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International Trade Mark Litigation

Here at Bird & Bird, we are deeply engaged in a wide array of international trade mark disputes. Drawing from our extensive experience, we've identified three key themes that clients ask us about most often: global strategy, combatting lookalike products and dealing with parallel imports.

This brochure gives an overview of these trending topics in trade mark litigation. Should you wish to explore these areas further—or learn more about our comprehensive range of trade mark services—please don't hesitate to contact us.

CLIENT TESTIMONIAL

“Bird & Bird is an extremely strong team and a behemoth in the IP world because of its international nature.”

CHAMBERS GLOBAL



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A full service trade mark team, working internationally

Our trade mark litigation practice is one of the strongest in the industry, offering world-class expertise in handling high-stakes disputes for global brands. You can read more about our 'Bird & Bird Formula' in the next few pages, but in summary, here's why Bird & Bird stands out for trade mark litigation on an international scale:

1. Market-Leading Expertise

- Bird & Bird is recognized as a top-tier IP law firm, consistently ranked in Chambers and Legal 500 for trade mark litigation.

2. Global Reach, Local Expertise

- With offices in key jurisdictions across Europe, Asia-Pacific, and the Middle East, we offer a seamless international litigation strategy for cross-border trade mark disputes.
- Our lawyers have extensive experience handling cases before the national courts, regional courts like the CJEU and of course trade mark registries and tribunals.

3. Strategic and Commercial Approach

- We provide more than just legal representation; we work closely with clients to develop business-aligned litigation strategies that protect and enhance brand value.
- Our approach is pragmatic and tailored to achieving commercial objectives while mitigating risks.

4. Strong Enforcement and Anti-Counterfeiting Capabilities

- Bird & Bird has a dedicated anti-counterfeiting team, working with enforcement agencies worldwide to combat brand infringement.
- We offer cutting-edge solutions, including digital enforcement strategies to tackle online trade mark misuse and counterfeiting.

5. Expertise Across Sectors

- We represent clients across a wide range of sectors, including Retail & Consumer, Fashion & Luxury, Life Sciences, Media, Technology and many more.
- Our in-depth sector knowledge ensures that litigation strategies are aligned with industry-specific challenges and opportunities.

6. Innovative Use of Technology

- Bird & Bird leverages AI-driven legal research tools and analytics to enhance case strategy and litigation outcomes.
- We also provide clients with proprietary brand protection technologies to monitor and enforce trade mark rights globally.

Example cases

The firm represents household-name clients in high-profile trade mark disputes, many of which include proceedings in multiple jurisdictions, including:

- *Merck KGaA, Darmstadt Germany v. Merck Sharp & Dohme Corp*
- *Monster Energy*
- *Lidl v. Tesco*
- *Volkswagen*
- *Motel One*

Conclusion

If you are looking for a trusted partner to handle trade mark litigation with precision, strategic insight, and commercial acumen, Bird & Bird is the firm of choice. Our combination of legal expertise, global reach, and innovative approach makes us a powerhouse in protecting and enforcing trade mark rights.



The Bird & Bird formula

Our approach to complex litigation



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Scoping

Triage

Information gathering

Analysis

Execution

One firm. Your firm.

When approaching a new dispute or series of disputes with a multi-territory element, our approach identifies the best strategy for you to achieve your aims – we are jurisdiction-neutral.

Our single international team spanning across the UK, EU, AsiaPac and the Middle East lives up to this promise by offering objective recommendations on venues, potential claims, procedural options and team composition.

Our lawyers collaborate across multiple jurisdictions and technical disciplines, ensuring a cohesive strategy that navigates each procedural landscape without losing sight of your commercial objectives.

At the heart of it all lies our agile, tech-driven approach to litigation, ensuring swift results and strategic advantage. This alignment of industry expertise, cross-border teamwork and a meticulous embrace of legal technology is what makes Bird & Bird a uniquely powerful partner for litigation.

It's what we call the *Bird & Bird Formula*.

“*High-quality people who work well together and enjoy doing so. Their teamwork is exceptional.*”

Legal 500 EMEA 2025

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Scoping

Our first priority is to understand our clients and their commercial objectives. In the scoping phase, we discuss with you a variety of topics which enable us to ensure that the service we provide is tailored to your needs.

Subjects to address would include:

- The nature and extent of the commercial harm being caused by the infringing activity
- Who your stakeholders are and how much experience they have had of complex litigation
- Any particular reporting requirements
- Your budgeting needs
- Any timescales within which a particular step needs to be taken (for business or other reasons)
- Anything else which is important to you in terms of how we deliver our service

Triage

Information gathering

By the end of this phase (which is usually short) we will be able to ensure that the subsequent phases of work are delivered in a way which matches your expectations and requirements. In the following slides we explain in some detail the types of work which could be encompassed within each phase, but this is very much a menu of options, rather than a 'one size fits all' approach. Our aim is to ensure that we only use the tools most appropriate for your job.

