

Search by keywords

Below is a full list of keywords and explanations.

Keyword	Scope Notes
Absolute grounds	Use when there is a discussion about an absolute ground for refusal of a trade mark followed by a decision on that issue, namely when a trade mark is refused. Absolute grounds are examined ex officio before registration and often also after registration (invalidity action), when requested by a third party.
Adaptation	Use when there is a discussion about an adaptation followed by a decision on that issue. Adaptation refers to the process of amending an already existing work and the creation of a new work which is protected without prejudice to the copyright in the original work.
Admissibility	Use when there is discussion about the admissibility of an action. This keyword should only be used when there is an extended discussion about admissibility, as opposed to cases where admissibility is simply accepted or not established on the basis of a single formality, or with no discussion at all.
Advertising	Use when there is a discussion about advertising followed by a decision on that issue. Advertising refers to the activity of attracting the attention of the public to a specific product or service, usually with the intention of obtaining economic benefit. The keyword would, for example, apply to cases where a trade mark is infringed through its use by a third party in advertising counterfeit products.
AI-generated content	Use when referring to content generated by or with help from a tool powered by an artificial intelligence (AI). Use this keyword if the AI-generated content was a key factor in the decision.
Alternative measures	Use when there is a discussion about alternative measures followed by a decision on that issue, i.e. when such measures are imposed on the defendant. Under alternative measures (where provided for in law), a court may order the infringer to pay pecuniary compensation instead of imposing other sanctions, usually if the infringer acted unintentionally and without negligence, if execution of the other sanctions would cause him/her disproportionate harm and if pecuniary compensation to the injured party appeared reasonably satisfactory.
Author	Example of norms: Art.12 D 2004/48/EC.
Bad faith	Use when there is a discussion about the author/authorship of a particular work and the discussion is followed by a decision on the issue. Author usually refers to the creator of a work protected by copyright. In certain situations, and depending on the law of the relevant country, a legal person may be an author.
Blocking of website	To be used when mentioned in a decision/judgment or if there is an issue related to intentional deception, dishonesty, or failure to meet an obligation or duty.
Border	Use when there is a discussion about blocking a website followed by a decision on that issue. Blocking a website refers to a type of measure imposed by the court, namely, the technical prevention of users from accessing a (IP right infringing) website.
Broadcasting	Use when there is a discussion about the implications of border/borders on IP rights (i.e. in cases of import, export, transit and transshipment of infringing material).
Civil sanctions	Use when there is a discussion about broadcasting followed by a decision on that issue. Broadcasting refers to the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof; or such transmission by satellite. Examples of norms: Art. 2(f) WPPT; Art. 2 D 93/83/EC.
Coexistence of trade marks	Use when final civil sanctions (not interim sanctions) are imposed by the court and/or when there is a discussion about civil sanctions followed by a decision on that issue. Civil sanctions refer to sanctions provided for by civil law and imposed for the infringement of IP rights.
Collective rights management	Use where a party to the proceedings invoked the argument that prolonged mutual coexistence of an earlier and contested mark demonstrates a lack of confusion. Do not use this for discussions about agreements of mutual coexistence of marks.
Commercial scale	Use when there is a discussion about collective rights management followed by a decision on that issue. Collective rights management refers to an organisation that is authorised by law or by way of assignment, licence, or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rights holder, for the collective benefit of those rights holders, as its sole or main purpose. Examples of norms: Art. 3(a) D 2014/26/EU.
Commercial value	Use when there is a discussion about whether a certain infringing activity is carried out on a commercial scale, followed by a decision on that issue. Recital 14 of Directive 2004/48/EC suggests that acts carried out on a commercial scale would be those carried out for direct or indirect economic or commercial advantage; this would normally exclude acts carried out by end consumers acting in good faith. However, it should be noted that the definition of what constitutes "acts carried out on a commercial scale" can vary in different jurisdictions. See: Recital 14 D 2004/48/EC.
Communication to the public	Use when referring to the inherent value of a trade secret due to its secret nature.
Company name	Use when there is a discussion about communication to the public followed by a decision on that issue. Communication to the public refers to communication to the public not present at the place where the communication originates including any such transmission or retransmission of a work to the public by wire or wireless means, including broadcasting. Examples of norms: Art. 3 D 2001/29/EC.
Compulsory licence	Keyword for decisions where the use of a company's name is assessed for whether the contested mark was "used in the course of trade".
Computer program	Use when there is a discussion about a compulsory licence. This keyword should only be used where the outcome of this issue has a significant effect on the decision. A compulsory licence usually refers to a governmental act entitling a certain entity to use an invention without the consent of the patent proprietor.
