience gained in acting for some of the world’s best-known brands, from banks to tech and media companies, and life science businesses to major FMCG players. We handle the full lifecycle of IP assets, in both contentious and non-contentious work. Whether you own IP or license it, we can help you maximise the value of the assets in your portfolio, even in such difficult times as these.



Brand builders

Trade marks play an essential role for both businesses and their consumers. CMS advises on all elements of trade marks and has conducted the second largest number of UK Trade Mark hearings over the last three years. This extensive experience enables us to advise

on trade mark registrations, oppositions and portfolio management, globally and locally. If disputes arise, we are there to guide you through the litigation process, whether you are pressing or defending a claim locally or across national borders.



Protectors of innovation

The CMS patent attorney practice disrupts the traditional boutique approach to provide a service that meets the needs of modern business practice.

High profile and global life sciences and hi-tech companies trust us to manage their patent portfolios. Their portfolios are under constant scrutiny and they need to know they are in

the very best hands. Our attorneys have long-held passions for the sectors we work in, with many having PhDs and / or industry experience in their chosen area.

Portfolios are actively managed using a CMS-built database that gives clients direct access to their data whilst enabling us to proactively manage every case.



Defending creativity

Creativity comes in all forms. It may be a new manufacturing process, an innovative piece of code or how an existing piece of tech can be repurposed for improved usability. This creativity deserves the best defence. Whether it is dealing with trade secrets or applying the latest copyright legislation,

the CMS team can handle all matters relating to the copyrights and infringements.

We establish ownership of copyrighted works and register copyrights, we police potential infringements and have substantial experience in copyright litigation.

Case studies

Protecting Sky's brand across Europe

» They have magnificent availability, they are dedicated and they offer us interesting help, as well as solid legal opinions.

Legal 500 Asia-Pacific

The firm draws praise for the co-ordination of its international network.

» *One client says:*
This network ensures smooth and fast processes, especially since the lawyers involved in various projects always co-ordinate with each other and update each other, thus ensuring optimal communication.

» *Another impressed interviewee says:*
CMS has a huge network and I can always trust to receive seamless and high-quality legal advice, regardless of borders.

Sky group is a leading entertainment business, headquartered in London and active across the EU. The SKY brand is the most important asset of Sky's business and Sky robustly defends it from infringement and dilution. CMS has successfully won two pan-European injunctions and dozens of registry victories to date and we continue to advise.

Sky has been in dispute with Chinese electronics business Skyworth since the early 2000s when Skyworth first sought to register the trade mark SKYWORTH for home entertainment products globally, including in Europe. Similar products are at the heart of Sky's business. In 2016 Skyworth announced a plan to launch SKYWORTH branded televisions across the EU. In response, Sky has taken court action in both Alicante, Spain and Vienna, Austria in parallel with around 100 registry disputes globally. Advised by CMS, Sky has been successful in these actions.

Our role has included:



Monitoring new trade mark applications and advising on responses to these



Co-ordinating and managing the registry and court disputes globally



Devising and implementing a litigation strategy



Preparing evidence and witnesses for the court actions



Instructing and guiding all professional investigations and activity tracking



Co-ordinating between Sky's UK and Swiss counsel



Co-ordinating and managing the registry and court disputes globally



Devising and running a retailer enforcement programme

Chosen by Microsoft as a Law Firm Leader

CMS is retained by Microsoft on its small bench of European Patent Attorneys, undertaking original drafting work for technology originating in the UK, Europe and the Middle East, and EPO filing work for applications with origination in the US. As well as this European-focused work, we are also frequently entrusted with the management of acquired portfolios. CMS currently has in excess of 1,200 live applications in prosecution for Microsoft.

Microsoft trusts CMS because of our combination of technical expertise, tech sector knowledge ranging from AI, communications to physics and the excellent working relationships we have built together.

Innovative thinking and systems are central to our success. CMS has built tools for tracking objection types raised by the patent office and uses automated tools for checking patent draft formal requirements. These enable us to work efficiently for high volumes of matters. CMS uses video conferencing facilities for hearings which gives efficiencies for our clients.

Examples of AI we have protected include:



AI technology in medical image analysis such as Microsoft's Inner Eye solution



AI in computer security



AI technology in HoloLens



We also protect Microsoft's quantum computing technology



AI technology in Bing



Microsoft's Law Firm Leader Award



Provides heavyweight IP, parallel trade and patent litigation capability for an impressive roster of clients.

Legal 500

Pictured: Microsoft HoloLens, an untethered mixed reality device.

