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# The role of trademark law in the cinematographic world. Elements which can be protected & watch out for scenes that may disparage a company's trademark.

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## Intro (2)

- **Why do we care about trademarks in film?**
- **How can trademarks be used in film?**
- **Is that use « as a trademark »?**
- **Benefits and risks for trademarks and brands if used in film**
- **Case study on the importance of TM clearance**



# An introduction to Trademarks



## What's Trademarks?



- A trademark is a badge of origin; a sign that identifies and distinguishes the goods or services of one trader from those of other traders.
- A trademark must be registered in order to have protection.
- Trademarks are registered for specific goods or services within individual subjects, known as classes.





## The oldest trademark of “white rabbit” in China



- Liu Family Needle Shop
- Northern Song Dynasty (960 ~ 1126)
- Trademark of “white rabbit”
- “With persistence, an iron pestle can be ground down to a needle.”

# The purpose and function of a Trademark



- To identify the goods/services.
- To distinguish the goods/services of the trademark holders from those of others.
- To guarantee its quality.
- To advertise the goods/services.





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# Types of things that can be trademarked and how they apply to the world of cinema



## Word Marks

ZARA

BURBERRY

GUCCI

LOUIS VUITTON

## Symbol or logo/design or combination



# Starbucks in Devil wears Prada / You've got mail





## BMW in James Bond movies

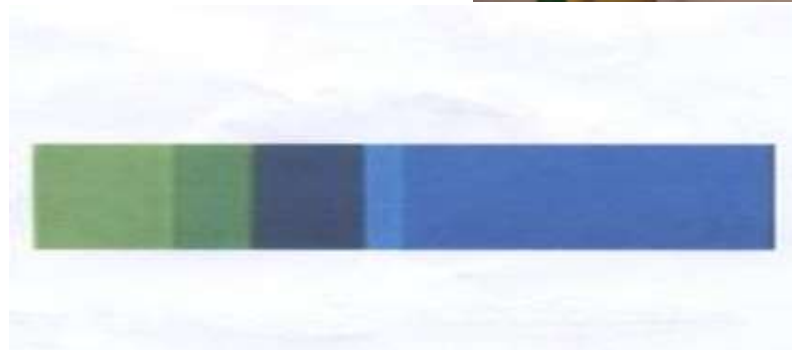


# LOUIS VUITTON's pattern trademark in Sex and the City / Nine



# Colors Marks

Tiffany & Co.

