



## HGF: Retail training programme 2015

Creative coincidences: designs, copyright and cases emerging from IPEC

Duration: 1 hour

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Once a relatively slow developing area of law, design cases are ever-increasing as rights owners flock to the IPEC to take the benefit of its streamlined procedures and cost caps.

This module will look at:

- *John Kaldor v Lee Ann Fashions, DKH Retail v H Young (Operation) Limited* and many of the other recent cases contributing to raising the status of designs as a formidable form of protection
- practical advice on the interplay with copyright
- implications of the changes introduced by the Intellectual Property Act 2014 and how these are being applied in the courts.

Damage limitation: how to argue for more (or less) damages in retail disputes

Duration: 1 hour

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Almost every retailer has occasional clashes with other retailers or suppliers over brand and design infringements. The key elements of liability are relatively well known but the law and practice of assessing damages is much less frequently understood.

This module will:

- enable retailers, when claimant, to know how to maximise recovery and, when defendant, how to minimise payment
- look at the core principles and recent helpful cases in this area such as *32 Red plc, Holister v Medik* and *Henderson v All Around the World Recordings*.

## Preparing for the Future Today: Wearable technologies, 3D printing and In-Store Technology

Duration: 1 hour

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From wearable technologies to immersive in-store experiences, emerging technologies are impacting on a growing number of retailers, raising new issues in the IP arena. A fresh approach to protection is required.

This module will consider:

- patent, design, copyright and trade mark strategies
- specific issues for future-proofing such as drafting specifications
- the opportunities to use non-traditional marks.

## Logos and lookalikes

Duration: 1 hour

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In 2013 the Intellectual Property Office published the results of an in-depth examination of the problems created by lookalike packaging. Whilst lookalikes have been an issue for decades, following the much publicised Puffin/Penguin case, the way in which the courts apply the relevant principles of trade mark, designs and passing off continues to develop and evolve.

This module will look at:

- where the courts will draw the fine line between the permissible packaging and the unacceptable “rip off”
- the key principles articulated in recent cases on lookalikes such as *Ralph Lauren v Chunk Clothing*, *Jack Wills v House of Fraser*, *Specsavers v Asda* and *Moroccanoil v Aldi*,
- the applicable law and directives and explain the particular issues that need consideration when developing a new logo or packaging and when assessing the merits of an infringement claim against third parties.

## Social climbing: the use and abuse of IP rights in social media and e-commerce

Duration: 1 hour

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Retail advertising and marketing is increasingly taking place on social media and online markets are proving both a growing opportunity and a developing problem.

This session considers:

- the issues which arise, including brand disparagement on Twitter, Facebook and other media
- the online sale of counterfeits and the problems of policing and enforcing trade mark rights in online marketplaces such as Amazon, Alibaba and eBay, as well as the impact of recent decisions such as *Lush v Amazon*.
- suitable mechanisms for dealing with “anti-social” behaviour and developing cost effective processes for online brand management
- how to use the Notice and Takedown Procedures in the key online markets
- the implications of the decision in *Richemont International S.A. and others v British Sky Broadcasting*

Every little helps: the impact of the '*Clubcard*' decision on the registrability of (arguably) descriptive brands.

Duration: 1 hour

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Many retailers use brands with a significant descriptive component. It is always tempting to do so as a fast and reliable way of ensuring that the consumer understands the nature of the goods and services which are being offered. This session;

- considers recent decisions including, in particular, the decision of the Appointed Person in *Clubcard*
- assesses the potential pitfalls of this using brands with a descriptive element
- provides practical guidance on how best to secure trade mark protection in these circumstances.

Retail wars: the power of comparative advertising

Duration: 1 hour

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Consumers' pre-occupation with value is prompting many retailers to consider running their own campaigns and to ensure they know how they can fight back when they are the target of a competitor's campaign. The recent battle between Sainsbury's and Tesco over Tesco's "Price Promise" advertising campaign has provided a great deal of helpful guidance into the key do's and don'ts in this area.

In this module we will

- look at the applicable regulations
- explain what is fair and what is impermissible in a comparative advertisement
- offer practical guidance on how to run an effective and lawful campaign.