Analysis

Execution



‘The team at Bird & Bird is very commercially-minded and willing to consider positions and points of view that may compete with or contradict the initial analysis’

Chambers Europe 2025

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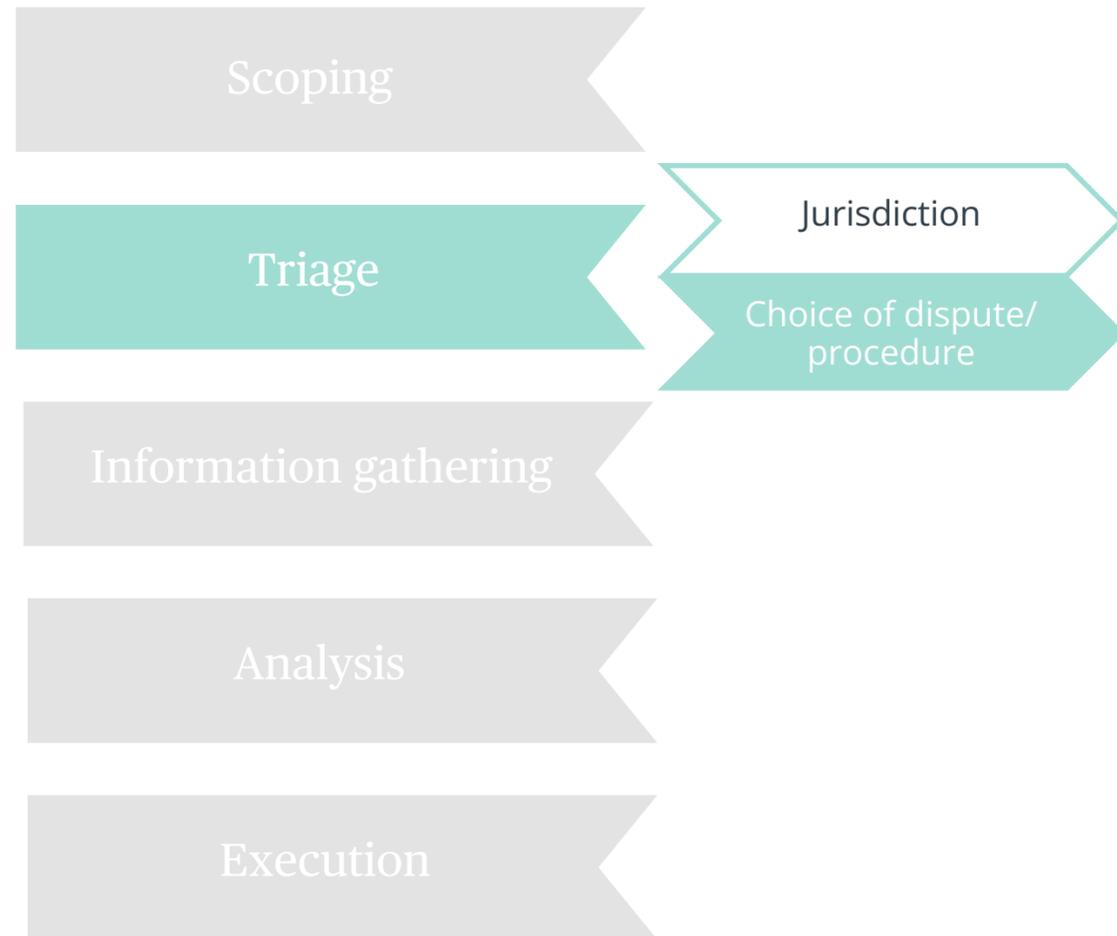
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When starting to formulate a litigation strategy to address a global problem, the choice of jurisdictions, causes of action and procedural routes can be overwhelming. Our firm's litigation triage process exemplifies our commitment to delivering efficient, cost-effective, and results-driven legal strategies.

Our long heritage in litigating IP disputes around the world means that we can quickly help you eliminate a large number of the potential choices, helping you to quickly triage so that your investment in litigation can – from the outset - be focussed on the routes most likely to deliver the desired result. This involves evaluating the potential defendants' domiciles, the place and scope of the potential infringements, procedural “hotspots,” the availability of assets, and the overall level of harm or risk.

Where relevant to your aims, we can bring to bear our particular familiarity with jurisdictions that are known for granting preliminary injunctions and/or early disclosure or for providing other procedural advantages, while also ensuring that we fully assess any possible downsides.

The overall end is that, by the conclusion of the triage stage, we will together have narrowed down the almost infinite variety of potential litigation options to a small number of likely viable choices of Court, claim and procedure.