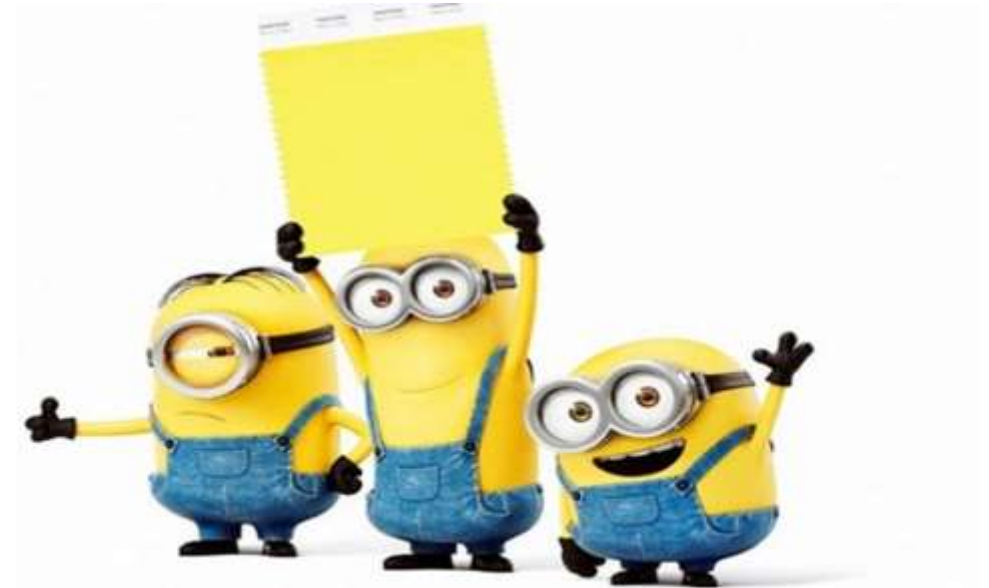




## Tiffany Blue in Sweet Home Alabama

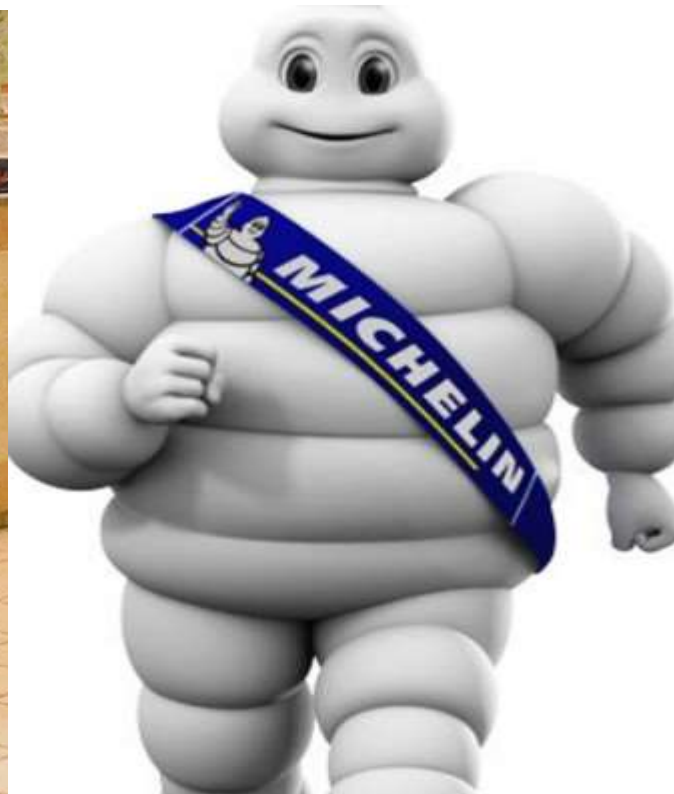


## Minion yellow in Despicable Me





# Three-dimensional Marks



# Uncle McDonald / Michelin Man in Logorama





# Three-dimensional Marks



## Eiffel Tower in Ratatouille



## Taipei 101 in Lucy





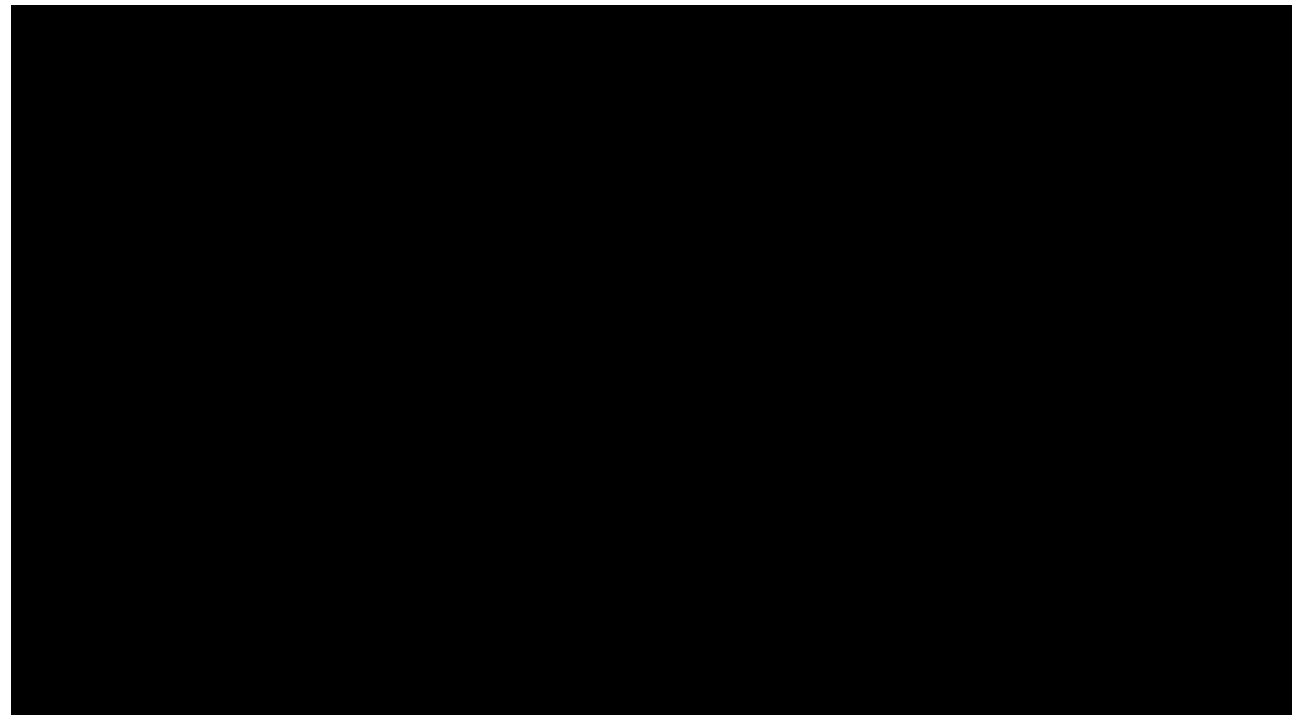
## Sounds Marks

### Mockingjay Whistle in Hunger Games



## Sounds Marks

### Tarzan's Yell in Tarzan movies



# Motion Marks / Animated Marks

## Columbia Pictures trademark





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# Thank you !

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# How the use of TMs in film can benefit a brand?

- Lot of famous examples
- First example : the Garage (1919) trademark ZEROLENE
- Associate the trademark with something positive
- It's a business

## FOREST GUMP



## SHINING











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## The benefits

- Classical placement i.e. : well known product : *i.e. Apple, Levi's, Nike...*
- Institutional placement : Highlight of a trademark and not only a product i.e : Nestlé, Aston Martin ...
- Evocative placement : the name of the product is only suggested : *i.e Rubik's cube*
- Discreet placement : the product is visible but not the trademark on it : *i.e back of a can*

The benefits depend on the price you pay and on the kind of placement



When a movie can save a trademark :





## The benefits



The owner of  
the trademark  
ignore the  
placement

**BLADE RUNNER  
2049**

# How the use of TMs in film can damage a brand?

- few examples of cases
- only when the disparaging is clear

Severine Litaer : Head of peugeot placement products

*« if one of our cars is decried in a movie we won't hesitate to bring a legal action ; if a Peugeot's car is filmed by a resalisator and that this car kill somebody, the legal action can not be avoided because the movie would attent technical skills of our cars ».* (Le Nouvel Observateur 30/01/03).



George of the Jungle  
Caterpillar against  
Disney



