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Retail Therapy

BRANDING LAWS PACKAGED AND GIFT-WRAPPED

1 week ago • by Sharon Givoni • 45 Views



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Written by Sharon Givoni

Only a century ago, the attraction of consumer products was in their practical application. Soap, for example, was originally packaged in anonymous greyish bars and purchased by consumers purely for its cleaning attributes. Now, soap promises so much more – it exfoliates and softens, refreshes and revitalises (Norsca), doubles up as a “beauty aid” (Dove) and is “the natural way to beautiful looking skin” (Pears).

While brands were once just considered an effective way to send a marketing message to consumers, in today’s world of consumerism they sell a promise.

Tiffany’s doesn’t just sell jewellery – it sells status and prestige – elegance and class, Royal Doulton sells more than just crockery, it offers culture and refinement. And, if you receive an Alessi product, whether it be a bottle opener or a salt shaker, you know this is a piece that will last you forever – “Aless is more” as the tagline states on its website.

In addition to their selling power, brands can also be one of the most valuable assets that a company can own. And as this paper attempts to demonstrate, the way you market your brand can have a huge impact on the extent to which you can protect it from a legal perspective and stop others from riding on your hard-earned goodwill and reputation.

How do you choose a good brand for gifts and homewares?

When it comes to gifts and home wares, brand names serve an all-important function as they not only indicate the source of the goods, but also are an indicator of quality.

When considering a good brand – choosing a catchy name is usually good start pointing point.

In order to register a brand as a trade mark, it must be distinctive. This means it must clearly distinguish your gifts and homewares from those of other traders.

So, best to choose a unique name from the outset.

Trade mark searches are crucial

The importance of a trade mark search, preferably, one carried out by an intellectual property lawyer or trade mark or patent attorney, cannot be stressed enough. All too often, people use or invest in a brand only to be stopped in their tracks when they get a letter of demand from a lawyer claiming that their brand is infringing someone else’s rights.

A trade mark search can determine whether use of your mark in Australia might infringe other trade marks which are the subject of earlier or pending registrations.

Even if there are no conflicting marks on the Register, you should consider investigating the relevant market carefully. This can help avoid the cost and potential embarrassment of having to change the mark at a later date.

What is *not* a trade mark?

A relatively common misconception is that a registered business name or company name or even a website gives the registrant some kind of proprietary right to use that name. Not so.

Business name registration is really no more than an administrative precondition, the purpose being to enable members of the public to identify the person who is operating the business.

Company names essentially fall into the same category in that they too are merely procedural and registration does not given the owner of the name any rights to use it exclusively.

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What our firm can do to help

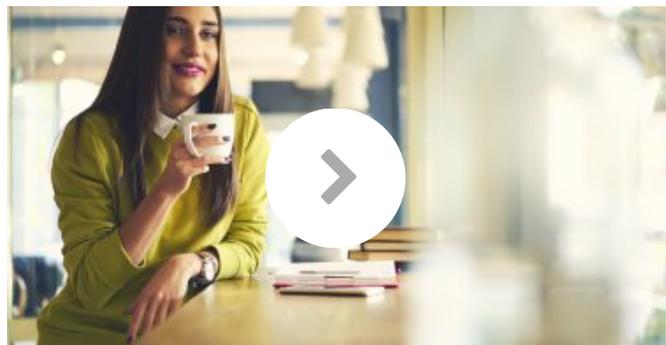
Sharon Givoni Consulting can help you to get the brand protection you need, from assisting with choosing a good name, to clearance searches, registering your trade mark and assisting you in protecting your trade mark in the marketplace.

Disclaimer: This article is of a general nature and not to be replaced with tailored legal advice.

About Sharon Givoni

Sharon Givoni (link to www.sharongivoni.com.au) is a Melbourne-based intellectual property lawyer with clients in the window furnishings industry. She does trade mark and

designs work as well as contracts and copyright advice. Sharon's book *Owning It: A Creative's Guide to Copyright, Contracts and the Law*, available through Creative Minds Publishing (link to www.creativemindshq.com/owningit), aims to demystify the law for creative and small business owners regarding the protection of their designs, trade marks, copyright, reputation, confidential information and other intellectual property. Sharon can be contacted by email (sharon@iplegal.com.au) or called on 0410 557 907 or 03 9527 1334. Her website for "Sharon Givoni Consulting" is: www.sharongivoni.com.au.



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ABOUT THE AUTHOR

Sharon Givoni



Sharon Givoni is a Melbourne-based intellectual property lawyer with clients in the creative industry. She does trademark and designs work as well as contracts and copyright advice. Sharon’s book *Owning It: A Creative’s Guide to Copyright, Contracts and the Law*, available through Creative Minds Publishing (www.creativemindshq.com/owningit), aims to demystify the law for creative business owners. Sharon can be contacted by email (sharon@iplegal.com.au) or called on 0410 557 907 or 03 9527 1334. Her website for “Sharon Givoni Consulting” is: www.sharongivoni.com.au.

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ABOUT THE AUTHOR



Sharon Givoni

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