

Investigating Trademark Terminology and Collocations in Polish, English, Japanese and German

Abstract: The paper deals with the comparison of key terminology in the field of trademark law in the Polish, English, Japanese and German languages. The terminology has been compared in order to reveal similarities and differences in the meaning. The author has extracted the terms from the main acts regulating the field in force in Poland, Great Britain, the United States of America, Japan and Germany that is to say: Polish Industrial Property Act, British Trade Marks Act, American Trademark Act, Japanese Trademark Act and German Trade Mark Protection Law.

The terms have been extracted with the usage of AntConc (corpus linguistics software). The method used in this paper is based on the three categories of equivalence by Šarčević (1997). Moreover, the author has resorted to linguistic, systemic, teleological and contextual legal interpretation (also called construction) of legal texts.

Special attention has been paid to system-bound terminology existing in those five legal systems. The techniques of providing equivalents for non-equivalent or partially-equivalent terms have been used to suggest possible methods of translation within those languages. The conclusions are that as a result of trademark law unification at the international level and the reception of almost world-wide principles in this respect there is a significant convergence of meanings of analyzed terms with slight differences resulting from following deeply ingrained local and national legal traditions.

Keywords: trademark law, legal terminology, collocations, comparative analysis

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1 Introduction

In this paper, the author will deal with legal terminology in the field of industrial property rights, and specifically trademarks, in five languages: Japanese, English (American and British variety), German and Polish. The author focuses on finding equivalents in the above mentioned languages. Trademarks are a subject of global nature and require a sense of unification because they are available in almost every part of the world (e.g. Apple products and their trademark). In previous studies, the author dealt with terminology in the field of copyright. As for the subject of trademarks, it should be expanded in the near future. The author wants to find as many functional equivalents as possible, and if the lack of these equivalents is observed, create new ones that would fit into the legal reality. The method used in this paper is based on the three categories of equivalence by Šarčević (1997) and the other method is corpus based which is essentially statistically based. According to McEnery and Wilson (2001: 1) corpus linguistics is “the study of language based on examples of ‘real life’

language use”, and also it is “an area which focuses upon a set of procedures, or methods, for studying language” (McEnery and Hardie 2012: 1). The author used five different acts as a corpus material. They can be called a “comparable corpus” (McEnery and Hardie 2012: 19) because they deal with the same subject in four languages – trademark acts. Moreover, “a comparable corpus can thus be defined as a corpus containing components that are collected using the same sampling method, e.g. the *same proportions* of the texts of the *same genres* in the *same domains* in a range of *different languages* in the *same sampling period*.” Corpus linguistics tools help analyse such aspects of texts as word frequencies, collocations, etc. My research resorted to corpus linguistics tools in a marginal way as it is qualitative (human evaluation, not machine based) research and the AntConc program only helped with terminology extraction that is to say finding particular terms and collocations. AntConc was used to excerpt the terms with the usage of word list function and collocation for multiword words. The author’s findings were based not only on the trademark acts but i.e the Polish language reference corpus – the so-called Polish National Corpus (which also contains some specialist language). The terms and collocations discussed in this paper serve only illustrative purposes as due to the limits of this paper it was impossible to discuss all terminological units extracted from the analyzed acts.

2 Trademark law in brief

In this section the definition of the term trademark will be presented. A trademark, trade mark, or trade-mark¹ is a legally protected, unique and recognizable name, word, phrase, logo, symbol, design, image, or a combination of these elements. There is also a range of non-conventional trademarks comprising marks which do not fall into these standard categories, such as those based on color, smell, or sound (like jingles). Also, melody or signal sounds (used by the entrepreneur in business transactions in order to obtain a clear identification of their goods or services among consumers), designs, or expressions which identify products or services of a particular source are considered trademarks. What is more, a trademark cannot be offensive².

The trademark owner can be an individual, business organization, or any legal entity. The owner of trademark may pursue legal action against trademark infringement. Most countries require formal registration of a trademark as a precondition for pursuing this type of action. The United States, Canada and other countries also recognize common law trademark rights, which means that an action can be taken to protect an unregistered trademark if it is in use. Still common law trademarks offer the holder in general less legal protection than registered trademarks. A trademark may be located on a package, a label, a voucher, or on the product itself. For the sake of corporate identity trademarks are also displayed on company buildings.

