

# *IP in Retail*

## 2019

Tuesday  
24th September

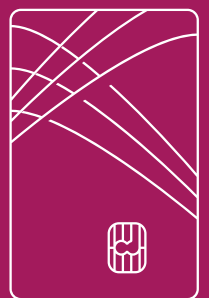
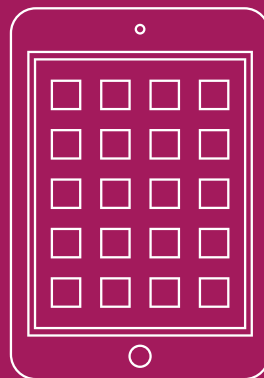
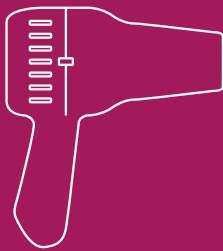
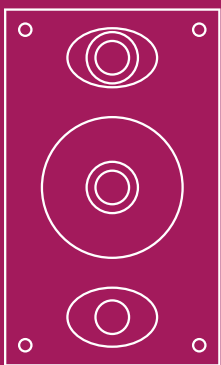
**Leeds**

HGF, 1 City Walk,  
Leeds, LS11 9DX

Tuesday  
1st October

**London**

Royal Society of Chemistry,  
London, W1J 0BA



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# Programme

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## **8.30am – 9.20am**

Registration, breakfast and welcome

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## **9.20am – 9.50am**

Collaborating with confidence – *Martyn Fish*

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## **9.50am – 10.20am**

Position brands, me-toos and anti-counterfeiting post-Louboutin – *Alexander Hagen*

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## **10.20am – 10.50am**

Break

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## **10.50am – 11.20am**

Comparative advertising - getting it right in 2019 – *Antony Gold*

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## **11.20am – 11.50am**

Geo-blocking, cross-border sales and the Guess decision – *Michelle Davies*

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## **11.50am – 12.20pm**

*Big Mac – Big Problem*. Proving trade mark use and reputation in a digital age – *Lucy Pope*

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## **12.20pm – 1.00pm**

Lunch

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## **1.00pm – 1.30pm**

Artificial intelligence and retail 2.0 – *Lee Curtis*

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## **1.30pm – 2.00pm**

Third party use of your brands. *Nomination* and beyond - where is the line drawn? – *Rebecca Field*

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## **2.00pm – 2.20pm**

Break

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## **2.20pm – 2.50pm**

*Sky v Skykick UK* and the benefits of a lean trade mark filing strategy – *Richard Wylie*

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## **2.50pm – 3.20pm**

Keeping pace with change – *Lauren Somers*

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## **3.20pm – 3.40pm**

Global developments in the trade mark field – *David Potter*

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## **3.40pm – 3.45pm**

Close



# Welcome

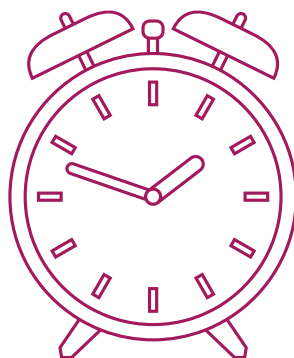
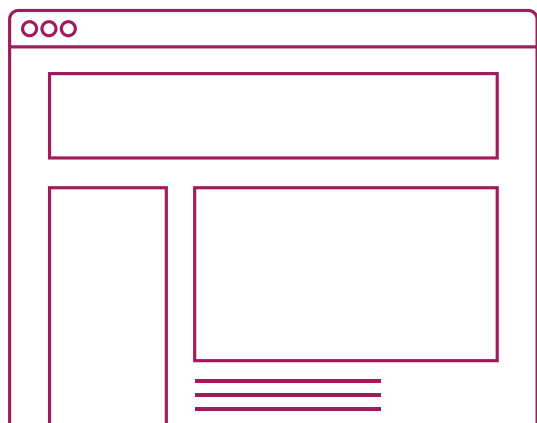
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A bumpy and uncertain year ahead for UK consumers means that many retailers are adapting and innovating, both in-store and online, in order to retain market share, as well as responding to consumer-driven trends such as recommerce, personalisation and social influencers.

As retail models develop and change, the role of intellectual property will remain central to many strategies. In *IP in Retail 2019* we consider the IP dimension of current trends and issues in the sector. We look forward to you joining us.

*8.30am – 9.20am*

Registration and breakfast



## Agenda

9.20am – 9.50am

### Collaborating with confidence

Collaborations between brands are a fast-growing phenomenon in retail, with key partnerships last year including Adidas with Pharrell Williams, Louis Vuitton with Supreme, Go Pro with Red Bull and Ford with... Tinder.

