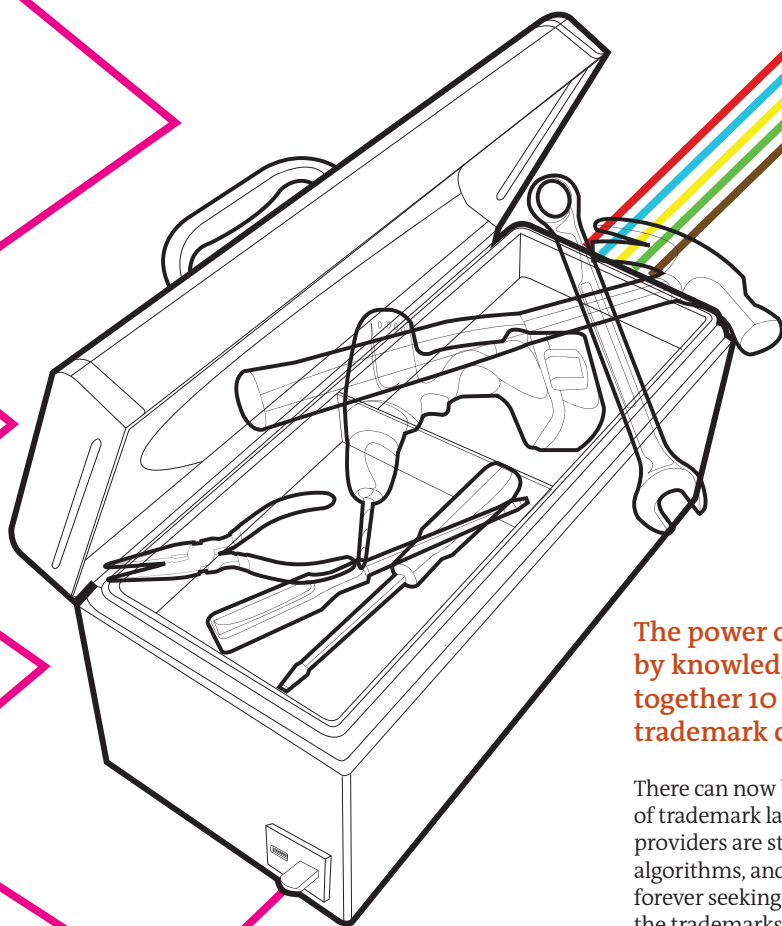


10 of the best online trademark tools

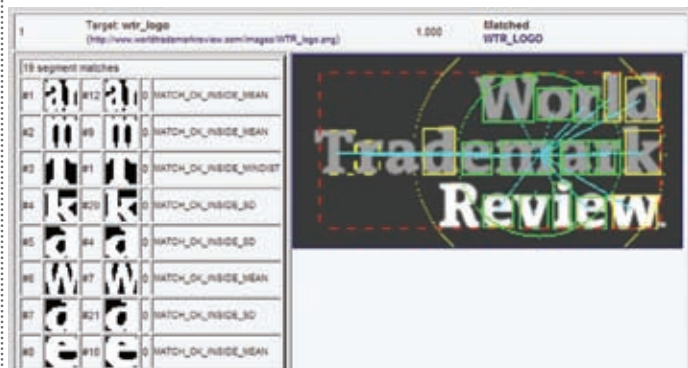


The power of the Internet as a resource is limited only by knowledge of how to use it, so WTR has pulled together 10 of the most useful online tools to help trademark counsel work smarter and faster

There can now be no doubt that the Internet has changed the practice of trademark law for good. Moreover, the revolution continues: service providers are still competing with ever-smarter trademark search algorithms, and all the while, infringers persist. Progressive counsel are forever seeking innovative methods to surmount the obstacles facing the trademarks and brands they manage. After consulting with industry insiders, trademark owner associations and web entrepreneurs, *WTR* has produced a list of 10 of the best online trademark tools. Some may not surprise you (although you may discover new ways of using them), while others have sprung from the most unlikely of sources.