In most countries of the world a trademark can be registered in a patent office, so other people cannot legally use it without the owner's consent. In numerous texts and commercials we often see the symbol TM (the trademark symbol) standing next to sign or picture that is regarded as the company’s mark, or ® (the registered trademark) symbol indicating that the mark has been registered in the appropriate register of trademarks and represents its level of protection. While TM can be used with any common law usage of a mark, ® may only be used

¹Spelling variants: The term *trademark* is predominantly used in the United States and Philippines only, while the term *trade mark* is used in many other countries around the world, including the European Union and Commonwealth and ex-Commonwealth jurisdictions (although Canada officially uses “trade-mark”).

² See: <http://www.uspto.gov/trademarks-getting-started/trademark-basics/trademark-patent-or-copyright> and <https://www.gov.uk/guidance/unacceptable-trade-marks> and http://www.patentamt.de/english/trade_marks/index.html (accessed 06 Nov 2015).

by the owner of a mark following registration with the relevant national authority, such as the U.S. Patent and Trademark Office.

A trademark may be designated by the following symbols:

1. TM (the “trademark symbol”, which is the letters “TM”, for an unregistered trademark, a mark used to promote or brand goods),
2. ® (the letter “R” surrounded by a circle, for a registered trademark),
3. SM (which is the letters “SM” in superscript, for an unregistered service mark, a mark used to promote or brand services).

To compare trademarks with patents, designs and copyrights we have to be aware that trademark law seeks to protect indications of the commercial source of products or services, whereas patent law generally seeks to protect new and useful inventions, and registered design law generally seeks to protect the look or appearance of a manufactured article. Trademarks, patents and designs collectively form a subset of intellectual property known as industrial property because they are often created and used in an industrial or commercial context. Like patents and copyrights, trademarks can be bought and transferred by one company to another. Unlike patents and copyrights, trademarks may not remain intact through this process. Where trademarks have been acquired for the purpose of marketing generic (non-distinctive) products, courts have refused to enforce them (c.f. Radhakrishnan and Balasubramanian 2008: 131).

3 Research corpus

Research corpus consists of five trademark law acts that is to say: Polish Industrial Property Act (*Ustawa z dnia 30 czerwca 2000 r. – Prawo własności przemysłowej, Dz. U. z 2013 r. Nr 0, poz. 1410*) (tokens: 33, 853, word types: 245,218), British Trade marks Act (Trade marks Act, 1994, Chapter 26) (tokens: 38,412, word types: 231,087), American Trademark Act (The Lanham Act, 15 U.S.C. §§ 1051 et seq., 1946) (tokens: 39,863, word types: 237,078), Japanese Trademark Act (商標法 昭和 34 年 4 月 13 日法律第 127 号。最終改正平成 20 年 4 月 18 日法律第 16 号, Act No. 127 of April 13, 1959) (tokens: 93 336, word types: 95,249) and German Trade Mark Protection Law (*Gesetz über Markenschutz (Deutsches Reich) vom 30. November 1874*) (tokens: 27,889, word types: 198,517).

4 Research methods

In this paper the author will deal with the key terminology in the field of trademark acts in Polish, English, German and Japanese. The task was to search for functional equivalents, and if there is no equivalence, an equivalent was provided according to a technique of providing equivalents for non-equivalent terms (c.f. Kłos, Matulewska, Nowak-Korcz 2007).

Firstly, the statutory terms from Polish, English, German and Japanese acts will be presented and discussed. Also, a list of functional equivalents (Polish, English, German and Japanese) will be presented. And if there is a partial equivalence or non-equivalence, new terms are provided which will correspond with the reality of the laws in the above mentioned languages.

The method used in this paper is based on the three categories of equivalence by Šarčević (1997). She proposes three categories of equivalence: “near equivalence”, “partial equivalence” and “non-equivalence”. “Near equivalence” occurs “when concepts A and B

share all of their essential and most of their accidental features (intersection) or when concept A contains all of the characteristics of concept B, and concept B all of the essential and most of the accidental characteristics of concept A (inclusion)” (Sarčević 1997: 238). “Partial equivalence” appears when concepts A and B share most of their essential and some of their accidental features (intersection) or when concept A includes all of the characteristics of concept B but concept B only most of the essential and some of the accidental characteristics of concept A (inclusion). When only a few or none of the essential characteristics of concepts A and B coincide (intersection) or when concept A has all of the characteristics of concept B but concept B only a few or none of the characteristics of concept A (inclusion) “non-equivalence” occurs and the functional equivalent is considered as unacceptable (Sarčević 1997: 238-239).

