

INTELLECTUAL PROPERTY: ALWAYS IN STYLE

Intellectual Property and Brand Protection



Intellectual property exists in many aspects of fashion and beauty products. But if protective steps are not taken then brands can find themselves suddenly out of fashion and unable to take effective action against copycat products. In a competitive market, retailers may find themselves accused of infringement for following the latest trend – but – where is the line drawn?

- ▶ In beauty we continue to see more retailers creating their **own versions of famous beauty brands** which could lead to liability for trade mark infringement or passing off. Our joined up service allows us to assess proposed new designs and new product ranges and give practical advice on avoiding infringement risk.
- ▶ The recent decision in **Coty** has confirmed that luxury goods brands can require distributors only sell their products through websites which meet certain conditions.
- ▶ Brands need to make sure that they maintain a **suite of protective trade mark and design registrations** which not only cover brand names but also shapes, labels and packaging. This provides the best protection against lookalike products.
- ▶ An online presence is a key part of a brand and its retail presence. Securing and protecting important domain names is a key priority. As more global **Top Level Domains** are launched, there has been a growth in cybersquatters. The ability to quickly **take down** websites or listings selling counterfeits or fake sites via hosting providers or ISPs is also key.
- ▶ **Patents** – innovative products may be capable of patent protection, for example, recently a registration for a facial skin care device was held valid. Applications must be made prior to launch to ensure novelty is maintained.
- ▶ As the influence of celebrities has grown, there has been an increase in **collaborations** and **endorsements**. Use of celebrity images without the celebrity's consent carries a risk of a claim for passing off or false endorsement, which may result in liability to pay the celebrity's usual endorsement fee.
- ▶ **Trade marks, design rights and copyright** – some products may be developed from previous styles or inspired by market trends. Copyright and design right may subsist in the shape of garments, products, packaging or the prints used on materials. We can quickly assess where inspiration may have crossed a line.
- ▶ **Infringement** – we have handled 100s of disputes, either where infringement is alleged against a party or denied. We don't fence sit or overly focus on the technical background. We'll tell you if we consider you are likely to win or lose and provide an early financial evaluation.

The team has notable retail and consumer sector expertise, and is particularly experienced at handling brand and design disputes.

How we can help

PROTECTING & ENHANCING VALUE	PRODUCT AND ADVERTISING CLEARANCE
<ul style="list-style-type: none">▶ Bespoke trade mark and design portfolio management▶ Advising on cross border intellectual property issues, including exhaustion of rights and parallel imports▶ Licensing and franchising of brands▶ Recovery of domain names▶ Sponsorship and endorsement▶ Bringing and defending claims of IP infringement including design rights, trade marks, patents	<ul style="list-style-type: none">▶ Clearance advice in respect of new designs and product ranges▶ Clearance advice in relation to proposed advertising campaigns▶ Customised monitoring and watching services▶ Access to a fashion and lifestyle industry designs database providing an integrated IP portfolio service
ADDED VALUE	MANAGING COSTS
<ul style="list-style-type: none">▶ Proven track record of co-ordinating long-term brand protection strategies for fashion & beauty brands▶ Deep sector IP expertise▶ Dedicated retail & consumer sector hub including bespoke training and seminars, sharing industry know-how and market practices	<ul style="list-style-type: none">▶ Innovative approaches to serial brand disputes▶ Early financial assessment of IP disputes▶ Developing bespoke agreed enforcement policies against infringers▶ Use of our embedded Transaction Services Team of over 100 paralegals▶ Development of standard precedent suites

Who we've helped

We provide a proactive and seamless service helping a range of leading businesses with their intellectual property and brand protection needs. Clients include **Grace Cole, Harrods, The Hut Group, Matalan, Primark** and **Sainsbury's**.

Who to contact

EMMA ARMITAGE

Partner

+44 (0)20 788 5521
+44 (0)7872 675496



GEORGINA POWLING

Partner

+44 (0)113 209 7662
+44 (0)7738 023380



TIM CARTER

Managing Associate

+44 (0)161 934 6197
+44 (0)7595 777575



addleshawgoddard.com

Aberdeen, Doha, Dubai, Edinburgh, Glasgow, Hamburg, Hong Kong,
Leeds, London, Manchester, Muscat, Singapore and Tokyo*

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