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Practice Group:
Intellectual Property

New Fashion Brand? Key Considerations Before Launch

By Lisa Egan (LE) and BRR Media (BRR)

Before launching a new fashion label there are a number of decisions for brands to make. When should designers launch into the manufacturing and promotion of products? Do the key considerations differ if you are launching a label with a friend? What should you look for when sourcing manufacturers and retailers? Lisa Egan, Partner at K&L Gates, shares her tips on the most important considerations to ensure long term success.

BRR **Joining us today is Lisa Egan who is a partner at K&L Gates in the Intellectual Property team. We are looking at some of the issues that arise for fashion designers in the early stages of business. Now Lisa, assuming that you have the preliminary designs, logo, brand name and website ready to go, can designers launch straight into the manufacturing and promotion of products?**

LE Well they can Kate but there are obviously risks in doing that. I think obviously getting the products right is the first key and it's very tempting to then jump straight in, but really the designer should take a step back to make sure they've got the right set up for their business. A lot of people who are starting up a small business start as a sole trader, but there's other ways of really establishing your business to make sure that you better protect your own position, and to separate your own assets from those of the business. Things like setting up a company to actually run the business through and those kind of things to make sure that you actually have a really good established business structure right at the outset. Obviously that's a sort of niche, you can consult with professionals to get a bit more advice about it.

BRR **Certainly, what about if you're not commencing the label alone? What if you're commencing the label with a friend, do the considerations differ at this point?**

LE Yes they do and I think it's probably even more important to have a think about how you want to set the business up when there's more than one of you. Again, it can be very exciting if there's two of you who've been working on something and you're ready to launch a product to the world, a lot of the - I guess is considered the more boring stuff of setting up the business - can be forgotten. It's really important to have a structure in place so that you both understand, or if there's more than two of you, you all understand exactly who is going to own what, who owns the brand, is everything shared jointly, how are you going to split profits, and who is going to be responsible for what sort of jobs within the business. It's really ideal if you can get an agreement in place. Even if you are the best of friends and you've known each other forever, if you have something in writing at the outset that sets out how the business is going to work, that's going to stand you in really good stead to get the business off the ground and also to help you through both the good times and bad times within the business.

BRR **Well speaking about getting the business off the ground, what about**

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when it comes to looking for manufacturers and retailers, are there special considerations here?

LE Again it comes down to making sure the paperwork is in order. Dealing with manufacturers and retailers is going to be really critical to your business and you want to make sure you've got really good relationships with those suppliers and retailers. You need to think about things, for example, like what happens if your supplier goes under? If they have some of the product, do you have a right to get that back? Sometimes the answer will be 'yes' and sometimes 'no', depending on who owns the product and how the contract has been set up. So again, thinking about those things at the earliest possible stage and being really proactive about it is important. The credit terms that you're going to have with retailers, if they're going to require certain minimum orders from you, you must consider if you can fulfil those orders from the logistics point of view. Also, just as really good business practice, make sure that you really stay in touch with your customers and your suppliers on a regular basis. This is so that you maintain those relationships and you know how they're presenting your brand and your products in the market, and so that you've got quality control on the supply side.

BRR Yes makes sense. Is there any other advice that you'd offer people looking to launch?

LE I think you know all of this can seem pretty daunting, and obviously you know there's money to be spent in getting some of this stuff right, but it's usually a lot more cost effective to do it at the very beginning. Spend a little bit at the start rather than trying to undo problems down the track. In thinking about all of those things, it's also important to consider registering your trade mark as a brand and securing your domain names on social media, and URLs that might be important. Your designs can also be protected under the registered design scheme, and that's also another really important way of making sure that you've got protection if people do copy you. If you're using, for example, contractors to help in some of the graphic design or design work, make sure you've got very short agreements in place with them to make sure you own everything. So again, while you know it can seem daunting, if you get the right advice and set yourself up from the very beginning, they are the businesses that are usually more successful. You'll always make mistakes along the way and learn things as you go but the better position you can put yourself in at the very beginning then the more chance of success you're going to have.

BRR Some really wise words there Lisa, thanks so much for joining us.

LE Thanks Kate.

BRR That was Lisa Egan, who is a partner in the Intellectual Property team at K&L Gates. Listeners, if you have any questions or queries for Lisa you can send them through either using the panel on your screen or otherwise via email to law@brrmedia.com.

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