As it was mentioned above, the research material consists of Polish, English, German and Japanese acts concerning trademarks.

5 Key terminology

In this section a key terminology concerning trademark law will be discussed. The terminology was excerpted from the trademark law acts and only 7 are discussed. Only 7 terms were chosen because detailed analysis would demand much more space. The research corpora includes in total: 233 353 tokens and 1 007 149 word types. The terms were excerpted with the help of word list function of the AntConc program. 5.1 The term “trademark”

The first term that will be discussed is trademark. In the UK law the term “trade mark” is defined under the Trade Marks Act 1994 (UK) which provides protection for the use of trade marks. In the UK, in order to have a trade mark legally protected it must either be registered, or have to be used for a period of time so that it has acquired local distinctiveness (called: “Prior Rights”). According to The Trade Marks Act 1994, an infringement of registered trade mark occurs if a person “uses in the course of trade a sign which is identical with the trade mark in relation to goods or services which are identical with those for which it is registered” (section 10(1) of the Act). It also happens when there is a confusion of the origin of a product and where a sign is identical but the goods are dissimilar if the trade mark has a reputation in the UK and its use takes unfair advantage of, or is detrimental to, the mark’s distinctive character or reputation (section 10(3)).

The table below presents the term “trademark” in languages discussed in this paper (English – American and British version, Polish, Japanese and German). The detailed analysis is provided below.

Table 1. Title

British English	American English	Polish	Japanese	German
trade mark	trademark	znak towarowy	商標 <i>shōhyō</i>	das Markenzeiche/das Waarenzeichen

In British English, according to trade mark law interpretation, trade mark is a recognizable sign, design or expression which identifies products or services of a particular source from those of others. We should take into account that the spelling is different from American English, and trade mark is written as two separate words. We may say that the term “trademark” is equivalent for every analyzed language, but in the next table, which is

provided below, there are presented the aspects that are covered or not covered in particular acts of discussed countries concerning trademark law.

When it comes to United States trademark, the goal is to allow consumers to easily identify the producers of goods and services and avoid confusion. United States law has protected trademarks under state common law since colonial times, but it was not until 1870 that Congress first attempted to establish a federal trademark regime. Then, in 1946, Congress passed the Lanham Act (15 U.S.C. §§ 1051-1127). The Lanham Act defines federal trademark protection and trademark registration rules. The Lanham Act grants the United States Patent and Trademark Office (“USPTO”) administrative authority over trademark registration. And now, recent developments in U.S. trademark law have included the adoption of the Federal Trademark Dilution Act of 1995, the 1999 Anticybersquatting Consumer Protection Act, and the Trademark Dilution Revision Act of 2006. When it comes to the registration of trademark “The Lanham Act gives a seller or producer the exclusive right to “register” a trademark, 15 U.S.C. § 1052, and to prevent his or her competitors from using that trademark, § 1114(1).” Trademark infringement is measured by the so-called “likelihood of confusion” test. A new trademark will infringe on an existing one if the new one is so similar to the original that consumers are likely to confuse the two marks, and mistakenly purchase from the wrong company.

In Polish, for trademark we have phrase *znak towarowy*. There, trademark is a legally protected, unique element, effectively distinguishing one company’s goods and services from the other. In Poland, the concept of trademark is defined by Industrial Property Law as: “any indication presented graphically or such indications which can be expressed graphically, whether such presented indications can distinguish traded goods of one company from the same type of goods of the other company. They may be words, designs, ornaments, combinations of colors, spatial forms, the shape of goods or their packaging/wrapping, as well as melody or another sound signal”³ used by the entrepreneur in business transactions in order to uniquely identify their goods or services among the consumers. Trademarks in Poland have got the most common form of:

1. words (word, slogan, sentence) without the indicated graphics, colors, etc.,
2. words and graphics (designation in which there are both graphic and word elements),
3. graphics (design),
4. spatial marks (e.g. the form of the packaging/wrapping).

According to the above mentioned specifics Polish trademark is mostly equivalent (near equivalence) to German trademark because, they have those elements (such as: words, graphics and spatial marks) covered in the trademark law (detailed analysis below).