Focus on

- *Defendants' domiciles*
- *Location of infringing acts*
- *Hotspots for granting preliminary injunctions/early disclosure*
- *Available assets*
- *Other procedural pros and cons*



‘No strangers to high-profile, big-ticket litigation, the experts here deftly manage complex multi-jurisdictional disputes, which earns them the trust of industry leaders’

IAM Patent 1000 2024

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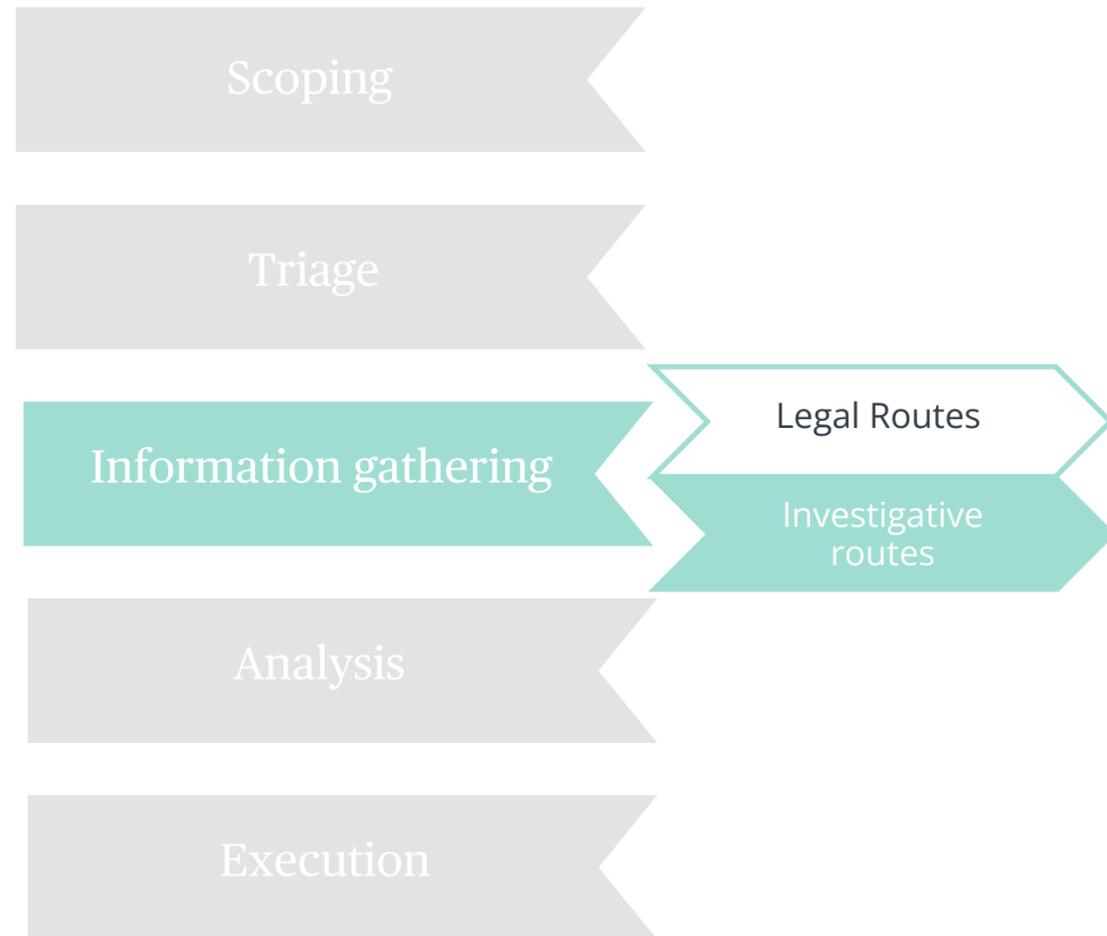
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Having identified a small number of potentially viable litigation options, the next phase involves investigative work, designed to better inform the final strategy selection. This may include in-house testing of the infringing services/goods in various jurisdictions, using interim legal or regulatory procedures to obtain information or, where relevant, old-school sleuthing.

We pride ourselves on our ability to blend legal precision, investigative skill, and cutting-edge technology to gather information with unparalleled diligence. From the earliest stages of litigation, our team delves into all available evidence, employing both traditional legal research methods and meticulously designed investigative strategies. We work closely with seasoned investigators and subject matter experts, deploying them as needed in complex cross-border matters. This dual approach ensures clarity in establishing the facts, identifying hidden risks, and assembling the strongest possible case for our clients.

We also rely on sophisticated e-discovery platforms, data analytics tools, and custom-built software to collect, organise, and assess large volumes of digital information. By filtering through data at speed and using intelligent analytics to extract key insights, we are able to save time and expense.