Computer related invention	Use when there is a discussion about a computer program followed by a decision on that issue. Computer program refers to programs in any form, including those which are incorporated into hardware. This term also includes preparatory design work leading to the development of a computer program provided that the nature of the preparatory work is such that a computer program can result from it at a later stage. Examples of norms: Art. 1 D 2009/24/EC.

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Confidentiality protection in proceedings	Use when there is a discussion about a computer related invention. This keyword should only be used where the outcome of this issue has a significant effect on the decision.
Contrary to public policy or principles of morality	Use when there is a discussion about preserving the confidentiality of trade secrets in the course of legal proceedings, followed by a decision on that issue, i.e. when such protection is applied for by an interested party and/or granted by the court. Confidentiality protection in proceedings usually refers to a set of rules applied in disputes involving trade secrets aimed at preserving the confidentiality of the trade secret. Examples of norms: Art. 9 D 2016/943.
Copyright	Use when there is discussion about whether a mark applied for is contrary either to public policy or to principles of morality, followed by a decision on that issue. See Article 7(1)(f) EUTMR and Article 9 CDR.
Corrective measures	Use when there is a discussion about copyright, followed by a decision on that issue. With respect to European Union trade marks, this keyword is used when there is discussion and a decision on the issue of whether a copyright is sufficient for invalidating a mark, regardless of which way that decision goes. See Article 60(2)(c) EUTMR.
Costs	Use when there is a discussion about corrective measures followed by a decision on that issue. Corrective measures refer to measures taken with respect to infringing goods and the material and implements used for the manufacturing of such goods. Examples of norms: Art. 10 D 2004/48/EC.
Counterclaim	This keyword is applied to decisions where there is discussion as to whether or how to grant: 1) apportionment of costs; 2) fixing of costs; 3) review of costs; and/or 4) settlement of costs. This keyword is not applied where the decision maker only asserts one of the previous four without discussing it.
Counterfeiting	Use for decisions where a counterclaim was raised.
Criminal Law	Use when there is a discussion about counterfeiting followed by a decision on that issue. Counterfeiting involves the unauthorised manufacture/distribution of an IP right protected item that is not a genuine product, usually for the purpose of monetary gain.
Damages	Use where there is a discussion, in relation to IP right infringement, on provisions of criminal law, or where there is a criminal sanction and/or penalty, or an issue of criminal liability, including those with cross-border dimension.
Data protection	Use when there is a discussion and decision about damages, i.e. when damages are claimed and awarded by the court. Damages refer to a type of a remedy which aims at compensating the IP rights holder and may also serve as a deterrent against future infringement actions by the infringer. Examples of norms: Art. 13 D 2004/48/EC.
Database	Use when there is a discussion about data protection followed by a decision on that issue. Data protection refers to the set of legal provisions and actions aiming at the preservation of important information (for example personal information) against misuse or loss.
Definitive removal from channels of commerce	Use when there is a discussion about a database followed by a decision on that issue. Database refers to a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means. Examples of norms: Art. 1(2) D 96/9/EC.
Dependent claim	Use when there is a discussion about a definitive removal from channels of commerce, either because the measure is applied for by the applicant or granted by the court, and the discussion is followed by a decision on the issue. Definitive removal from channels of commerce refers to a type of corrective measure. Examples of norms: Art. 10 (1)(b) D 2004/48/EC.
Descriptive element	Use when there is a discussion about a dependent claim. This keyword should only be used where the outcome of this issue has a significant effect on the decision.
Design	Use when an element of a mark is assessed as to whether it is descriptive. Article 7(1)(c) EUTMR.
Destruction of goods or machinery	Use when a design is the basis for the invalidity/cancellation of the IP Right of another party or is used as the basis of a counterclaim in infringement proceedings. Design generally refers to a type of IP right providing protection over the appearance of a product. Examples of norms: Art. 3(a) CDR.
Detention of goods	Use when there is a discussion about the destruction of goods or machinery, either because the measure is applied for by the applicant or granted by the court, and the discussion is followed by a decision on the issue. Destruction of goods or machinery refers to a type of a corrective measure, namely the physical destruction of infringing goods or machinery used to manufacture them. Examples of norms: Art. 10(1)(c) D 2004/48/EC.
Disclosure of invention	Use when there is a discussion about the detention of goods, either because the measure is applied for by the applicant or granted by the court, and the discussion is followed by a decision on the issue. Detention of goods refers to a measure applied by customs authorities with respect to goods suspected of infringing IP rights. Examples of norms: Art. 17 R 608/2013; Art. 18 R 608/2013.