We tried to focus on free tools, but have included two paid-for services because, as far as we know, they are unique and have created not just new methods, but new possibilities. Two tools are available only to members of the International Trademark Association (INTA). The trademark search provider marketplace is extremely competitive and is not included in this analysis, but is instead the subject of some exclusive in-depth research to be published in the next issue of *WTR*. The tools below appear in no particular order.

Envisional



Trademark task: To track down potentially infringing device marks.

One of the few paid-for services featured here, Envisional is noteworthy for its unique proprietary software known as ImageFlare. As reported in Issue 29 of *WTR*, this patented program is first trained on the client's logo – a process in which it breaks down the artwork into its components, which can sometimes number 100 or more. This is similar to giving a sniffer dog the scent before sending it off to search. Once trained, ImageFlare then combs the Internet for logos that match. ImageFlare uncovered the sale of fake Apple devices simply by finding a counterfeit Apple logo that featured the distinctive bite mark on the wrong side. The program can

also be taught to find logo variations and known false device marks. Envisional's sophisticated system can produce very detailed reports.

"You can go down to any depth you wish," says David Franklin, Envisional's managing director. "In this way, we can determine the extent to which a certain web page poses a threat and calculate a score as to how likely it is that the page carries counterfeit goods." The UK company was set up during the dotcom boom by a handful of web developers with commercial vision. Its acquisition by Group NBT in 2007 secured its future as it was folded into a suite of respected hi-tech companies, including domain name management outfit NetNames and web hosting provider NetBenefit.

www.envisional.com

2(d) Citation Watch

Trademark task: To alert a trademark owner when its mark has been cited against an application for a junior mark on the basis of likelihood of confusion.

The USPTO database is good for many things, but extracting the right information from it can be a nightmare. Although it is possible to find out when a mark is cited by the USPTO as a potentially blocking later mark, most counsel wouldn't know how. That's the niche exploited by the 2(d) Citation Watch service from Towergate Software. The service reports Section 2(d) likelihood of confusion refusals issued against US applications, along with information on the mark cited in the action. This allows a trademark owner to create alerts for when the problematic applications are approved and published for opposition. The early warning system helps users to take appropriate preventative and enforcement actions early on.

Towergate didn't just come up with such a specific function; its trademark search clients demanded it. "Clients told us what interests them and what they'd like to see – and that's where this came about," says Mitchell Schwartz, Towergate's director of

towergatesoftware

business development. "In essence, the material is all there within the USPTO database," Schwartz explains. "There is a vast array of information sitting there about marks filed every day. It's just a matter of finding it and retrieving it – and that can be a tricky process. With regard to 2(d) Citation Watch, it's not clear where the information resides because it's an unstructured database. So you have to go in, look for it, extract it and then compile a new database, which is what we do."

Towergate's innovative solution serves all comers. According to Schwartz, it is used by small boutique IP firms as well as national and multinational firms that deal exclusively with global brand owners – even though the system covers only US marks. Does this mean that Towergate could open similar services in other markets? "We're looking at that right now," reports Schwartz. "We're very close to launching something in the UK market and maybe other EU jurisdictions. We're acutely aware of the opportunities. And it's only a matter of time." www.towergatesoftware.com

INTA Madrid Agreement and Protocol Practitioners' Guide

Trademark task: To research information on one or several Madrid jurisdictions.

INTA's third most popular online tool, this guide to everything Madrid is incredibly useful. The system supplies answers to simple questions, such as whether a particular jurisdiction is party to the agreement or protocol, and also facilitates

more complex research, such as comparisons between different jurisdictions within the Madrid community. According to INTA: "Also included are text treatments of the history of the Madrid treaties, use of the system and strategic considerations of whether and how to take best advantage of the system."

Many members of the

trademark community would hope to see this level of information available for free to all potential Madrid applicants – a fact of which the World Intellectual Property Organisation (WIPO) is all too aware. "We see a need to enhance our existing offering on country profiles within the Madrid system, and we're looking at that," says Neil

Wilson, director of WIPO's functional support division in the brands and designs sector. "A key role that WIPO has is the provision of IP info in whatever form it's needed, in a way that facilitates access to that info by the wider public."

www.inta.org