Focus on:

- *Pre-action measures to seek more information (including v 3rd parties)*
- *Freedom of information/DSAR requests*
- *Request for documents from court files*
- *Trap purchases*
- *Data analytics*
- *Testing from multiple jurisdictions*



‘One client enthuses about the diligence of the firm, stressing that “Their documents and legal research are thorough, all-encompassing and impressive”

Chambers Europe 2025

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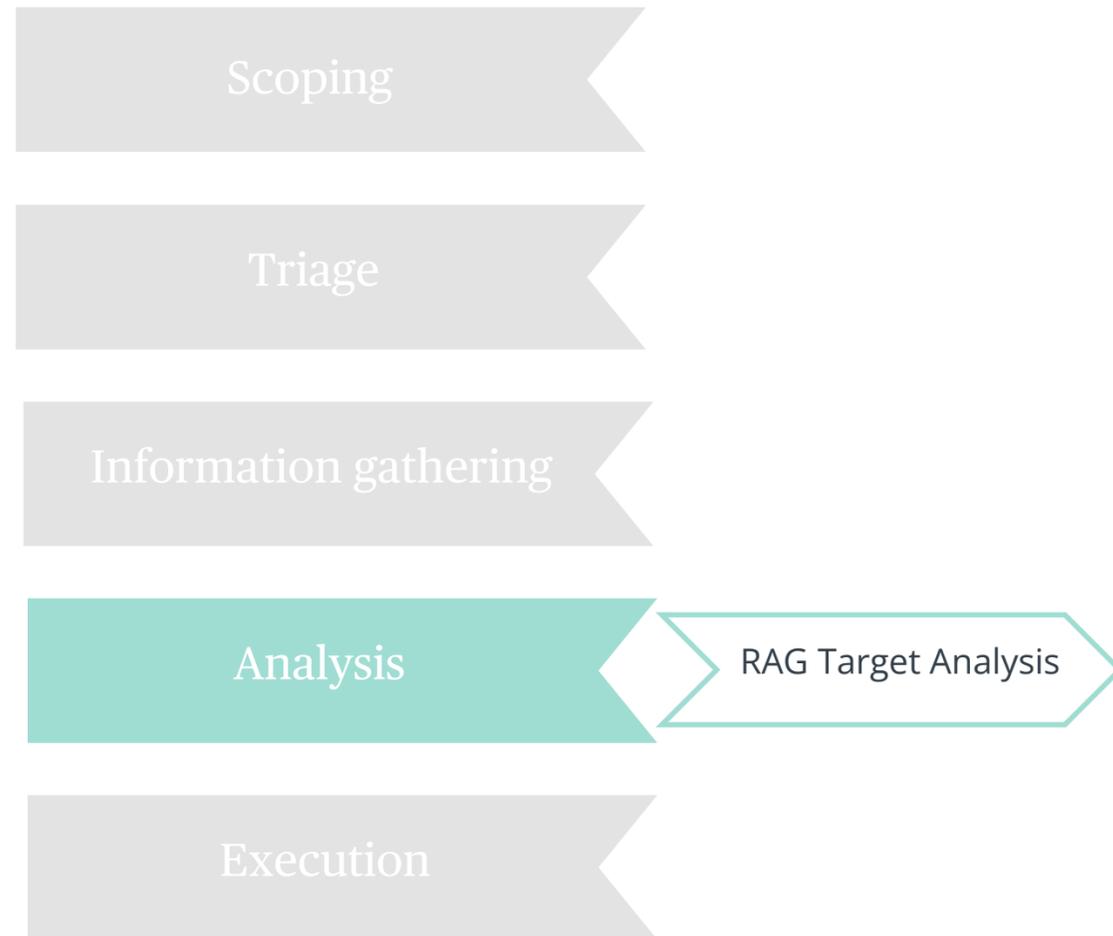
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Having analysed the information gathered and considered the merits of the potential causes of action, we distill our thinking into a clear “RAG” (Red-Amber-Green) target analysis, which gives a quick visual overview of the opportunities, pitfalls, and priority areas. By categorising potential causes of action and their respective strengths in this structured format, we can pinpoint the most promising avenues and identify any red-flagged issues that require additional focus or immediate mitigation. The RAG analysis is designed to give you a quick view of the most favourable jurisdictions for action, addressing factors such as judicial efficiency, the enforcement climate, and local procedural benefits. Ultimately, these insights feed into a recommended strategy tailored to the client’s objectives and commercial realities, ensuring that our approach remains both responsive and outcome-oriented.

Focus on:

- *Potential causes of action and their strength*
- *Most favourable jurisdictions to pursue action*
- *Recommended strategy*



“The firm’s key strength is the direct hands-on involvement of partners in IP matters - they personally work on cases and make sure they stay on top of the key issues so that clients get the best advice and the best strategy is executed. This is reflected in the large number of massive multi-jurisdictional matters they handle.”