Disclosure outside the EU	Use when there is a discussion about disclosure of an invention. This keyword should only be used where the outcome of this issue has a significant effect on the decision.
Disclosure under confidentiality	Use where disclosure of a design outside of the EU is discussed and has a significant effect on the design decision. Often, this type of disclosure occurs in the context of an international trade show or convention. Related keywords: "Disclosure within the EU", "Disclosure under confidentiality". See Article 7, Articles 15(3) and 44(1) CDR.
Disclosure within the EU	Use where a disclosure of the invention or the design in question was made and the decision maker analyses a claim that the disclosure was made under a confidentiality agreement. This keyword should only be used where the outcome of this issue has a significant effect on the decision. Related keywords: "Disclosure outside the EU", "Disclosure within the EU". See Articles 7(1) and 11(2) CDR.
Distinctiveness acquired by use	Use where disclosure of a design inside the EU is discussed and has a significant effect on the design decision. Often, this type of disclosure occurs in the context of an international trade show or convention. Related keywords: "Disclosure outside the EU", "Disclosure under confidentiality". See Article 7, Articles 15(3) and 44(1) CDR.
Distribution	Use when there is an extended analysis of acquired distinctiveness (i.e. assessment of evidence, time of use, reasons for non-use, distinctiveness, etc.). Do not use when a decision on the issue of acquired distinctiveness is made on the basis of a formality.

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Domain name	Use when there is a discussion about the distribution of a copyright-protected work followed by a decision of that issue. Distribution refers to the making available to the public of the original and copies of works through sale or other transfer of ownership. Examples of norms: Art. 6(1) WCT; Art. 4 D 2001/29/EC.
Dynamic injunction	Use when a trade mark is or contains a domain name, and the relevance of the top-level domain (i.e. .COM, .NET, .ORG, etc.) is discussed by the decision maker. Also use when there is a discussion (followed by a decision) about a domain name infringing IP rights or being used for websites making available counterfeit products or unlicensed digital content.
Enhanced distinctiveness	Use when there is an injunction that targets the content of the main injunction along different URLs.
Entitlement to IP right	To be used when the decision assesses a claim to enhanced distinctiveness. See Article 8(1)(b) EUTMR (not to be
Essential derived variety	used if ED not assessed.)
Evidence	Use when there is a discussion about the issue of entitlement to enforce an IP Right (locus standi) followed by a decision on that issue. This refers to, in particular, the entitlement for the application of measures, procedures and remedies for the enforcement. This keyword is related to the keyword "Ownership of IP Right" in the sense that the owner of the IP Right will usually be entitled to enforce it. However, other entities which might not be owners might be nonetheless entitled to enforce the IP Right, for example a licensee. Examples of norms: Art. 4 D 2004/48/EC.
Ex parte proceedings in interim measures	Use where issues of protection and control of essential derived varieties arise (those which are predominantly derived from the initial protected variety) including the scope of protection, disputes and infringement issues. Examples of norms: Art. 13(5)(a) R 2100/94; Art. 13(6) R 2100/94; Art. 87(2)(h) R 2100/94; Art. 81(3) R 874/2009; Ar. 14(5) UPOV Convention.
Exceptions and limitations	Use when there is a discussion about evidence followed by a decision on the issue. This could include, for example, a situation where the court has ordered the defendant to provide evidence pursuant to an application by the plaintiff. Evidence refers to any materials, documents, witness reports, expert opinions or any other information aiming to assert a statement in a dispute. Example of norms: Art. 6 D 2004/48/EC.
Exhaustion	Ex parte proceedings in interim measures refer to proceedings where the court decides on the request of the applicant for interim relief without hearing the other party to the dispute. Example of norms: Art. 9(4) D 2004/48/EC.
Extent of use	Use when there is a discussion about exceptions and limitations followed by a decision on that issue. Copyright exceptions and limitations allow beneficiaries to use protected material without authorisation from the rights holder.
Failure to act	Use when there is a discussion about the exhaustion of IP rights followed by a decision on that issue. Exhaustion refers to the principle that once a product protected by an IP right has been marketed by the rights holder or with their consent, the IP rights related to the commercial exploitation of the product are exhausted and can no longer be exercised by the rights holder. Example of norms: Art. 15(1) EUTMR.
Farm saved seed	Use where there is an issue regarding proof of genuine use, reputation and/or acquired distinctiveness and the decision maker assesses the extent the mark was used, usually in a quantitative sense and in terms of marketing coverage. Do not use for decisions where the issue was the use of a mark in the context of Article 8(4) EUTMR ("use of more than mere local significance"). See Articles 7(3), 47(2) and 64(2) EUTMR.