A trademark cannot be reported to the registration if it consists a name or abbreviation of the Republic of Poland or its symbols, names, crests of Polish provinces, cities and towns, marks of the armed forces, reproductions of the honorary badges, etc., unless the applicant has the appropriate authorization for it. Also, it does not consist of abbreviations of names or symbols of foreign states, international organizations, control and guarantee stamps (if such a prohibition stems from international agreements), unless the applicant has the appropriate authorization. Moreover, officially recognized designation adopted for use in trade to the

³ Polish version: „każde oznaczenie przedstawione w sposób graficzny lub takie, które da się w sposób graficzny wyrazić, jeżeli oznaczenie takie nadaje się do odróżniania w obrocie towarów jednego przedsiębiorstwa od tego samego rodzaju towarów innych przedsiębiorstw. Może to być w szczególności wyraz, rysunek, ornament, kompozycja kolorystyczna, forma przestrzenna, w tym forma towaru lub opakowania, a także melodia lub inny sygnał dźwiękowy”.

extent that it could mislead as to the nature of such designation, unless the applicant demonstrates that he or she is entitled to use them. Elements that are symbols, especially religious, patriotic or cultural to the extent that it could insult religious, patriotic or national tradition feelings cannot be reported to the registration.

In Japanese, the meaning of the law on trademarks (商標法 *shōhyōhō*), trademark (商標 *shōhyō*) means a sign capable of distinguishing particular goods (商品 *shohin*) or services (サービス *sabisu*, 役務 *ekimu*) of one company from the goods or services of the same type of other companies⁴. There are two types of trademarks:

- i) 商品 商標 *shohin shōhyō*, which is suitable for goods and
- ii) サービス マーク *sābisu maku*, which is suitable for services.

商品 商標 *shohin shōhyō* is generally called “trēdomāku” – a trademark⁵. What is more, the term 商標法 *shōhyōhō* is hyperonymous towards 商品 商標 *shohin shōhyō* and サービス マーク *sābisumāku*. Those two terms are a part of a 商標法 *shōhyōhō*, because the ideogram 法 *hō* means law. According to Japanese trademark law interpretation, trademark is used to enable recognition of the origin of the goods or services (characters, figures, symbols, such as three-dimensional shape). Consumers should be aware of the origin of goods or services by the perception of the mark, to select the services that they wish to receive. If we continue to provide sales and services of products, brands that are used become widely known to consumers. If the quality of products is more than certain, the creditworthiness of the business (brand) is higher and property value is provided.

In German we have two terms for trademark: *das Markenzeichnen* and *das Waarenzeichnen*. Trademark was officially introduced to the Trademark Law Reform in 1995. The trademark as a traditional designation has become no longer as meaningful as it should be for necessary protection of services or products. Now it is extended with a special, legally protected trademark, which mostly distinguishes goods or services of one company from competing goods or services of other companies (as it is in every country mentioned above). Also, a brand can be used to characterize an entire company or the services of an entire geographic location (country, region, city) and can clearly distinguish from competing companies or offers – it is very similar to the Polish trademark law because it covers the same points. Moreover, close contact of the legal brand concept is clearly distinguished from the brand understanding in marketing. While the former names an individual, legally protected trademark, the latter represents the totality of the individual, often patented features of an asset, which is called a brand name.

According to German trademark law, trademark can be a single presentation or a combination of one or more letters, characters, words, names, slogans, logo, icons, images, sounds, sound sequences or manifestations of patterns of various kinds of products. Trademark rights are similar to patents and copyrights rights, often referred to as intellectual property. In Germany we use two terms for trademarks – *das Markenzeichnen* and *das Waarenzeichnen*. *Die Marke* means *mark*, and *die Waaren* means *goods*. In German often we deal with compound nouns, in this case *die Marke* and *die Waaren* are linked with *die Zeichnen* which means *drawing*, or *zeichnen* as a verb (without a capital letter at the beginning) that means *to draw*. In Germany the trademark mostly serves to distinguish goods

⁴人が経済活動を行うにあたって、特定の者が提供する商品やサービスであると個別化する目印のことを商標という。

⁵商標には 2 種類あり、商品に使用されるものを「商品商標」、サービス（役務）に使用されるものを「サービスマーク」という。

or services of one company from competing goods or services of other companies. Moreover, *das Markenzeichen* covers company's marks (also trademarks, e.g. Mercedes star, Apple logo, Audi sign with four circles) and *das Waarenzeichen* covers trademarks symbols (e.g. ©, ®).