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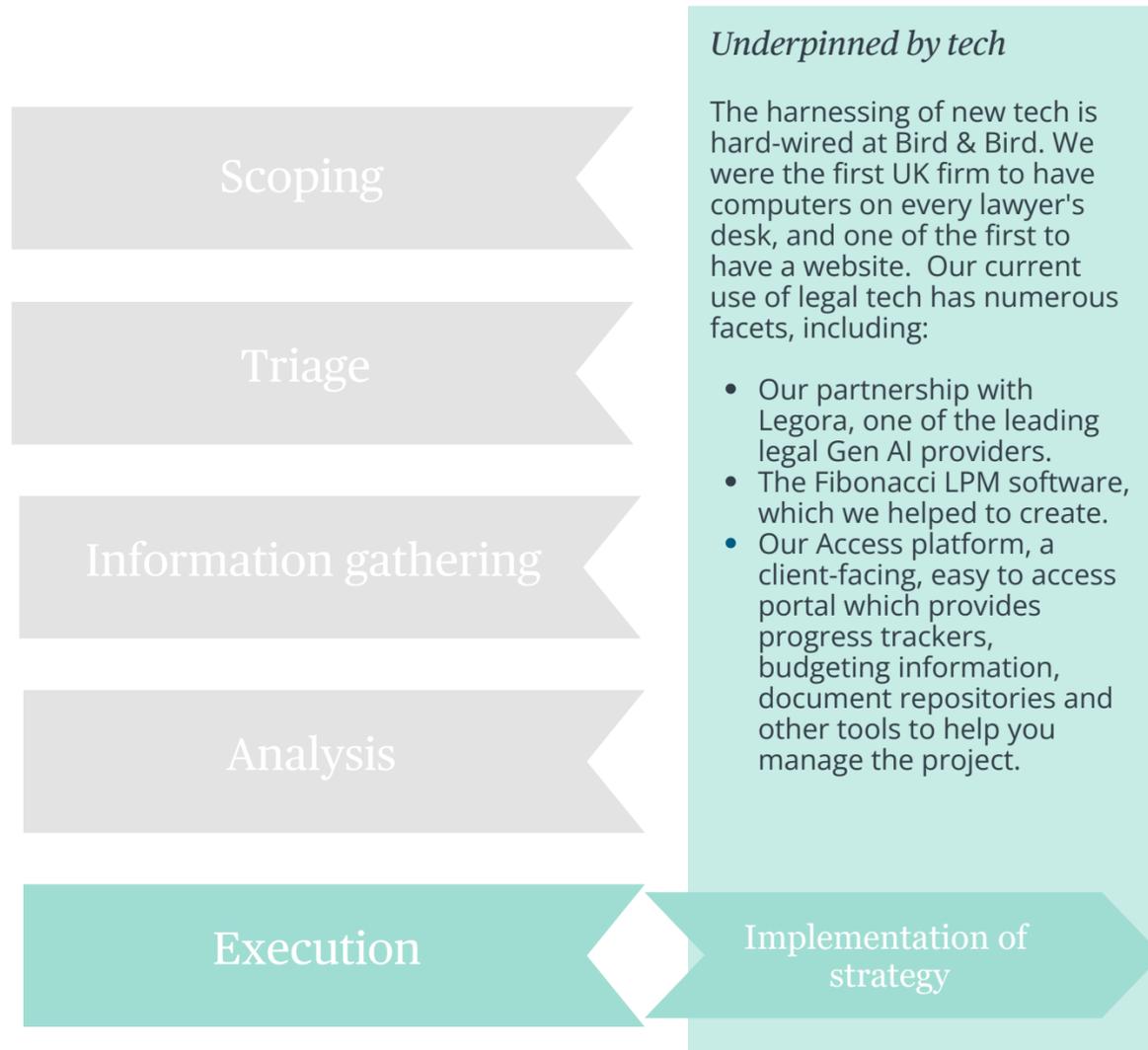
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Our global reach and deep bench of litigation expertise enable us to lead complex disputes from any of our offices, seamlessly assembling international teams of highly skilled lawyers precisely matched to each case. Our 'One Firm' structure means that we are fully incentivised to deliver the work from wherever best suits your needs.

Compared to many firms, our large pool of lawyers over-indexes for 'tech geeks' (often STEM graduates), who are frequently able to bring detailed subject-matter knowledge of relevant technologies to the table, enabling us to reduce dependence on third party technical experts.

Where the chosen strategy involves parallel legal action in multiple territories, we can also call on our specialist Legal Project Management team to coordinate workflows and deadlines across borders, ensuring every critical task is assigned to the right professional at the right time, using technology to streamline the process.

This approach includes putting in place robust budgeting and reporting protocols, giving clients real-time, transparent insight into both costs and progress. By staying nimble, collaborative, and fully attuned to local procedural nuances in any jurisdiction, we deliver strategic clarity and cost-efficiency—qualities that consistently define our approach to international disputes.