File-sharing	Use when there is a failure to execute or perform a duty or an expected action.
Free movement of goods	Use when there is a discussion about farm saved seed followed by a decision on that issue. Farm saved seed, also referred to as "farmer's privilege" usually refers to authorized use, by a grower or farmer, for propagating purposes in the field on their own holding of the product of the harvest obtained by planting (on their own holding) propagating material of specific agricultural plant species (such as rice, wheat, potatoes, etc). Examples of norms: Art. 14 R2100/94, Art. 15(2) UPOV Convention.
Freedom of designer	Use when there is a discussion about file-sharing followed by a decision on that issue. File-sharing refers to the practice of making computer files available to other users in a network.
Freedom of expression	Use where the competent court discusses the free movement of goods in a significant part of the judgment, relative to the whole judgment. Free movement of goods refers to the first of the four fundamental freedoms of the internal market of the European Union. Customs duties on imports and exports and charges having equivalent effect are prohibited between EU Member States. Examples of norms: Art. 30 TFEU.
Goods in transit or transshipment	Use where the decision maker analyses the freedom of a designer in the field related to the design in question in connection with either determining individual character or the scope of protection of a design. Specifically, the analysis should focus whether that field-specific designer has a high or low degree of freedom to develop designs in that industry. Related keywords: "Density of design corpus". See Article 6(2) CDR.
Grace period	Use when there is a discussion about the freedom of expression and information and its implications on the protection of trade secrets, followed by a decision on that issue. Freedom of expression and information refers to the internationally acknowledged principle of the freedom to express ideas and opinions and the freedom to receive impartial information. Examples of norms: Art. 11 Charter of Fundamental Rights of the European Union 200/C364/01; Art. 5(a) D 2016/943.
Harvested material	Use when there is a discussion about suspected IP right infringing goods in transit and transshipment, i.e. when specific measures are applied with respect to such goods, and the discussion is followed by a decision.
Identity of the goods and services	Use when there is a discussion about a grace period, followed by a decision on that issue. In patent law, the grace period refers to the period between the disclosure of an invention and the filing of an application for patent protection during which the novelty of the invention is not destroyed. With respect to a registered Community design, to be assigned where disclosure within the 12-month period under Article 7(2) CDR is in issue. Not to be assigned in relation to the use requirement for an earlier trade mark.
Identity of the signs	Use where the issue of protection and the control of harvested material are issues, including the scope of protection, disputes and infringement issues. Harvested material refers to plants or parts of plants obtained through the usage of propagating material from a particular plant variety. Examples of norms: Art. 13 R 2100/94; Art. 14(2)UPOV Convention.

Keyword	Scope Notes
Imitation	Use only where the difference between identical and similar goods/services is discussed in the context of a LoC analysis. See Article 8(1)(b) EUTMR.
Imminent infringement	Use only where the difference between identical and similar signs is discussed in the context of a LoC analysis, specifically where the requirements for finding identity (as opposed to mere similarity) are provided in the decision. See Article 8(1)(b) EUTMR.
Indication of source	Use when there is a discussion about imitation followed by a decision on that issue. Imitation can refer to the illegal activity of making a particular product reasonably similar to another product or the act of counterfeiting another product which enjoys the protection of a geographical indication thus aiming to mislead consumers.
Individual character	Use when there is a discussion on the urgent threat of an infringement. Use when the matter's urgency is the main criteria to grant an injunction.
Industrial application	Use when there is a discussion about the indication of source followed by a decision on that issue. Indication of source usually refers to an indication of a country or a particular place in the country as being the country/place of origin of a certain product. The indication of source may differ from a geographical indication in the sense that the indication of source does not imply a specific characteristic of the product.
Infringement	Use where the decision maker is engaged in a significant discussion as to whether the design in question had sufficient individual character to be protected as a national design or an EU-wide Community design. Do not use where individual character was merely mentioned without being discussed e.g. - 'the applicant for invalidity conceded in respondent's design having individual character ...'). See Articles 4, 6 and 85(2) CDR.
Interim measures	Use when there is a discussion about an industrial application. This keyword should only be used where the outcome of this issue has a significant effect on the decision. Industrial application refers to one of the patentability requirements, namely that an invention for which patent protection is sought is apt to be applied in the particular field of industry or technology.
Interlocutory injunctions	Use when there is a discussion about infringement of IP right, followed by a decision on that issue.
Intermediaries	Use when there is a discussion about interim measures, i.e. when interim measures are applied for by the applicant or granted by the court, and the discussion is followed by a decision on that issue. Interim measures refer to any measures granted by the court before the rendering of the decision on the merits of the case. These measures mostly aim at terminating an infringing activity and at preventing the defendant from potentially committing further infringements until a decision on the merits or other solution of the conflict.
