SYSTEM FOR DETERMINING TRADEMARK SIMILARITY

Tech ID: 32093 / UC Case 2021-003-0

PATENT STATUS

Country	Type	Number	Dated	Case
United States Of America	Issued Patent	12,511,872	12/30/2025	2021-003

BRIEF DESCRIPTION

Many areas of intellectual property law involve subjective judgments regarding confusion or similarity. For example, in trademark or trade dress lawsuits a key factor considered by the court is the degree of visual similarity between the trademark or product designs under consideration. Such similarity judgments are nontrivial, and may be complicated by cognitive factors such as categorization, memory, and reasoning that vary substantially across individuals. Currently, three forms of evidence are widely accepted: visual comparison by litigants, expert witness testimonies, and consumer surveys. All three rely on subjective reports of human responders, whether litigants, expert witnesses, or consumer panels. Consequently, all three forms of evidence potentially share the criticism that they are subject to overt (e.g. conflict of interest) or covert (e.g. inaccuracy of self-report) biases.

To address this situation, researchers at UC Berkeley developed a technology that directly measures the mental state of consumers when they attend to visual images of consumer products, without the need for self-report measures such as questionnaires or interviews. In so doing, this approach reduces the potential for biased reporting.

SUGGESTED USES

A potential use of this Berkeley technology is in litigation involving subjective impressions about the similarity of trademarks, where it might replace or validate existing evidence such as consumer surveys or expert opinion.

ADVANTAGES

- Eliminates potential bias
- Well-established scientific foundation
- Can be used stand-alone or in combination with other methods

RELATED MATERIALS

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OTHER INFORMATION

KEYWORDS

Trademark Litigation, Intellectual property, Litigation, Survey

CATEGORIZED AS

- **Computer**
  - Software
- **Imaging**
  - 3D/Immersive
  - Software

RELATED CASES

2021-003-0

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