

READY FOR BUSINESS

Intellectual Property and Brand Protection for Retailers



Intellectual property ("IP") rights are valuable assets to retailers 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 competitive advantage.

- ▶ Online sales continue to grow, and 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 retailers are increasingly using **sponsored key word advertising** online. High profile cases involving Google Adwords have included Interflora v. Marks & Spencer, Lush v. Amazon, Louis Vuitton v. Google and Argos Ltd v Argos Systems Inc.
- ▶ **Comparative advertising** using competitors' trade marks is popular as retailers continue to compete on price.
- ▶ As the influence of celebrities has grown, there has been an increase in **collaborations and endorsements**. Use of celebrity images without their consent carries a risk of a claim for passing off/false endorsement.
- ▶ Importers continue to take advantage of price differentials though **parallel importing**.
- ▶ Discount retailers continue to promote **lookalike or "copycat" own label brands** to offer consumers lower cost alternatives to brands' leading products.
- ▶ Data remains a key asset for many retailers such as information gathered via **customer loyalty schemes**. The use and protection of such data must be carefully monitored.
- ▶ Real time **price matching** such as price comparison websites operate through "data scraping" or "screen scraping" technologies which may infringe database and other IP rights.
- ▶ **Trade marks are evolving** – exotic marks, such as the shape of products, colours and store lay outs might be registrable, for example, Apple was able to register its store layout as a trade mark

Addleshaw Goddard has a give-and-take fluidity which makes the relationship very strong - we can work seamlessly on various activities.

How we can help

PROTECTING & ENHANCING VALUE

- ▶ Bespoke trade mark and design portfolio management
- ▶ Brand protection and enforcement
- ▶ Advising on cross border intellectual property issues, including exhaustion of rights and parallel imports
- ▶ Licensing and franchising of brands
- ▶ Sponsorship and endorsement
- ▶ Bringing and defending claims of IP infringement including design rights, trade marks, patents

PRODUCT AND ADVERTISING CLEARANCE

- ▶ Clearance advice in respect of new designs and own label products
- ▶ Clearance advice in relation to proposed advertising campaigns
- ▶ Advice on price comparisons and potential copyright issues with data scraping and intellectual property issues with promotions
- ▶ Customised monitoring and watching services
- ▶ Access to a fashion and lifestyle industry designs database providing an integrated IP portfolio service

ADDED VALUE

- ▶ Proven track record of co-ordinating long-term brand protection strategies in the retail sector
- ▶ Deep retail IP expertise
- ▶ 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
- ▶ 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 retail businesses with their intellectual property and brand protection needs. Clients include **Argos, Britvic, Dixons Carphone, Co-op, Harrods, Homebase, The Hut Group, Matalan, Primark and Sainsbury's.**

Who to Contact

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