Inventive step	Use when there is a substantive discussion about interlocutory injunctions, i.e. when interlocutory injunctions are applied for or granted, and the substantive discussion is followed by a decision on that issue. Interlocutory injunctions are a type of provisional measure, often aimed at preventing imminent infringement or prohibiting the continuation of infringing acts. An interlocutory injunction is an interim measure and as such is issued pending the determination of the merits of the case. Examples of norms: Art. 9(1)(a) D 2004/48/EC
Inventor	Use when there is a discussion about the role of an intermediary in the infringement of an IP right, followed by a decision on that issue. Intermediaries can, for example, be entities active in the context of the supply chain of products or chain of provision of services which are not the IP rights owner, original infringer or end customer. An example of an intermediary is a shipping company transporting goods, an internet service provider, a search engine or a social media platform. A related keyword is "Liability of intermediaries".
Jurisdiction	Use when there is a discussion about inventive step. This keyword should only be used where the outcome of this issue has a significant effect on the decision. Inventive step refers to one of the patentability requirements, namely that an invention for which patent protection is sought should not be obvious for a person skilled in the art.
Know-how	Use when there is a discussion about an inventor. This keyword should only be used where the outcome of this issue has a significant effect on the decision. Inventor refers to the individual who creates an invention.
Labelling	Use where the issue of jurisdiction (power of the court seized to pass judgment) arises, including conflicts of jurisdiction, for example which Member State has jurisdiction in a cross-border infringement situation.
Legal certainty	Use when referring to the competitive advantage given by trade secrets when it comes to skills and knowledge.
Liability of intermediaries	Use when there is a discussion about labelling followed by a decision on that issue. Labelling generally refers to the activity of affixing information concerning the product origin to the product.
Licence agreement	To be assigned when mentioned in the judgment/decision, and/or when there is an issue of the assurance of the unitary interpretation of law, i.e. predictability and stability of the legal system for an individual/applicant.
Likelihood of confusion	Use when there is a discussion about the liability of an intermediary. A related keyword is "Intermediaries". Examples of norms: Art. 12 D 2000/31/EC.
Literary and artistic work	Use when there is a discussion about a licence agreement followed by a decision on that issue. Licence agreement refers to a contractual relation through which an IP right proprietor grants another individual/legal entity the right of use of an IP right (and possibly additional other rights related to that IP right) usually for a limited period of time in return for remuneration. For EUTM cases, the keyword is used in the context of substantiation of earlier rights or proof of genuine use where a licence agreement is analysed as to its legal significance in relation to the party which submitted the licence agreement as evidence.
Live blocking	To be used only when the decision assesses a likelihood of confusion. Do not use in decisions which although filed under articles which include the possibility of LoC, are then resolved via other means. For example, an Article 8(1)(b) EUTMR case where all the earlier rights are unsubstantiated; an Article 8(4) EUTMR case where the claim is that the national law provides a LoC provision, but which is then rejected for non-use.
Live event piracy	Use when there is a discussion about a literary and artistic work followed by a decision on that issue. The expression 'literary and artistic works' includes every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression. Examples of norms: Art. 2(1) of the Berne Convention.

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Making available to the public	Use when there is an order targeting the IP address sharing live footage, particularly of content protected by IP rights, without authorisation of the rights owner.
Measures to preserve evidence	Use when there is Piracy of live audio-visual footage without authorisation of the rights owner.
Minimum degree of distinctiveness	Use when there is a discussion about the right of making available to the public and the discussion is followed by a decision. The right of making available to the public refers to making available subject-matter to members of the public not present at the place where the act of making available originates. Examples of norms: Art. 3 D 2001/29/EC.
Moral rights	Use when there is a discussion about the measures to preserve evidence, followed by a decision on the issue. Measures to preserve evidence mostly refer to measures for the collection of evidence with respect to a suspected IP right infringement, prior to the commencement of court proceedings on the merits of the case, with the aim of preserving such evidence so that it can be presented in the court proceedings. Examples of norms: Art. 7 D 2004/48/EC.
Natural variations	Use where the decision maker analyses whether a mark surpasses the legal requirement of "minimum degree" of distinctiveness. Do not use if the decision maker merely states that a mark contains the minimum degree of distinctiveness without providing reasons why.
Neighbouring Rights	Use when there is a discussion about moral rights followed by a decision on that issue. Moral rights refer to rights which are independent of the author's economic rights, i.e. the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation.