All in all, the term trademark is present in all countries' trademark law but it carries different definitions. What we can understand by "trademark" we can see in the table below:

Table 2. Title

Trademark	The United Kingdom	The United States of America	Poland	Japan	Germany
a word	✓	✓	✓	✓	✓
design	✓		✓		✓
an ornament			✓		
combination of colours			✓		✓
spatial forms			✓		
the shape of goods or their packaging/wrapping	✓	✓	✓		✓
melody or another sound signal			✓		
a series of musical notes		✓			
a sound	✓			✓	✓
name	✓	✓	✓		✓
logo	✓	✓			
a symbol	✓			✓	
an image	✓				
a signature	✓				
a phrase	✓	✓			
a slogan		✓			
a scent		✓			
three-dimensional marks				✓	✓
characters				✓	
devices	✓			✓	
letters	✓				✓
numerals	✓				✓

As we may notice from the table, when it comes to *words* every country has this term written in the act. Concerning the American English, *trademark* is written together, but British one is written apart as a *trade mark*. Such distinction will be visible in all terms which include word "trademark".

What is different from other regulations, the American trademark law protects a slogan or a scent which is not present in other countries' regulations. When it comes to musical aspects protected by the trademark law it is differently formulated in acts. The American trademark law is talking about a series of musical notes, which is something else than a

melody, which is present in Polish trademark law. Countries such as The United Kingdom, Japan or Germany have distinguished it in a broader way by calling it: “a sound”.

It all depends on the receiver of our translation. For those who want to have a very detailed description what is *trademark* we have to explain what is in the act and we have to translate all words which are in the description of the *trademark*. For a receiver who only wants to be informed whether the *trademark* term is equivalent in other languages we can provide a term, but say that there are some differences behind the interpretation and meaning of it.

When it comes to music and sounds it is differently described in acts and it depends on the analyzed language. For example, in Poland there is a phrase “melody or another sound signal” which may be an equivalent to American phrase “a series of musical notes”, because such series are a melody. British English, Japanese and German use the broader term – “a sound”. For those countries – the UK, Japan and Germany we have near equivalence concerning the term *trademark* and its “sound”.

“A name” can be registered as a trademark everywhere except in Japan. Although in Poland, the names together with the surname written in full or in an abbreviated form (e.g. John Smith, John S., J. Smith), if a person’s name is commonly used, cannot be registered (e.g. name: Abczakird Owczarbatar can be registered, but Marcin Kowalski cannot). Near equivalence appears between English and German trademark law concerning the term “a name”. But, in German we have *die Personennamen* (lit. person’s name) and English “name” can have a broader meaning because it can be not only a person’s name, but also a name of a thing – not person. In this case Polish and German terms are functionally equivalent because Polish trademark law mentions names and surnames and *die Personennamen* covers also only the names and surnames of a person.

From this analysis it is visible that the term *trademark* has a very broad meaning in every language. Here, this term is present in every discussed language but it carries sometimes completely different meaning and during translation the translator has to be aware of it and be very careful when making the comparison.

5.2 The term “立体的形状 *rittai-teki keijō*”

In Japan, a three-dimensional shape 立体的形状 *rittai-teki keijō* is recognized as an object protected by law. Before 1996, prior to the revision of the trademark law, a trademark was limited to flat shapes and the three-dimensional shape was not ranked among trademarks. However, objects such as dolls or products which are regarded as hallmarks of the company or the label should be protected by law, so three-dimensional shapes are now treated in the same way as the flat shapes. “Three dimensional” means the only form of three-dimensional objects that differ from the “two-dimensional shapes”, meaning – flat objects. Examples of trademarks in the three-dimensional shape: Honda Supercube, yakuruto container, Coca-Cola, Peco chan (a kind of doll).

For category of shapes, different laws distinguish it in a different way, e.g. Polish act speaks about “spatial forms”, but Japanese and German acts describe it as “three-dimensional marks”. However, the phrase “the shape of goods or their packaging/wrapping” is present in every discussed language apart from Japanese. To provide equivalence, we can make a Japanese term 商品やその包装の形状 *shōhin ya sono hōsō no keijō* which literally means the same as in German, English or Polish – “the shape of goods or their packaging”.

Japanese and English terms are partially equivalent, but Polish and German terms have some differences. Making a literal translation from Polish into English a *forma przestrzenna* is a *spatial form*. The name differs, it is not a *three-dimensional shape*, but in practice it is the

same object that we are referring to. Moreover, in the Polish language, a three-dimensional shape is sometimes called a visual sign, three-dimensional or 3D trademark. Such designation may be perceived visually or by the sense of touch. Often, it is associated with verbal, graphic, or colors used in relation to a particular shape. The term “shape” is a key term in this context. “A shape” which is present in American and British act is hyperonymous towards Japanese, Polish and German terms.

