



Trademark Seminar for Cheese Makers

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Seminar Leaders

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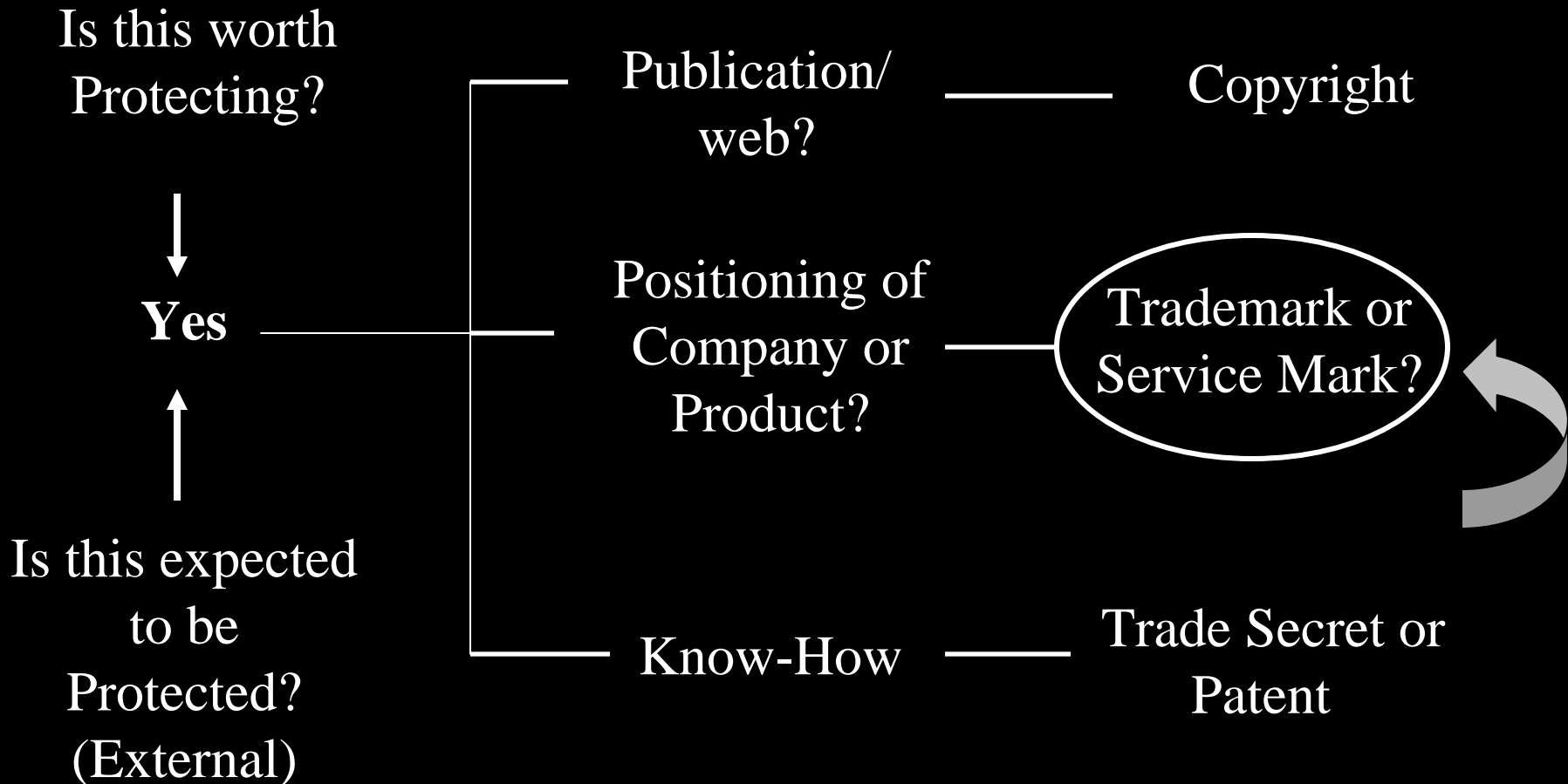