Non-infringement	Use where the issue of protection and control of natural variations of the protected variety arise; including the scope of protection and the 'area of tolerance' comprising natural variations, and disputes and infringement issues. Natural variations usually refer to the genetic diversity of a particular plant species in its natural state. Example of norms: Art. 6(1)(a) UPOV Convention.
Non-use	Use when there is a discussion about neighbouring rights followed by a decision on that issue. Neighbouring rights are derivative rights as they use or develop existing works. They refer to works created by entrepreneurs, for example sound recordings, broadcasts, or cable programs.
Notification	Use when there is a discussion about non-infringement of an IP right followed by a declaratory judgment/judgment declaring non-infringement.
Novelty	Use when referring to the abandonment or failure to use a trade mark.
Originality	Use when referring to the process of flagging 'illegal content' that intermediaries are required to dispose of under the DSA.
Orphan work	Use where the issue of novelty is a significant issue in the decision, and the determination of which has a significant impact on the outcome of the case. See Article 5 CDR.
Ownership of IP right	Use when there is a discussion about the originality of a work followed by a decision on that issue. Originality refers to one of the prerequisites required for a work to be eligible for copyright protection. According to the practice of the CJEU, copyright is liable to apply only in relation to subject-matter that is original in the sense that it is its author's own intellectual creation.
Packaging	Use when there is a discussion about an orphan work followed by a decision on that issue. Orphan work refers to a work or a phonogram the rights holder of which cannot be identified or, if identified, cannot be located despite a diligent search having been carried out. Examples of norms: Art. 2(1) D 2012/28/EC.
Parallel import	Use when the ownership of a relevant IP right is in question and the decision maker assesses this issue, for example, by looking at evidence of ownership and making a decision based on that evidence. This is related to the keyword 'Substantiation of earlier right'.
Passing off	Use where the decision maker analyses product packaging which has been submitted as evidence and/or whether that evidence is accepted/probative. This keyword will typically be used in the context of acquired distinctiveness, proof of genuine use, and/or reputation analyses where the weight of the evidence is discussed. The keyword is also used where packaging is involved in a dispute about the infringement of an IP right.
Patent	Use when a legally made product that is imported into the territory without permission from the rights holder. Do not use in case of counterfeit goods.
Patent claims	To be used when mentioned in a decision/judgment or if there is an issue mainly in UK cases related to infringing a design or a trademark (riding on the coat-tail of) or offer for sale (goods and services) with intent to deceive the consumers.
Patentability	Use when a patent is cited by a party to the proceedings as an earlier right, for example, as the basis for a cancellation.
Payment processing	Use when there is a discussion about patent claim(s). This keyword should only be used where the outcome of this issue has a significant effect on the decision.
Performer	Use when there is a discussion about what is patentable followed by a decision on that issue.
Permanent injunction	Use when there is a discussion about payment processing followed by a decision on that issue. Payment processing refers to the activity of a company processing monetary transactions, typically between a merchant and a customer (and, where involved, banks), for example a credit card company. A payment processor is a type of intermediary.
Person skilled in the art	Use when there is a discussion about the rights of a performer followed by a decision on that issue. Performer refers to actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore. Examples of norms: Art. 2(a) WPPT.

Keyword	Scope Notes
Piracy	Use when there is a substantive discussion about a permanent injunction, followed by a decision on that issue,
Plant variety	i.e. when a permanent injunction is requested and/or imposed in the case. Permanent injunction refers to a type of injunction which is issued by the court at the end of legal proceedings, upon determining the merits of the case. A permanent injunction might require that a party carries out a certain act or refrains from certain illicit activity.
Preliminary ruling	Use when there is a discussion about a person skilled in the art followed by a decision on what constitutes a person skilled in the art. Person skilled in the art usually refers to a qualified and experienced practitioner in a particular field of technology.
Principle of territoriality	Use when there is a discussion about piracy followed by a decision on that issue. Piracy refers to the unauthorised use or reproduction of a third party's work.
Private copying levy	Use where an infringement of the rights arising from a plant variety is the basis of the dispute or where the issue of a particular plant variety has a significant impact on the outcome of the case in any other way. Plant variety usually refers to a plant grouping within a single botanical taxon of the lowest rank of the botanical nomenclature (see Art. 5 (2) R 2100/94). Examples of norms: Art. 5, 11 et seq. R 2100/94; Art. 1 UPOV Convention.
Producer	Use in cases where the national court has referred a question to the Court of Justice of the European Union (CJEU) and has taken a decision after receiving the Preliminary Ruling of the CJEU on the question referred. Use also where the national court has based its decision on the Preliminary Ruling of the CJEU rendered following a referral from another national court, if that ruling was essential to the central aspect of the dispute (i.e. not every time a Preliminary Ruling is mentioned, but only where it is central to the dispute).
