

Patents and Trademarks

Presented at: **Stamford TechXel**

Presented by: **Wes Whitmyer Jr.**
Whitmyer IP Group LLC
Stamford, Connecticut 06901
wwhitmyer@whipgroup.com

Whitmyer  **Group**

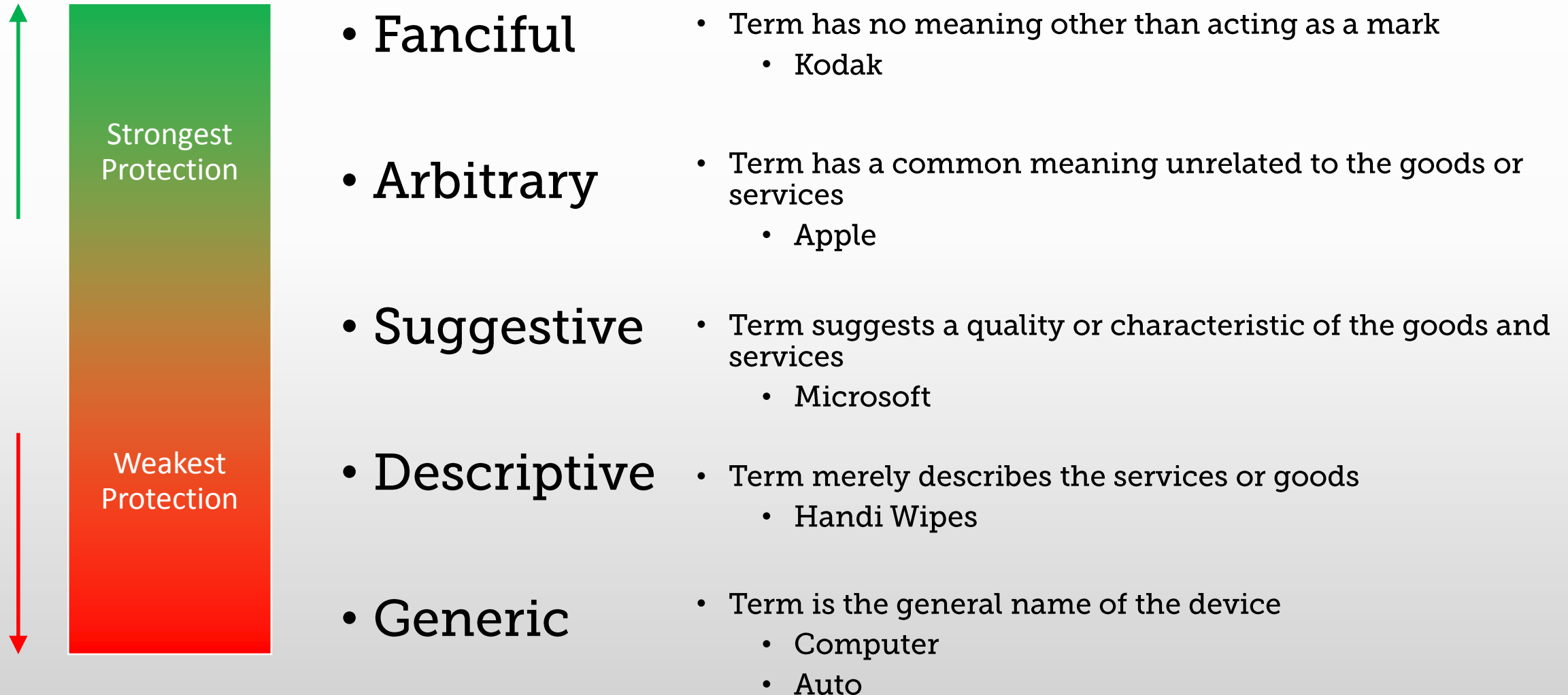
What is a Trademark?

- Trademarks protect brands
- A word, name, or symbol that identifies the source of goods or services
- Should choose a mark for which the domain name is also available
- Rights are based on use in commerce

Benefits of Filing for Registration

- Presumption of ownership & validity
- Attorney's fees and enhanced damages from competitors
- Nationwide notice to all later users of a mark
- U.S. Customs Service

Strength of the Mark



Purpose of Trademark Search

- Availability, particularly in your class of goods and services
- Identify potential conflicts, especially in the same class of goods and services
- Evaluate likelihood of consent
- Make sure domain is available

Proper Usage

- ™ and ® Symbols indicate brand
- Do not use the mark as a noun or a verb to avoid your mark becoming generic
 - Correct: Make 6 copies on the Xerox® copy machine.
 - Incorrect: Xerox that report.
- Always use the mark as an adjective, followed by a generic term
 - BAND AID® Bandages
 - KLEENEX® Tissues
 - GARMIN® Global Positioning System
- Do not make the mark plural
- Do not alter the mark

Trademark Brand Policing

- Internet
- Web Marketplaces
- Misspelled Domains
- Adwords

What is a Patent?

- Legal right of exclusivity over a product or service for a limited time
- It must be an apparatus, method, or composition of matter
- It must be:
 - Novel,
 - Useful, and
 - Non-obvious
- Rights are based on registration prior to use

Invention Hunting

- Customer Feedback
- Market Position/Features
- Integration with Customer's Product
- Software/Systems
- Production/Application Engineering
- New Laws/Regulations

Patent Searches

- Watch Competitors
- Watch Customers
- Review State of the Art
- Clear New Product Design
- Assess Patentability

Invention Assessment

- Value of Exclusive Right to Feature
- Not Technology, Business Strategy
- Technology Defines Ways to Offer Feature
- Engineering is Most Efficient Implementation

The Patent Right

- Right to Make or Exclude?
- Dominant Patents
- Inventing Around/Improvements
- Market Weapons, Not Technology Weapons
- No Silver Bullets

Patent Exploitation

- Marking/Monitoring
- Enforcement: Injunction, Licensing
- Cross-Licensing (Freedom)
- Commercial Agreements
- Shape Marketplace

Wesley W. Whitmyer, Jr
wwhitmyer@whipgroup.com



Whitmyer IP Group
600 Summer Street
Stamford, CT 06901