Trademark Seminar Outline

- ✦ Introduction and Seminar Goals
- ✦ What are Trademarks and Why Should I Care?
- ✦ Common Myths and Mistakes
- ✦ Benefits of Federal Registration
- ✦ What's Involved and Cost?
- ✦ Case Studies
- ✦ Recap

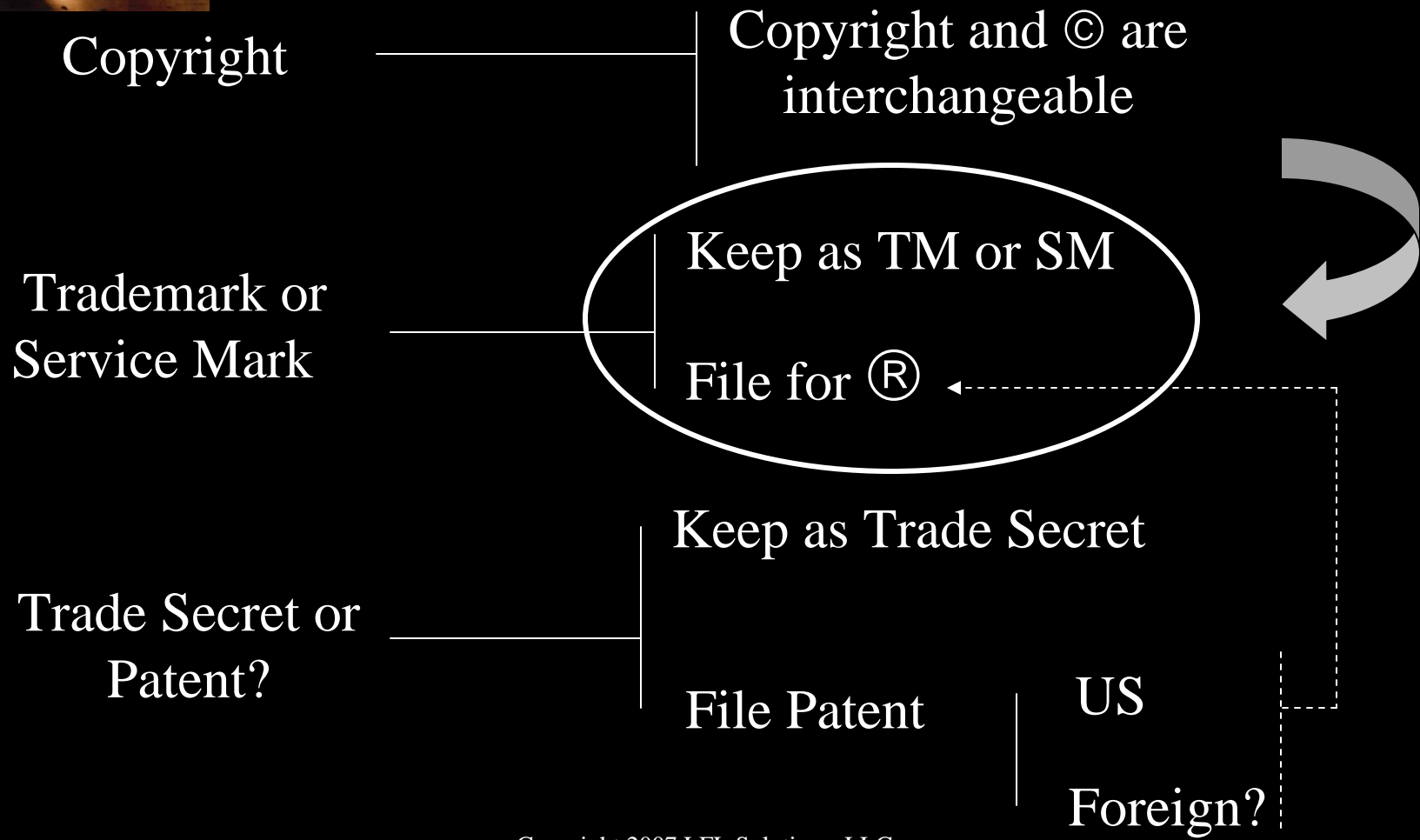


Basic Intellectual Property Decisions





Follow-on Intellectual Property Decisions





Trademarks: TM and ®

- ✦ *Abbr.* TM ...A name, symbol, or other image identifying a product. It is legally restricted to the use by the owner or manufacturer.
- ✦ A proprietary product identification using a label.
- ✦ Registering a name or product with the USPTO as a trademark.
- ✦ Once cleared by USPTO as unique and distinctive, replaces TM with ® (10 year renewals).



Service Marks: SM (also an ®)

- ✦ An SM mark is used in the sale or advertising of services to identify the services and distinguish them from the services of others (operates like a TM)... SM marks are sometimes labeled as TM
- ✦ Trademarks are used to identify products (physical goods) and Service Marks are used to identify services (and a company may have both)



Trademarks as Assets

- ✦ Trademarks are assets and property of the company.
- ✦ Trademarks can be bought and sold.
- ✦ If you don't protect your property (copyrights, trademarks, patents, trade secrets)...don't expect others to respect your rights.
- ✦ Dead trademarks are abandoned property.



Trademark Myths (and Realities)

- ✘ If I pick a name...I can use it.
- ✘ I can put a TM on my product indefinitely... and be protected...or, There's no difference between a TM and an [®]
- ✘ I can register my name with the USPTO before I use it.
- ✘ Trademarks aren't that important. I'll rely on my "common law" rights and protect it later if necessary.