Focus on:

- *Use of Legal Project Management and advanced technologies*
- *Tech savvy lawyers*
- *Budgeting – tailored options that work best for the type of case*



“The team has a knack for securing the right results in challenging circumstances”

Chambers Europe 2025

Footprint in APAC

With an established network of offices in key APAC cities—including Beijing, Shanghai, Hong Kong, Shenzhen, Tokyo, Singapore, and Sydney—we are well-positioned to manage complex, cross-border trade mark disputes. Our strategic alliances with local firms in Malaysia, South Korea, and Indonesia further enhance our ability to navigate diverse legal landscapes

Together with our offices and a network of best friend law firms, we provide clients with a truly global litigation service as well as a genuine local understanding of the different systems of laws and procedures.

“ *The Bird & Bird lawyers are instrumental especially on cases with high commercial value. The team is particularly detail-oriented and present the best case in international work too.* ”

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Key Theme: Copycats and Lookalikes

Inspiration or Infringement? How Bird & Bird Helps You Navigate Lookalike Products

In today's global marketplace, imitation may be common—but for businesses, it raises complex questions around intellectual property (IP) rights. When does inspiration cross the line into infringement? And more importantly, how can you protect your brand?

At Bird & Bird, we help businesses around the world address these challenges with clarity and confidence.

What Are Lookalike Products?

Lookalike products mimic the appearance or feel of popular branded goods. Sometimes they're obvious replicas; other times, they just subtly evoke a well-known design. These "dupes" often undercut original products on price, which can dilute brand value and confuse consumers.

Bird & Bird works closely with clients to assess the risk posed by lookalike products and determine whether legal action is possible—or necessary.

How we can help around the world

It's easier than you might think to take action against lookalike products, be they supermarket packaging, fashion/luxury dupes, consumer tech or other products. Lookalikes are a global issue, and laws vary significantly between jurisdictions. Our international team of IP specialists advises on a full range of rights, helping you identify the most effective legal tools —registered or unregistered, IP or non-IP — to base your strategy on.

- **UK:** the enforcement landscape has changed in favour of brand owners following recent case law. Even when there's no confusion, it's now easier to show 'unfair advantage' is being taken by the lookalike product where the brand's packaging is protected by a trade mark registration with a reputation.
- **EU:** the flexible doctrine of unfair competition can be a powerful tool against lookalikes. Also, for clients with EUTMs, there are multiple potential venues to choose from, allowing brand owners to identify the right jurisdiction for the right cases. E.g. the "blank canvas" principle being applied by the Alicante courts in Spain is favourable towards TM holders, and can be a good route to a pan-EU injunction where neither the TM owner or defendant are established in the EU.
- **APAC:** multiple options exist, such as in China, the Anti-Unfair Competition Law which covers actions against packaging and trade dress that mimic well-known products, and in Singapore the Consumer Protection (Fair Trading) Act when lookalike goods create confusion or harm brand trust.
- **All countries:** devising arguments based on copyright and designs can help plug gaps in trade mark portfolios, or complement cases based on TM rights.

Protect Your Brand with Confidence

Whether you're launching a new product or defending an established brand, Bird & Bird offers deep expertise in both the legal and commercial aspects of IP enforcement. Our international footprint and industry insight mean we're ready to support you wherever your business operates.



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Key Theme: Parallel Imports

We offer strategic, cross-border support focused on protecting your brand while ensuring compliance with IP and Competition law laws. With some creativity, it's easier than you might think to take action.

Understanding Parallel Imports

By parallel imports (also known as grey market goods), we mean genuine branded products that are imported into a territory without the brand owner's permission, often bypassing official distribution channels. While the products are authentic, these imports can harm brand reputation, pose consumer risks, undermine brand consistency, and interfere with authorised supply chains.

How Bird & Bird Supports Clients

1. Legal Risk Assessment

- Jurisdiction-specific guidance on whether and when parallel imports are legal.
- Clarification of exhaustion of rights (national, regional, or international) based on your market.
- Advice on how far IP rights can be used to control imports depending on where the goods are first sold.

2. Brand Protection Strategy

- Audit of your IP portfolio (trade marks, design rights, etc.) to strengthen your ability to oppose unauthorised imports.
- Drafting and advising on distribution agreements and territorial restrictions that are enforceable and IP-compliant.
- Support with product labelling, packaging, and documentation to differentiate authorised goods.

3. Enforcement Actions

- Assist with border measures and customs enforcement, including recordation of IP rights.
- Represent you in litigation or administrative actions against importers or distributors of grey market goods.
- Develop market monitoring strategies using technology and local intelligence networks.
- Bring an understanding of the regulatory environment which can offer non-IP routes to take action.

4. Global Coordination

- Seamless support across Bird & Bird's international network of offices to manage imports and enforcement in multiple jurisdictions.
- Tailored advice for multinational clients navigating regional laws (e.g., EU vs. UK vs. Asia-Pacific).

