

# SAFEGUARDING INNOVATION

## Intellectual property and brand protection for brand owners



Intellectual property rights are valuable assets to brand owners – your brand is your business and must be closely managed and protected. As a result, IP disputes are becoming increasingly common across traditional and online platforms. Sources of dispute are diverse but demonstrate how far-reaching and integral IP is in ensuring a competitive advantage.

- ▶ **Online sales** continue to grow so securing and protecting important domain names is a key priority, particularly as new global top level domains are launched
- ▶ In addition to traditional advertising media, brand owners are increasingly using **sponsored key word advertising** online. Particular issues can arise when brands bid on competitors' trade marks
- ▶ **Comparative advertising** using competitors' trade marks is popular as brands continue to compete on price. This process can be both time consuming and costly to ensure accuracy and avoid exposing your business to expensive litigation
- ▶ As markets become more globalised, products can inadvertently cross borders and brands must ensure they have the right strategy to tackle **unauthorised parallel imports into the EU**
- ▶ **Protecting innovation** is key. As new products are developed, brand owners need to ensure that timely decisions are made about whether to apply for trade mark, patent or registered design protection and when to enforce such rights through "cease and desist" letters and/or court proceedings
- ▶ Effective protection of rights **should start when you have your first idea**. A full record of your development process puts you ahead in protecting your rights or showing your independent design process if you are accused of copying
- ▶ **Lookalike** or "**copycat**" **own label brands** offer consumers lower cost alternatives to leading brand products. Cases such as **Morrocanoil v Aldi** underline the importance of registering a suite of trade marks and registered designs - passing off laws are unlikely to prevent copycat products unless there is clear evidence of customer confusion
- ▶ **Trade marks** are evolving – exotic marks, such as the shape of products, colours and store lay outs can be registered, for example, **Apple** was able to register its store layout as a trade mark

*Addleshaw Goddard is known for its pragmatic and client-focused advice. The firm puts the client at the centre of its work and delivers advice and a product that is user-friendly.*

# How we can help

## PROTECTING & ENHANCING VALUE

- ▶ Bespoke trade mark and design portfolio management
- ▶ Advising on cross border IP issues, including exhaustion of rights and parallel imports
- ▶ Licensing and franchising of brands
- ▶ Sponsorship and endorsement including brand ambassador agreements with celebrities
- ▶ Bringing and defending claims of IP infringement including design rights, trade marks and patents

## PRODUCT AND ADVERTISING CLEARANCE

- ▶ Clearance advice in respect of:
  - ▶ new designs and own label products
  - ▶ proposed advertising campaigns
  - ▶ the adoption of new brands
- ▶ Customised monitoring and watching services
- ▶ Advice on price comparisons, adverts and promotions

## ADDED VALUE

- ▶ Proven track record of co-ordinating long-term brand protection strategies in the FMCG sector
- ▶ Deep FMCG IP expertise
- ▶ Access to proprietary databases enables searches for earlier designs and trends to knock out invalid designs
- ▶ Dedicated retail & consumer sector hub including bespoke training and seminars; sharing industry know-how and market practices

## MANAGING COSTS

- ▶ Innovative approaches to serial brand disputes
- ▶ Developing bespoke agreed enforcement policies against infringers
- ▶ Embedded Transaction Services Team of paralegals
- ▶ Development of standard precedent suites
- ▶ Sharing industry know-how, market practice and horizon scanning updates

# Who we have helped

We have advised **Benenden Healthcare** in relation to various online trade mark infringements by third parties; **Britvic** on brand management agreements and supplier disputes; and **Diageo** on a global brand ambassador contract with David Beckham in relation to Haig Club whisky. We have also provided IP advice to **British American Tobacco**, **Britvic**, **John West** and **Reckitt Benckiser**.

# Who to contact

## EMMA ARMITAGE

Partner

0207 788 5521

[emma.armitage@addleshawgoddard.com](mailto:emma.armitage@addleshawgoddard.com)



## TIM CARTER

Managing Associate

0161 934 6197

[tim.carter@addleshawgoddard.com](mailto:tim.carter@addleshawgoddard.com)



## PAUL BENTHAM

Partner

0161 934 6337

[paul.bentham@addleshawgoddard.com](mailto:paul.bentham@addleshawgoddard.com)