CMS IP at a glance

450

IP specialists globally

**RECOMMENDED IP
PRACTICE IN IP
STARS MAGAZINE**

RANKED IN 10 JURISDICTIONS BY IP STARS

**GOLD-RANKED IN
WORLD TRADEMARK
REVIEW 2019 & 2020**

Strong sector expertise in Automotive, Consumer Products, Energy, Life Sciences & Healthcare, Mechanical Engineering, Technology, Media & Communications.

3,800

patent applications actively managed across 50 countries at any one time

MANY OF OUR IP LAWYERS ACTIVELY SERVE ON COMMITTEES OF LEADING INDUSTRY ASSOCIATIONS, INCLUDING THE **INTA, MARQUES, AIPLA AND AIPPI**

50,000

trade marks managed by CMS globally

**» Tier #1 UK (Scotland)
& Germany**

Chambers & Partners

Our track record



Managing your IP Portfolio

Dentsu Aegis

Managing its global trade mark portfolio, operate their watch service and advise on international disputes, licensing, copyright and related IP issues.

Nestlé

On the strategy for protection and enforcement of its brands including in proceedings in the High Court, Court of Appeal, General Court and the CJEU for Nestlé's UK and EU trade mark registrations for the shape of a four-finger Kit Kat.

Sky

Manage the trade mark portfolio of over 3,000 marks across 100 territories, providing strategic filing, opposition and enforcement advice. We handle 300+ oppositions worldwide. We have a 95% success rate in EUTM oppositions for Sky, securing important decisions in which the EUIPO held that the "Sky" has an enhanced reputation.

Microsoft

Advising on all UK and EUTM prosecution and opposition matters, including representing them in ad hoc enforcement matters relating to trade marks.

BAE Systems

Managing the global trade mark portfolio, including managing over 820 live marks across 47 territories; providing BAE Systems HQ with strategic advice on new mark availability, protection gaps, filing and prosecution; and administering a watch service and a renewal portfolio.



Protecting your designs

Dassault Systems

Advising in Latin America on copyright infringement of SolidWorks software.

UEFA

Copyright management for the postponed EURO 2020 football tournament.

A US Global Film & Entertainment Company

Ongoing advice on a wide range of trade mark and copyright infringement matters globally.



Resolving your disputes

FIFA

Advising on ambush marketing, counterfeits and IP infringement relating to the 2014 World Cup including negotiating with non-sponsors to remove use of World Cup-related IP, customers' and conducting opposition proceedings on third party trade mark applications relating to World Cup 2014.

Eli Lilly

Advising in trademark, design and unfair competition law matters, including: anti-counterfeiting and brand enforcement activities for one of the most counterfeited pharmaceutical products in the world (Cialis®) infringement litigation; parallel imports; advice on filing and product protection strategies.

Ecolab

Advising on trademark matters for Europe and parts of Asia, both out of court and before courts, including litigation on trademark law, advice on trademark portfolio, trademark clearance work and strategic cross-border trademark issues.

Stanley Black & Decker

Advising in trademark and design infringement cases, including enforcement of rights at trade shows.



Protecting your innovations

LinkedIn

Preferred European Patent Attorneys, prosecuting European patent applications which were originally drafted and filed in the US.

Sandoz

Successfully defended Sandoz against both patent infringement proceedings and a regulatory challenge mounted against its pharmaceutical product authorisations. Subsequently advising on its claim on the cross-undertaking in damages against Napp Pharmaceuticals.

Silence Therapeutics

Advised on a life sciences patent action and EPO oppositions on chemical modification technology crucial to the new field of interfering RNA. The litigation and EPO oppositions with Alnylam were settled in December 2018.

Future facing

» CMS's Intellectual Property Department is excellent for high-level and complex questions and offers a good mix of very sound legal advice and practical tips.

Legal 500 Asia-Pacific

The IP landscape is constantly evolving, and so are we. As you'd expect from a law firm that acts for some of the world's top tech companies, we strive to use new technology to enhance the service we deliver. Our clients benefit from bespoke CMS-developed tech and industry-standard AI.

Managing patent portfolios

The CMS patent attorney team uses proven, robust and efficient processes to manage portfolios through the patenting process. Portfolios are actively managed using a CMS-built system. It gives our clients direct access to their data whilst enabling us to proactively manage every case.

AI delivering savings

Disputes often involve large volumes of documentation, and that's particularly true in a heavily regulated and IP-intensive sector such as life sciences and healthcare. Our CMS e-disclosure team, CMS Evidence, provides the latest e-disclosure tools to review, analyse and organise documents in a cost-effective way.

