

Technology Protection

Patent Procurement

Trademark Registration

Copyright Registration

Licensing and Technology

Transfer

Manufacturing Agreements

Trade Secret Protection

LAW OFFICES OF TRACY
P. JONG

2775 Buffalo Road, Suite 3
Rochester, NY 14624

Phone: (585) 247-9170
Fax: (585) 247-9171
www.RochesterPatents.com

Protecting Your Business Investment in Marketing and Packaging: Where Marketing and Intellectual Property Merge



TPJ LAW OFFICES OF
Tracy P. Jong
PATENT AND TRADEMARK ATTORNEY

Tel: (585) 247-9170

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Protecting Your Business Investment in Marketing and Packaging

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Legal Limitations

There are many legal limits on the ability to create marketing campaigns for businesses. For example, limits are created by patent law, copyright law, trademark law, rules concerning domain names, contractual provisions, rights of publicity, rights of privacy, various property laws, moral rights (rights of attribution), and a host of other laws and regulations.

Valuable Business Assets

We don't often think of product packaging and marketing materials as "works of art." However, they are creative endeavors (works of art) with monetary value to their owners. This work is property of the business, often referred to as intellectual property. Protection of that property may be a valuable business tool.

Authors and artists make many choices in creating original works. They choose their subjects, locations and materials. They apply their creative ideas and style to create original expressions and images. They bring "life" to a story and world created by a collection of words and images on paper.

Your marketing efforts may be entitled to protection under federal copyright and trademark laws. In some cases, design protection under patent, trademark or copyright law may be available for product or packaging design elements.

Trademark Protection

Trademarks protect the consumer from confusing other brands with your brand of product. Put more simply, you want consumers seeking to purchase your brand of product to be able to easily identify it from all of the others in the marketplace; you do not want them to mistake an inferior quality copycat for your product. While trademark rights may be used to prevent others from using a confusingly similar mark, they will not prevent others from making or selling the same goods and services under a clearly different mark (That requires patent protection). Trademarks are used for brand names, store names, product line names, logos, packaging, colors, sounds and even shapes of products.

Why register a trademark?

Trademarks protect the public from confusion and protect the trademark owner from losing his market. Trademarks serve several functions in the modern marketplace:

- indicate origin of your product or service allowing customers to easily identify your brand from others in the marketplace.
- indicate to your customers an assurance of quality.
- marketing and advertising device to develop and protect your market.

Once registered, trademarks cannot be used by anyone else for the same goods or services for which the trademark is registered. If they are, then the companies can take immediate action to prevent further infringement and seek damages.

Copyright Protection

Copyright protection may be afforded to things such as product packaging, product inserts (e.g. directions), product labels, websites, and advertising materials.

If copyright protection exists without federal registration, why bother?

Registration provides notice to the potential infringer, eliminating this popular defense. Additionally, copyright damages are notoriously difficult to prove. Registration allows the owner to alternatively get statutory damages. Lastly, an owner of a registered copyright can recover attorneys fees in an infringement action.

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