

Industrial Designs, Patents, and Trade Dress Infringement

Successful designs are routinely imitated. Competitors or deliberate infringers often believe that they can, with minor variations, design around an existing design to sidestep infringement. Successfully countering efforts to hijack, and profit from, a good design takes experience, judgment, strategic thinking, and identification of the border between infringement and inspiration. This is not easy. It is often a moving target.

The attorneys of Rothwell Figg's Industrial Designs, Patents, and Trade Dress Litigation practice rely on decades of experience to protect against unlawful copies of many types of goods. We have a long-term commitment to the luxury goods industry, with a particular focus on designer clothing, shoes, handbags, and accessories, as well as luxury watch brands and jewelry. We are also able to understand other product categories and markets, from mid-level to upscale. Our knowledge and background have included almost every imaginable industry, from manufacturing to food service and hospitality.

Our efforts in securing protection for trade dress and designs (design patents in the United States, widely referred to as "industrial designs" in many other countries) keep us in tune with how the market evolves. This helps make the process of identifying and attacking infringements more seamless. An essential step in countering infringement is the nuanced and judgment-powered ability to know an infringement when it exists, and communicate to a court why and how an infringement is occurring.

This work, taken in combination with our parallel work identifying and attacking infringing and counterfeit trademarks, has invested our attorneys with industry-leading experience. We can frame the parameters of product and package design – trade dress – and infringements of the ornamental product and packaged designs which are covered by United States design patents. Our lawyers are skilled at identifying and communicating the boundaries of trade dress, and working effectively with the precise definitions and highly specific concepts that legally protectable product and package design rest on. Nobody knows this territory and terminology better than we do.

By properly navigating the complicated requirements needed to effectively communicate a trade dress or design patent's infringement to a court, we help our clients to pursue the results their businesses demand – to require competitors to stop capitalizing on our clients' protected registered and unregistered rights.

The benefits of this are multifaceted. First and foremost, of course, we stop damaging infringements. Second, our ability to go after parties who appropriate trade dress for their own benefit is also a powerful deterrent to other would-be infringers in the future.

We have taken trade dress and design patent cases to courts across the country, and when called upon, have also used our extensive network of highly experienced specialists to take a challenge to an international scale and attack infringements outside of the United States. Wherever infringement occurs, and whoever is behind it, we have the team to pursue them. Whether the product at issue is watches, handbags, food products, household cleaning items, sporting goods accessories, or any of a host of

other things, we have gone to court to successfully protect product shapes, packaging, and designs. And in so doing, we have protected clients' businesses.

Trade dress and package and product design are a customer's first, and often most significant, impression of a product. By ensuring the integrity of this important first branding experience, we help our clients also ensure that what's on the package accurately communicates what's in it, and that consumers aren't misled.