Responding to investigations

Dawn raids are an increasingly frequent feature of the regulatory landscape. The CMS Dawn Raid app gives 24/7 access to CMS experts and jurisdiction specific checklists of what to do in the event of an unannounced inspection. Download it at your app store.

Mobilising after data breach

Companies are rightly devoting more and more resources to cybersecurity, but most will still suffer a breach sometime. With brand reputation and customer trust at risk, as well as intellectual property and data privacy, the cost of data breaches and increasingly sophisticated cyberattacks is increasing.

The CMS Breach Assistant app can help. It gives on-the-go support via your smart phone, guidance on the what you need to do and who you need to notify in the event of a data breach and direct access to CMS data breach response lawyers in your selected countries. Download it at breachassistant.com.

Keeping you up to date

In a dynamic commercial landscape with ever-expanding technological horizons, it is increasingly important for businesses to capture value from their intellectual capital and knowledge-based assets. After all, these assets can be far more valuable, and more difficult to control, than almost any other type of corporate holding. The CMS IP group keeps on top of developments in the industry, and keep our clients up to date with what they need to know.

CMS guide to Covid-19's impact on IP legal timings

As in all aspects of business, COVID-19 is impacting the world of IP and the position is constantly changing. To help you prioritise and plan, CMS has produced an overview of COVID-19's current impact on procedural timetables before courts, national intellectual property offices and 32 key international IP institutions. This overview is regularly updated. Find it at cms.law

Artificial Intelligence

AI technology is increasingly used in the life sciences for a wide range of purposes including drug discovery, personalised medicine, dosage regimes, predicting drug interactions, interpreting x-ray crystallography results and more. At CMS we are extremely well placed to assist you with patent filing and prosecution in the life science AI field because we have individual team members with technical training as well as patent training in both life sciences and computer technology which is relatively rare. Many of the patent strategy considerations regarding AI and life sciences are especially complex.

To read access our article on patent protection of AI used in diagnosis, click: [here](#).

Medicinal Cannabis

The nascent European cannabis industry is forecast to undergo huge growth over the next decade, possibly eclipsing the US and Canadian combined market. Innovations in the growing medicinal cannabis, CBD and hemp sectors are potentially patentable and companies that realise these opportunities by obtaining patent protection will have a significant advantage in the market-place.

On the Pulse brings together CMS lawyers and experts to discuss key industry topics impacting, innovating and disrupting the life sciences & healthcare sector. You can listen to our podcast on the legal roadmap for cannabis at: <https://cms.law/en/int/publication/on-the-pulse>.

Interactive discussions

As your trusted advisors, we periodically run seminars, webinars and podcasts on current issues relevant to the sector. To learn more please get in touch with our Global Co-Heads or your key CMS contact.

Law-Now

You can subscribe to receive our free updates and commentary on sector-specific and legal news by email. Subscribe to receive updates on IP, patents and choose from 80 other areas of law relevant to you. Register at cms-lawnow.com.

CMS

Staff

> **8,000**

Lawyers

> **5,000**

Partners

> **1,100**

49 NEW PARTNERS IN 2019, TAKING THE TOTAL TO OVER 1,100

Operating in

70
cities

Across

43
countries

EUR
1.426bn
turnover for 2019

19 PRACTICE AND SECTOR GROUPS WORKING ACROSS OFFICES

- » **#1 CEE, DACH, Germany** (*Mergermarket*)
- » **#1 Germany, UK** (*Thomson Reuters*)
- » **Top rankings in 2019 M&A League Tables** (*by deal count*)
 - #1 by Bloomberg in Europe, Germany and UK
 - #1 by Mergermarket in CEE, DACH and Germany
 - #1 by Thomson Reuters in Benelux and Germany
- » **#1 Europe, Germany, UK** (*Bloomberg*)

The Americas

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Lima
Mexico City
Rio de Janeiro
Santiago de Chile

Europe

Aberdeen	Edinburgh	Lyon	Sarajevo
Amsterdam	Frankfurt	Madrid	Sheffield
Antwerp	Funchal	Manchester	Skopje
Barcelona	Geneva	Milan	Sofia
Belgrade	Glasgow	Monaco	Strasbourg
Berlin	Hamburg	Moscow	Stuttgart
Bratislava	Istanbul	Munich	Tirana
Bristol	Kyiv	Paris	Utrecht
Brussels	Leipzig	Podgorica	Vienna
Bucharest	Lisbon	Poznan	Warsaw
Budapest	Ljubljana	Prague	Zagreb
Cologne	London	Reading	Zurich
Duesseldorf	Luxembourg	Rome	



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