Proof of use	Use when there is a discussion about the principle of territoriality and its implications in IP, followed by a decision on that issue. Principle of territoriality refers to the principle that certain IP rights only have effect within a certain territory as they are granted for that specific territory (e. g. in one country only/in the territory of the EU/in several countries around the world, etc.).
Public performance	Use when there is a discussion about a private copying levy followed by a decision on that issue. Private copying levy refers to a form of compensation for rights holders usually based on the premise that an act of private copying cannot be licensed for practical purposes and thus causes economic harm to the relevant rights holders.
Publication	Use when there is a discussion about the rights of a producer followed by a decision on that issue. The term refers to exclusive rights granted to phonogram producers, for their phonograms and to producers for the first fixations of films, in respect of the original and copies of their films. Examples of norms: Art. 2(d) WPPT.
Publication of judicial decision	Use when there is an extended analysis of whether or not a party has sufficiently met the burden of proving genuine use. Do not use when the proof of use issue is resolved by a means other than a full analysis (i.e. - request for proof of use was insufficiently formulated). See Articles 47(2) and 64(2) EUTMR.
Reasonable steps	Use when there is a discussion about public performance, followed by a decision on that issue. Public performance refers to the exclusive right enjoyed by authors of dramatic, dramatic-musical and musical works. Examples of norms: Art. 11(1)(i), 14(1) of Berne Convention.
Region of production	Use when there is a discussion about publication followed by a decision on that issue. Publication refers to works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. Example of norms: Art. 3(3) of Berne Convention.
Regulations of use	Use when there is a discussion about the publication of a judicial decision, followed by a decision on that issue, for example, when the publication is requested by a party and/or imposed by the court. This is, for example, relevant where the IP rights holder requests the publication of the decision at the expense of the infringer so that the decision is brought to the attention of the public. Examples of norms: Art. 15 D 2004/48/EC.
Relative grounds	Use when referring to the steps a party takes to protect its confidential information. Use in the context of trade secrets.
Remuneration	Use when there is a discussion about the region of production followed by a decision on that issue. Region of production usually refers to the geographical area where a certain product is manufactured or created.
Rental and lending	Use when there is a discussion about regulations of use followed by a decision on that issue.
Repackaging	Use when there is a discussion about relative grounds for refusal of a trade mark and the discussion is followed by a decision on that issue. Relative grounds generally refer to grounds for the refusal of registration of a trade mark (or grounds for invalidity of a registered trade mark) on the basis of an earlier right owned by a third party.
Reproduction	Use when there is a discussion about remuneration followed by a decision on that issue. The term refers to remuneration of authors and/or derivative rights holders which may be ensured by means of copyright contracts and/or by statutory remuneration rights.
Reputation	Use when there is a discussion about rental and lending followed by a decision on that issue. Rental refers to making available for use, for a limited period of time and for direct or indirect economic or commercial advantage. Lending refers to making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public. Examples of norms: Art. 2 (1)(a)(b) D 2006/115/EC.
Reverse engineering	Use when there is a discussion about repackaging, followed by a decision on that issue, e.g. when the decision maker analyses repackaging which has been submitted as evidence. Related keyword 'Packaging'.
Revocation grounds	Use when there is a discussion about reproduction followed by a decision. Reproduction refers to the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part. Examples of norms: Art. 2 D 2001/29/EC.
Right of information	To be used when the decision assesses a claim to reputation. See Article 8(5) EUTMR, (Not to be used if reputation not assessed.)

Keyword	Scope Notes
Scope of protection	Use when there is a discussion about reverse engineering followed by a decision on the issue. Reverse engineering refers to the legally sanctioned activity to examine a product in order to determine how a certain technology works. The method of reverse engineering is, for example, widely applied in the manufacturing of software.
Search of premises	Use for decisions which contained an analysis of the validity of a revocation ground, as well as defenses claimed by the other party such as having reasons for non-use of a mark.
Secrecy	Use when there is a discussion about the right of information, followed by a decision on that issue, i.e. when the right of information is claimed by a party and/or the court orders that the information be provided. Right of information refers to the right of the IP rights holder to request that the court orders the infringer or a third party to provide information on the origin and distribution networks of the IP infringing goods and services. Examples of norms: Art. 8 D 2004/48/EC.
Seizure of goods or property	Use to indicate the extent of the protection given. For example, the keyword could be used in patent cases where the protection given as defined in the patent claims is being discussed.