Also, in German *die Gestaltungen* literally means *design*. German term is the nearest in meaning with the Japanese term 立体的形状 *rittai-teki keijō*. The German system distinguishes between three groups of three-dimensional marks: (1) shapes that do not rely on a product, such as the so-called Mercedes star of Mercedes Benz AG; (2) shapes of a product or of parts of a product, such as the well-known LEGO tools; (3) shapes used in packaging or in parts of a packaging, such as the bottle of Coca-Cola Corp.

Equivalents are provided in the table below:

Table 3. Title

Japanese	British English	American English	Polish	German
立体的形状 <i>rittai-teki keijō</i>	shape (lit. translation – three-dimensional shape)	shape (lit. translation – three-dimensional shape)	forma przestrzenna	dreidimensionale Gestaltungen

5.3 The term “application for registration”

The English term *application for registration* is present in both version of English – American and British. In the United States if a person wants to register his/her trademark there are 10 steps to fulfill if the application is done via Internet. Such application is provided by United States Patent and Trademark Office and it is called “Trademark/Service Mark Application, Principal Register”. The document is very long, has about 31 pages and includes all specific data concerning application of a new trademark. In contrast, in the United Kingdom to register a trademark via Internet a person has to have an email address and a credit or debit card. On the special website (gov.uk) concerning application form a person has to read a “guide to getting a trade mark”. Firstly, a person has to check whether his/her brand qualifies as a trade mark, then he/she applies to register his/her trade mark and respond to any objections. The registration process in the UK takes about 4 months if no-one objects and registered trade marks last 10 years. What is more, registering a trade mark in the UK only protects a brand in the UK. There are different processes for registering EU and international trade marks. All in all, both systems – the UK and the US have an institution where an application for registration of a trademark can be done, however, different points have to be covered if we want to have our application be registered.

In Japan the procedure of the application for trademark registration is strictly described. The term 商標登録出願 *shōhyō tōroku shutsugan* is partially equivalent to English version of *application for registration*, because different points during application for registration must be fulfilled. Those who want to use the trademark in relation to goods or services may apply for registration of the trademark in the Patent Office. First, a person has to determine whether a trademark which intends to obtain registration, is only a sign, or only graphics or only a symbol, or a combination thereof, or it is a three-dimensional shape. A person should

also follow the standard character set by the Patent Office. Then, a person must determine whether the mark is used for goods or services. The trademark rights do not apply to a mark that was previously registered by another entity/company, so a person has to be sure that this mark or a similar mark has not already been registered. A person can register the mark by filling papers electronically, but the following documents should be prepared in writing. The application for registration of the mark is very detailed, it covers 7 points which a registration must meet.

In Poland, the trademark application can be made in person or by his/her agent. *Wniosek o rejestrację znaku towarowego* is partially equivalent to Japanese 商標登録出願 *shōhyō tōroku shutsugan* and English term *application for registration*, because as it was said above, different points should be covered by a person who wants to register his/her mark. In Poland, to make a trademark application successful, you have to fulfill seven points, i.e.: a person must be familiar with basic information about trademarks and the declaration file, a person must fill out the application form, etc.

Also, German term *der Antrag/die Anmeldung [auf Eintragung der Marke]* is partially equivalent to Polish, Japanese and English terms, because for example, only in a German application a person must provide not only the description of trademark but also an illustration of it. In Germany, the list of goods and services that will have a trademark must be specified. Therefore, the list of goods and services is an important component of the trademark application, without such a list the application is incomplete. A correct list of goods and services ensures fast processing of an application. Also, as it is in other countries mentioned above, the application can be done online. The trademark must meet the Nice Classification (the “International Classification of Goods and Services for the Purposes of the Registration of Marks”) and Vienna Classification (the international classification for the figurative elements or images of marks). The applicant for a trademark can be a natural person, a legal person or a partnership with legal capacity. What is important, the application must contain a representation (illustration) of the trademark. Such illustration must show the trademark exactly as the person wishes to have it protected in the future. Also, a person must indicate the type of trademark (word mark, figurative mark, sound mark, etc.) and indicate exactly the goods and services for which a person intends to use the trademark he/she is applying for. The same as in every country mentioned – Japan, Poland, the UK and the US, in Germany there are two ways to apply – written applications and online applications.