- ✘ Once I register my mark, the registration lasts forever.



Benefits of Federal (USPTO) Registration



- ❖ Nationwide expansion of rights (regardless of actual use)
- ❖ Legal presumption that company has exclusive rights
- ❖ Protection from liability
- ❖ Protection from other's registration/use of the mark
- ❖ Registrants can request US Customs Service to prevent importation of product that infringe on mark
- ❖ Litigation is in federal court not state courts (damages are generally higher)



Filing a Trademark Application

(Summary of the Registration Process)

- ⊗ Application (*in use...intent to use*)
- ⊗ Examination
- ⊗ Publication
- ⊗ Statement of Use
- ⊗ Certificate of Registration
- ⊗ Maintenance Fees



...Lessons in GI's and CM's

- ✦ **1953: *Roquefort*** (US Reg. No. 571,798)
- ✦ **1987: *Port-Salut*** (US Reg. No. 1,466,450)
- ✦ **1997: *Pecorino Romano*** (US Reg. No. 2,029,475)
- ✦ **2004: *Raclette Suisse*** (US Reg. No. 2,856,706)
- ✦ **2004: *Idaho Potatoes*** (US Reg. No. 2,914,309)
- ✦ **2007: *Danablu*** (US Reg. No. 3,276,390)
- ✦ **2007: *Parmigiano Reggiano*** (US Reg. No. 3,256,272)
- ✦ **2007: (Cognac) *RÉMY MARTIN, THE HEART OF COGNAC***:
Brandy having the guaranteed label of origin (AOC)
Cognac (US Reg. No. 3,272,638)



Points to Consider

- ⊗ If the mark is important, seek federal registration.
- ⊗ If anyone else is using (infringing) the mark, act immediately to stop that use.
- ⊗ The mark must remain in active use.
- ⊗ Do not misuse the mark.
- ⊗ Make the mark distinctive.
- ⊗ Never use the mark as a noun. It's an adjective.
- ⊗ Do not vary the use of the mark.
- ⊗ Use the trademark notice.



Concluding Words on Protecting Your Mark

- ✘ Be Unique
- ✘ Don't Delay
- ✘ Be Diligent



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