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BUDWEISER  
against the  
movie FLIGHT  
produced by  
PARAMOUNT



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# The damage occurred to a product or/a trademark

French movie : “MAMAN”

**Paris French Court : September 19<sup>th</sup> 1990**

*“And you, you know the difference between Lada and AIDS?  
Try to pass your Lada.”*

Court Decision : This is a joke and not a disparagement, the author won't attempt Lada's reputation

# The damage occurred to a product or/a trademark

French movie : Racket

**Paris French Court : July 6 1995 – PIBD 1995 n° 596 III 4**

A Company named Securitas covered criminal activities

**SECURIT'AS /**



Actuality : Last week Hummer sued Activision Blizzard Inc  
“Call of Duty”



# Thank you !

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# Case study on the importance of TM clearance



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## Case study on the importance of TM clearance



## Case study on the importance of TM clearance

- What is an Emoji?
- What does the sign EMOJI stand for?
- Can the title of a movie be registered as a trademark?
- Can EMOJI be registered as a trademark?
- If so, for what???

# Case study on the importance of TM clearance



**Registered for the following goods and services:**

**27**Mats; Mats; Carpets, rugs and mats; Wall hangings (non-textile); Mats for vehicles [not shaped]; Mats.

**41**Film production, other than advertising films; Movie showing; Rental of motion pictures; Film production services; Movie showing.

**45**Licensing of intellectual property; Licensing of computer games; Licensing of computer software; Licensing of intellectual property; Advisory services relating to intellectual property licensing.



# Case study on the importance of TM clearance

Group 1: SONY

Group 2: Emoji GmbH

## Case study on the importance of TM clearance



# Case study on the importance of TM clearance



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# Thank you !

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