



US Fashion Law INTELLECTUAL PROPERTY CHECKLIST



We have created this checklist to help you think about the different types of intellectual property that may need protection in your business. We are not patent attorneys but we can refer you to a patent attorney if patents are on your list. If you have questions, please do not hesitate to contact us.

Trademarks

Trademarks are one of the best forms of intellectual property an emerging designer can own. Building a brand and utilizing trademark protection is of the utmost importance when designs are released to the public but designers should start using their brand names even before their designs are released. Designers must do their due diligence to be sure no one is using the name they choose for their designs. The fashion industry is defined by famous trademarks such as Gucci, Chanel and Louis Vuitton. It is important for fashion designers to apply for trademark protection of their brand names so consumers can easily identify and know the style of their designs. Some designers can seek copyright protection for artwork applied to their designs. Designers should seek advice of a U.S. attorney who understands trademark law

- File for federal and/or state trademark registration for product names, packaging, slogans, and logos. Make a List of every product name, packaging slogan, logo, characters etc.
- File for service mark registration of company name where possible.
- Check to see that Affidavits of Use have been filed for any existing registrations.
- Record existing trademarks with United States Customs to block importation of infringing goods.
___ Use the “®” symbol only with federally registered marks, and use “TM” for unregistered marks or state trademark registrations.
- Arrange for a trademark watch service to see if others are trying to register similar marks.
- Arrange to keep up with deadlines through a docketing services or pay Schroder Brooks to assist with tracking deadlines for submitting maintenance documents.
- Patents (we can direct you to a competent patent attorney) ___ File provisional or utility applications to protect unique product designs, formulations, or technologies, file as early as possible to avoid filing deadlines that will bar the granting of a patent.
- File design patent applications to protect ornamental designs of products ___ Pay maintenance fees on existing patents. ___ Use “Pat. Pending” where applicable, and mark all patented products with Patent Number ___ Have all employees and outside designers sign agreements assigning all patent rights for any inventions to the company.



Trade Name

- File Fictitious Business Name Statement.
- Check renewal date for existing Fictitious Business Name Statement.

Trade Secrets

- Develop written trade secret policy to maintain secrecy, have employees read and sign.
- Physically secure trade secret information and matters.
- Have employees and vendors sign non-disclosure agreements.

Copyrights

- File for copyright registration for any website, written works, graphics, design, or any other work that might need protection from direct copying.
- Use the “©” symbol, author’s name, and date of the work on all original materials, including catalogs, advertisements, websites, unique product designs, graphics, etc.
- Have all employees and outside designers assign their rights to any original works to the company, and affirm that that all such works are “works for hire.”

Domain Names

- Register all company names and popular product names.
- If feasible, register all variants and common misspellings of main domains.
- Check renewal dates for existing registrations, and sign up for auto-renewal.

Avoiding Infringement

- Conduct Internet searches to find possible competitors and competing products/services to determine if there are any potential infringement issues.
- Perform patent searches for new and existing products and services sold.
- Perform trademark searches for all trade names and product names.
- Register an agent with the Copyright Office for Online Service Providers to receive immunity for online copyright infringement.
- Check your Comprehensive General Liability insurance policies to see if they cover infringement, consider obtaining an intellectual property insurance policy.

Contact Information

Joan Bellefield Davis, Esquire

jdavis@schroderbrooks.com

Direct: (804) 510 – 0709

Office: (804) 510 - 0700 ext. 2

Fax: (804) 510-0707

2310 W. Main Street, Richmond, Virginia