Equivalents are provided in the table below:

Table 4. Title

British English	American English	Japanese	Polish	German
application for [trade mark] registration	application for [trademark] registration	商標登録出願 <i>shōhyō tōroku shutsugan</i>	wniosek o rejestrację znaku towarowego	der Antrag /die Anmeldung [auf Eintragung der Marke]

5.4 The term “The Patent Office”

The term “The Patent Office” is used here to describe all kinds of Patent Offices in languages discussed.

In Japan, the Patent Office 特許庁 *tokkyochō* is one of the external bodies of the Ministry of Economy, Trade and Industry. It aims to achieve economic and industrial development and deals with inventions, utility models, designs (*ishō* 意匠) and trademarks.

The Japan Patent Office is headed by a commissioner and consists of seven departments where one of departments deals with trademarks and designs. They examine trademark right applications, design right application and formalities check of all applications including patent applications.

The English “patent offices are government bodies that may grant a patent or reject the patent application based on whether the application fulfills the requirements for patentability.” In the UK we have United Kingdom Intellectual Property Office, which has direct administrative responsibility for examining and issuing or rejecting patents, and maintaining registers of intellectual property including patents, designs and trade marks in the UK. (UK-IPO) and in the US – United States Patent and Trademark Office (USPTO) which mission is to promote “industrial and technological progress in the United States and strengthen the national economy” by i.e. administering the laws relating to patents and trademarks.

The Polish Patent Office is a central government authority created on the 28th December 1918 that is competent in matters of industrial property. The Polish term of Patent Office can be misleading because it deals not only with patents but also with trademarks. The Polish term *Urząd Patentowy* is functionally equivalent with German *das Patentamt*, because *urząd* means *office*, *patentowy* is an adjective and means *patent*.

The German Patent and Trade Mark Office (DPMA) is the central authority in the field of industrial property protection in Germany. It operates within the portfolio of the Federal Ministry of Justice and Consumer Protection. The German term for the Patent Office is also misleading because the reader may deduce that *das Patentamt* (the Patent Office) deals only with patents, because *das Patentamt* is a compound noun – *das Patent* means *patent* and *das Amt* is *office*.

All Patent Offices are governmental bodies which deal with inventions, patents, trademarks in the scope of industrial property. Equivalents are provided in the table below:

Table 5. Title

Japanese	British English	American English	Polish	German
特許庁 <i>tokkyochō</i>	United Kingdom Intellectual Property Office	United States Patent and Trademark Office	Urząd Patentowy	das Patentamt

5.5 The term “勲章 *kunshō*”

In Japan since the Meiji Era, to reward achievements and results of people, there are investitures 叙位 *joi*, which are given by the peerage 叙爵 *joshaku* (it was abolished after World War II), the so-called: *medal of honor* 叙勲 *jokun*, *medal of honor* 褒章 *hōshō* and *cup* 賜杯 *shihai* and *insignia* 記章 *kishō* etc. *Kunshō* is a decorative medal that belongs to a category of 叙勲 *jokun*. This is a form of recognition of a merit given to a person or organization. Because there are different legal systems in countries around the world, you cannot find the equivalent for 勲章 *kunshō*, but the English terms “medal, order, decoration” or German terms “Medaille, Orden, Ehrenzeichen” are closely related to the term *kunshō*. However, *orders*, *decorations*, etc. they are not protected under the German trademark law. These terms are used in general language. In German there is no-equivalence with Japanese term 勲章 *kunshō*, we can provide an equivalent in accordance with techniques which provide equivalence for terms which are non-equivalent, so that *die Medaille* which is present in general German will mostly be a proper equivalent. British English provides a term

insignia which has its Japanese equivalent 記章 *kishō* that is one of the investiture 叙位 *joi*, but 勳章 *kunshō* is a *medal*. In Polish and German trademark law there is no equivalent for Japanese 勳章 *kunshō*. Polish terms *order*, *odznaka* and *odznaczenie* are closer to American *decorations*, *medals* and *badges*, but it is not the same as Japanese 勳章 *kunshō*. The terms are provided in the table below:

Table 6. Title

Japanese	British English	American English	Polish	German
勳章 <i>kunshō</i>	insignia	decorations, medals and badges	order; odznaka; odznaczenie	-

