

Design and Trade Dress Counseling

One of the most compelling aspects of a product is how it looks and feels to the customer. Rothwell Figg's Design and Trade Dress Counseling practice is a tightly-knit team of attorneys focused on defining and protecting this critically important aspect of a product. Within this subject area, we have special experience in, and knowledge of, design-related issues pertaining to luxury products, particularly watches.

In the past decade alone, we have secured hundreds of design patents and trade dress registrations for clients, including for many world-famous luxury products. Along the way, we have also acquired unrivaled experience in trade dress issues, as well as a deep understanding of how the two issues interact. And perhaps most importantly, our team has litigated, negotiated, and ultimately, concluded, countless disputes, including among and between global companies, centered upon the parties' rights, and unisons of protectability, for product designs, packaged trade dress, and product configurations.

We are known for taking a strategic, thoughtful approach to our practice. First, we strive to bring no preconceived notions to engagements, or to try to fit clients' needs into categories. Instead, we work with clients to understand what they want to protect, and why. It is one thing for your lawyers to suggest a design for legal reasons. It is another to understand exactly what a company needs to accomplish and to help them find a way to make it happen.

We do a lot of listening. We provide a business-oriented, holistic approach. We understand the complexities of intellectual property protection and are able to devise innovative, alternative strategies when necessary. This means first asking about the key elements, and what the client believes are its strengths and weaknesses. Any firm can craft an aggressive action plan for any design. Sometimes this is the right approach, and often one we will recommend. But sometimes the most effective approach involves less obvious legal steps which might include measures which are more defensive and aimed at avoiding conflict with competitors.

Trade dress and design questions are often global. A major part of our role is helping clients understand which laws apply to their situation, and helping them think through how this speaks to their competitive strategy. There is an ongoing international effort to harmonize the regulations about designs, which are currently treated substantially differently between Europe and the United States. We routinely advise our domestic clients about the situation abroad, which keeps us in touch with these international issues. We also guide clients, including those from abroad, with respect to situations which affect only the U.S.

We help our clients, both U.S.-based and international, to understand and manage the type of protection afforded to designs in the United States, and evaluate the technical aspects to take into consideration when filing a design application. For example on a substantive level, these may be issues relating to novelty and publication requirements, or on a more technical level, U.S. guidelines and requirements on drawings. We help clients doing business worldwide navigate the different laws and regulations which may apply in countries all over the world.

More than perhaps other IP disciplines, Design and Trade Dress issues are fields in which experience is of paramount importance. The Rothwell Figg Design and Trade Dress team draws upon long and deep experience, in virtually every type of product, in virtually every market in the world. By leveraging this experience, we can both help our clients deal with current issues, and anticipate and avoid potential issues in the future.