Jurisdictional Nuances

- **UK & EU:** Post-Brexit divergence is a key issue. Bird & Bird advises on the difference in exhaustion regimes and what that means for import/export.
- **Asia-Pacific:** Countries like Australia, China and Singapore operate an international doctrine of exhaustion but there are other routes to protection against harmful parallel trade. B&B helps design strategies with that in mind.
- **Middle East & Africa:** Many regions still support national exhaustion, giving rights holders more power to block parallel imports—Bird & Bird can help leverage this.

Why Bird & Bird?

With a global reputation in intellectual property and brand management, Bird & Bird is uniquely placed to help you:

- Maintain control of your brand in international markets.
- Navigate the complex legal landscape of parallel trade.
- Enforce your rights with confidence and strategic precision.



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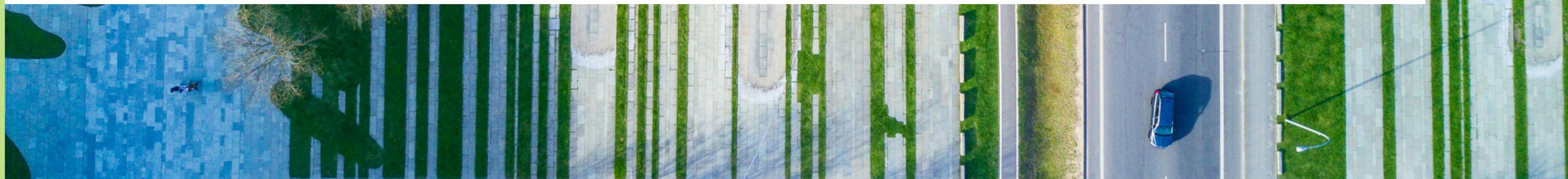
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Knowledge Sharing

Bird & Bird is known for its robust knowledge sharing and event initiatives, which cater to various professional interests and sectors. Here are some highlights:

- Regular LinkedIn updates
- In-Person and Online Events
- [BrandWrites Blog Site](#)

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Copycats

What to do when someone copies your brand or products



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Wednesday 4 September 2024

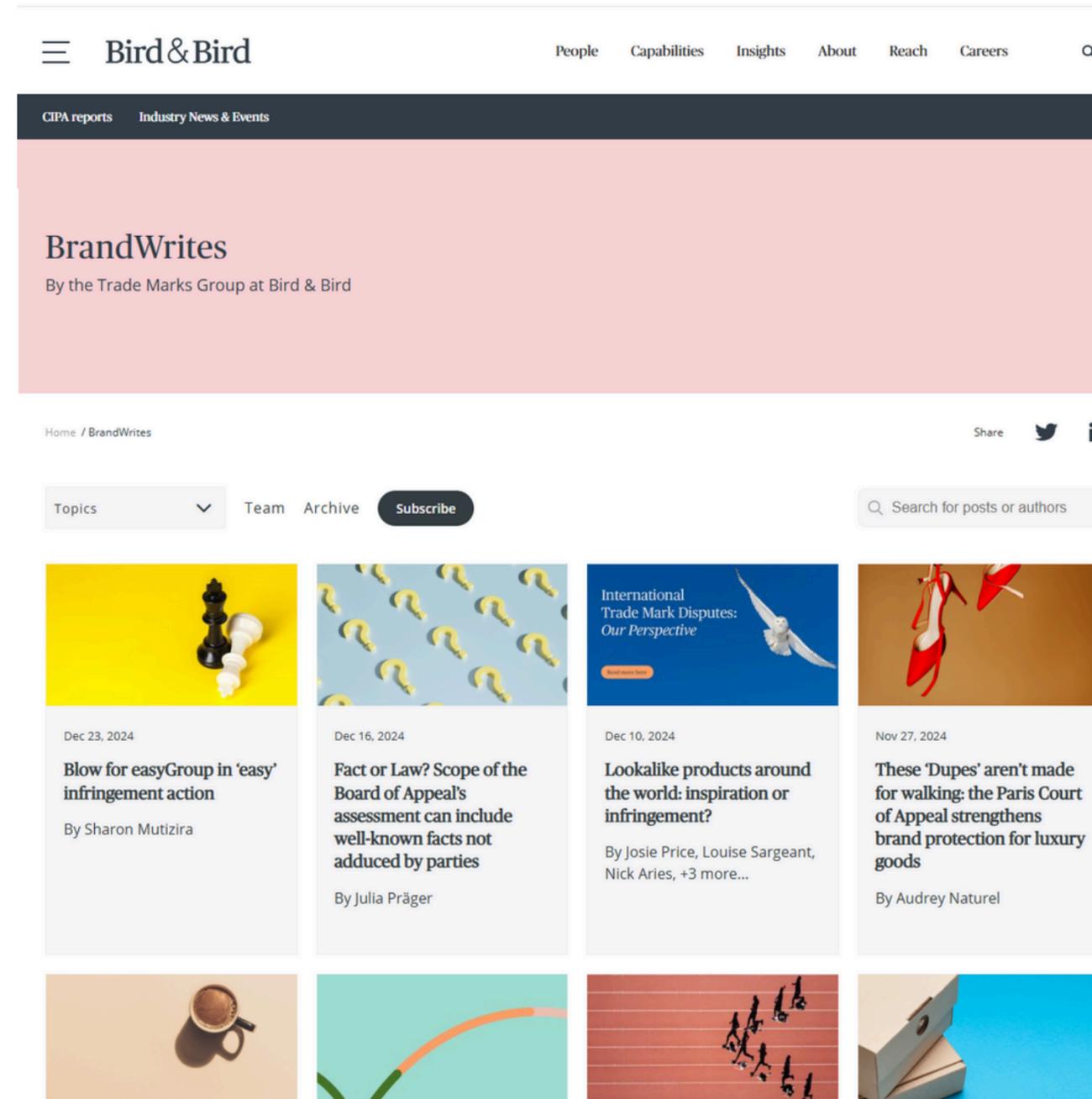
Bird & Bird London
12 New Fetter Lane
London
EC4A 1JP
[Click here for directions](#)