Spare part	Use when there is a discussion about a search of premises, followed by a decision on that issue, i.e. when the measure is requested by a party and/or granted by the court. A competent court may, in accordance with applicable legal rules, order a search of the premises of the alleged infringer for evidence of infringing activity.
Specialised public	Use when referring to commercially valuable information to be protected in the context of trade secrets.
Stream ripping	Use when there is a discussion about the seizure of goods or property, followed by a decision on that issue,
Streaming	i.e. when the measure is requested by a party and/or granted by the court. Seizure of goods or property refers mostly to the confiscation of (suspected) IP infringing goods or property. Examples of norms: Art. 9(1)(b) D 2004/48/EC.
Substantiation of earlier right	Use where there is a discussion about whether the product which embodies the design right in question is in fact a spare part and consequently whether that product is protected as a Community design. See Article 20(2)(b) CDR.
Supplementary protection certificate	Use where there is an analysis of whether a group or subset of a group of relevant consumers is considered a "specialised public". This keyword may be used so long as the decision maker states that a group is specialised and why. For example: "Because the relevant consumers are doctors, and doctors have long been held to be considered a specialised public..."
Teaching exception	Use when referring to downloading a permanent copy of content from an online streaming platform and saving it as a file.
Technical function of design	Use when there is a discussion about streaming, followed by a decision on that issue, in particular when IP infringement is committed by means of streaming. Streaming refers to the transfer of data in a continuous stream and is a popular form of accessing digital content.
Technical protection measures	Use where the substantiation of an earlier right is analysed by a decision maker. Typically this will involve an assessment of evidence such as database printouts from official IP offices, registration certificates and records of IP transfers.
Threat of infringement	Use when there is a discussion about a supplementary protection certificate followed by a decision on that issue. Supplementary protection certificate refers to a type of IP right which serves to extend the term of protection of certain rights arising from patents.
Trade name	Use when referring to the exceptions to copyright laws that relate to educational purposes.
Trade secret misappropriation	Use where there is an analysis as to whether the design, or part of the design, in question is dictated by its technical function. Use only where the result of that analysis is significant/determinative on the issue of whether that design or part of design is protected under design law. See Article 8 CDR.
Transfer of IP right	Use when there is a discussion about technical protection measures followed by a decision on that issue. Technical protection measures refer to technological measures designed to prevent or restrict acts not authorised by the rights holders of copyright. Examples of norms: Art. 6 D 2001/29/EC.
Translation of patents	Use when there is a discussion about a threat of infringement, followed by a decision on that issue, for example when a request for the granting of interim measures is based on a threat of infringement of an IP right.
Unauthorised sale	To be used when there is a discussion about a trade name, followed by a decision on that issue, for example, when earlier rights include one or more trade names.
Unfair advantage	Use when there is a discussion about trade secret misappropriation followed by a decision on that issue. Trade secret misappropriation often refers to the unlawful acquisition, use or disclosure of a trade secret without the consent of the trade secret holder. Examples of norms: Art. 4 D 2016/943.
Unfair competition	Use where a decision contains a discussion about the transfer of any IP right and the validity of that transfer has a significant effect on the outcome of the decision. Do not use where there is only a mere mention of a transfer of a right, for example, where the right was merely transferred during the course of the proceedings, but that transfer had no effect on the outcome of the decision itself.
Unjust enrichment	Use where the issue of the EU patent translation regime arises in a legal dispute and this factor is addressed by the courts. Translation of patents refers to the translation of patent claims.
Unlawful acquisition	Use when there is a discussion about an unauthorised sale, followed by a decision on that issue. Unauthorised sale refers to the sale of products protected by some form of IP right carried out without the consent of the IP rights holder.
Unregistered Community design	To be used when the decision assesses a claim of unfair advantage.

Keyword	Scope Notes
Utility model	Use when there is discussion about unfair competition followed by a decision on that issue. Unfair competition refers to acts carried out by one competitor which harm another competitor in the field in an unfair manner, for example through illicit acts. Examples of norms: Art. 101 and 102 TFEU.
Validity	Use when referring to a benefit that was wrongfully obtained.
Well-known trade mark	Use when a party has obtained, wrongfully taken or disclosed without the consent of the rightsholder an information protected by a trade secret.
Very large online platform	Use for decisions where an unregistered Community Design right forms the basis of a proceeding, e.g. in an invalidity proceeding, infringement proceeding.
Very large online search engine	Use where a utility model concept is in the reasoning part of the decision.
Whistleblowing	Use when there is a discussion about the validity of an IP right followed by a decision on that issue. Validity addresses the issue of whether a particular IP right has effect at a given moment in time.