5.6 The term “to cancel a registration of a mark”

Cancellation of registration or *to cancel a registration of a mark* are English terms describing the activity when the Patent Office or a natural person or other entity can discredit the validity of a trademark. Japanese term 商標登録を取り消す *shōhyō tōroku o torikesu* means canceling the validity of a trademark. The Polish term has different connotations. *Unieważnienie uznania znaku towarowego* means canceling not only the validity of a trademark but also canceling the recognition that this is/was a trademark. However, German phrase *Aufhebung der Markenzeichen* means that somebody is ascertaining that a trademark must be cancelled. English terms are broader in meaning than Japanese or Polish phrases. English and German phrases are closer in meaning to each other. The terms are provided in the table below:

Table 7. Title

British English	American English	Japanese	Polish	German
cancellation of registration	to cancel a registration of a mark; cancellation	商標登録を取 り消す <i>shōhyō tōroku o torikesu</i>	unieważnienie uznania znaku towarowego	die Aufhebung des Markenzeichen

5.7 The term “商標権者 *shōhyōkensha*”

The term 商標権者 *shōhyōkensha* consists of 商標権 *shōhyō-ken* (a right to the mark) and 者 *mono* (a person). These characters refer to the person who has the right to the trademark (the owner of a trademark). The near equivalence we have in British English where we have *the proprietor of a trade mark*. In American we have *the holder of the right to use such mark [trademark] or designation*. What is the difference between a *proprietor* and *holder*? *Proprietor* is a person who has the ownership of a trademark however, *holder* is a person who has or holds something, has a right to it but does not have an ownership of it. To conclude, Polish *właściciel znaku towarowego* and British *proprietor of a trade mark* is functionally equivalent (there is near equivalence). In this case 商標権者 *shōhyōkensha* is

functionally equivalent to the American *holder of the right to use trademark*. German *Inhaber* is equivalent to British *proprietor*, so all in all, British, Polish and German are functionally equivalent. 商標権者 *shōhyōkensha* is partially equivalent to British, Polish and German because a person has a right but does not have an ownership of trademark. Equivalents are provided in the table below:

Table 8. Title

British English	American English	Japanese	Polish	German
the proprietor of a trade mark	the holder of the right to use such mark or designation	商標権者 <i>shōhyōkensha</i>	właściciel [znaku towarowego]	der [Marken] Inhaber

6 Conclusion and implications

The aim of the study was to analyze comparable texts in terms of Polish, English, Japanese and German trademark law acts. This type of analysis is extremely useful for translator's work because it contains precise use of certain terminology in those languages. The terms that are used in the comparable texts and finding common equivalents are a reliable source of terminological accuracy of the translation. However, we have to be aware that inaccurate translation may lead to misunderstandings and communication failure. Sometimes even to translational scandals (c.f. Melbourne case). Moreover, translators should remember for whom they translate, so the focus is on the receiver of translational product (c.f. Kierzkowska 2002).

It is concluded that terminology selected from the trademark acts were in most cases equivalent. Polish, English, German and Japanese trademark law acts have many features in common, due to the fact that those countries signed many international treaties. Apart from some similarities, there are some differences regarding Polish, English, German and Japanese terminology. First of all, the acts are not the same in those languages and sometimes they do not cover the same aspects or it is not regulated in a particular system. Also, some terms are carrying different meaning despite the fact that they should mean the same when making a translation.

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Trademark acts:

1. Polish Industrial Property Act (*Ustawa z dnia 30 czerwca 2000 r. – Prawo własności przemysłowej, Dz. U. z 2013 r. Nr 0, poz. 1410*)
2. British Trademarks Act (*Trademarks Act, 1994, Chapter 26*)
3. American Trademark Act (*The Lanham Act, 15 U.S.C. §§ 1051 et seq., 1946*)
4. Japanese Trademark Act No. 127 of April 13, 1959 (商標法昭和 34 年 4 月 13 日法律第 127 号。最終改正平成 20 年 4 月 18 日法律第 16 号)
5. German Trade Mark Protection Law (*Gesetz über Markenschutz (Deutsches Reich) vom 30. November 1874*).

Websites:

- German Patent Office http://www.dpma.de/english/the_office/index.html
- The UK Patent Office <https://www.gov.uk/how-to-register-a-trade-mark>
- The US Patent Office <http://www.uspto.gov/>
- Japanese Patent Office <https://www.jpo.go.jp/>
- Polish Patent Office <http://www.uprp.pl/strona-glowna/Menu01,9,0,index.pl/>