Arrive at 17:30 for 18:00 start
Networking from 19:30

Are 'copycats' or 'lookalike' products a thorn in your brand? As businesses increasingly struggle with more sophisticated copies of their most successful products and brands, we invite you to join us for an evening of two halves.

We'll be starting with a lively debate on the topic of proving unfair advantage or detriment in trade mark disputes concerning lookalike products, where we'll be ditching one of our most junior law-

[If you would like a bespoke session on a topic of interest, please let us know!](#)



The screenshot shows the Bird & Bird BrandWrites website. The header includes the Bird & Bird logo and navigation links: People, Capabilities, Insights, About, Reach, Careers, and a search icon. Below the header, there are tabs for 'CIPA reports' and 'Industry News & Events'. The main content area features a 'BrandWrites' section with the subtitle 'By the Trade Marks Group at Bird & Bird'. Below this, there are navigation options: 'Topics', 'Team', 'Archive', and a 'Subscribe' button. A search bar is also present with the text 'Search for posts or authors'. The main content area displays a grid of article cards. The first card is titled 'Blow for easyGroup in 'easy' infringement action' by Sharon Mutizira, dated Dec 23, 2024. The second card is 'Fact or Law? Scope of the Board of Appeal's assessment can include well-known facts not adduced by parties' by Julia Präger, dated Dec 16, 2024. The third card is 'Lookalike products around the world: inspiration or infringement?' by Josie Price, Louise Sargeant, Nick Aries, +3 more..., dated Dec 10, 2024. The fourth card is 'These 'Dupes' aren't made for walking: the Paris Court of Appeal strengthens brand protection for luxury goods' by Audrey Naturel, dated Nov 27, 2024. The bottom of the screenshot shows a partial view of another row of article cards.

 **Bird & Bird Intellectual Property**
13,991 followers
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 Insights from Our Recent TMLG Call on Parallel Imports! 

We had an incredibly insightful session during our recent TMLG call, focusing on the hot topic of parallel imports. Here's a quick recap:

 **Elisabetta Bandera** from our Milan office kicked things off with a compelling presentation on a current case in Italy. She shared her strategic approach and the challenges her team successfully navigated, providing us with valuable insights into the complexities and legal aspects of parallel imports in Italy.

 **Helen Pang** from Hong Kong then discussed the latest court decision on parallel imports in Hong Kong and gave an overview of the current laws in Singapore and China. Her insights were crucial in understanding the regional differences and implications.

AU Sanya Bhatnagar from Australia followed with a presentation on the current laws regarding parallel imports in Australia. This sparked a lively discussion on the differences across countries and the potential consequences of these variations.

 Lastly, **Dr. Frederik Thiering** from Hamburg discussed the case law regarding the term "ex works" and its implications for the exhaustion of rights. The German court's decision, frequently referenced by other EU countries, particularly The Netherlands, was valuable for its broader applicability.

A big thank you to all our presenters and participants for sharing their expertise and experiences. These discussions are vital for our continuous learning and for providing top-notch service to our clients across different jurisdictions.

[#LegalInsights](#) [#ParallelImports](#) [#GlobalTeam](#) [#TMLG](#)



The banner features the text 'International Trade Mark Disputes: Our Perspective' in white serif font on a dark blue background. To the right, there is a white owl in flight against a blue sky.

 Katrina Dang and 6 others

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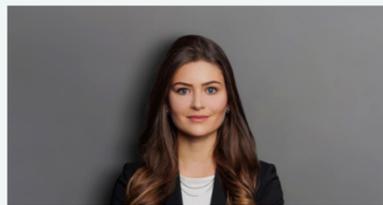


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