But, whilst collaborations are often designed to have a limited life-span they can have potentially long-lasting and unwanted consequences if the correct contractual framework is not adopted. We look at the best way of structuring collaborations and discuss potential pitfalls.



#### Martyn Fish

Martyn leads the IP litigation team at HGF. He has considerable experience of providing advice on all areas of IP law and has acted in a number of high profile IP disputes for retailers.



*9.50am – 10.20am*

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## Position brands, me-toos and anti-counterfeiting post-Louboutin

Last year we explained the key elements of the recent Court of Justice decision concerning the Louboutin red sole. This year, we evaluate position marks in the post-Louboutin world and their value in anti-counterfeiting and brand protection strategies, both in the EU and beyond.

*10.20am – 10.50am Break*



### Alexander Hagen

Alexander is a Benelux & European trade mark design attorney and works for clients from start-ups to global sports, fashion and technology brands. His fortes are design IP management, design and branding strategies, anti-counterfeiting, cross-border litigation, conflict advice, structuring, due diligence and licensing.





# 10.50am – 11.20am

## Comparative advertising – getting it right in 2019

Comparative advertising can be an especially potent way for retailers to explain to consumers why their products and services are better and/or more competitively priced than those of their rivals.

However, the potentially significant adverse consequences of running a non-compliant ad campaign mean that it is relatively under-used.

Compliance need not be too daunting! We explain the key criteria for running a successful and safe campaign and assess the guidelines available in this respect in recent rulings by the Advertising Standards Authority.



**Antony Gold**

Antony heads the retail team at HGF. He is a lawyer who works with many leading retailers across all fields of IP including branding, online, advertising and infringement. Antony acted for Specsavers throughout its widely reported dispute with Asda, the outcome of which significantly developed a number of important areas of trade mark law for retailers.



*11.20am – 11.50am*

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## Geo-blocking, cross-border sales and the Guess decision

EU Regulation 2018/302 which came into effect on 3rd December 2018, put an end to unjustified Geo-blocking.

This Regulation, coupled with the fine of almost €40 million levied by the Commission in December 2018 on the clothing brand Guess for incorporating anti-competitive restrictions in agreements with its authorised retailers, means that the world of online retail is undergoing major changes.

We look at the key elements of the new Geo-blocking Regulation and the Guess decision and suggest some dos and don'ts for retailers in this rapidly changing landscape.



**Michelle Davies**

Michelle is an experienced solicitor and transactional IP specialist, working regularly within the retail and commercial sector to provide specific advice on commercial contracting, T&Cs, data privacy and other consumer facing responsibilities.





*11.50am – 12.20pm*

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## *Big Mac – Big Problem. Proving trade mark use and reputation in a digital age*

The opportunities for establishing reputation and use by capturing and analysing readily available online data have expanded significantly. However, recent cases such as *Big Mac* have shown the potentially fatal consequences of not providing accurately targeted and relevant data.

What do you need, who has the information and how best to get and present it? We provide practical guidance on how to make the most effective use of data in order to prove reputation and use of a mark.

*12.20pm – 1.00pm Lunch*



**Lucy Pope**

Lucy is a trade mark attorney with in-house as well as private practice experience. Her practice has focused on managing international trade mark portfolios for global brands, and her expertise covers brand searching and clearance, dispute resolution and all aspects of trade mark and domain name portfolio transactions and management.





*1.00pm – 1.30pm*

## Artificial intelligence and retail 2.0

At our 2017 retail conference we explored an issue likely to be of increasing importance to retailers, namely the impact of artificial intelligence on brands and brand enforcement.

Since then, the mapping of trade mark rights against a rapidly changing technological landscape has become more complex. The growth of voice-generated searches, the mixture of AI and humans in the marketing of retail services with AI-driven changes in the retail environment requiring retailers to recalibrate the scope of protection afforded by trade mark rights.

We explore recent developments and provide practical advice on how AI will impact trade mark law and enforcement and how retailers can best adapt their brand protection policy to take account of them.



**Lee Curtis**

Lee is a trade mark attorney who focuses on supporting clients in the retail sector and works with many leading brands. Lee has a particular interest in multi-jurisdictional trade mark issues and has extensive experience of working with retailers in protecting intellectual property in their supply chain.



1.30pm – 2.00pm

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## Third party use of your brands. *Nomination* and beyond – where is the line drawn?

In what circumstances can competitors lawfully use your trade marks?  
What are the boundaries for retailers?

A recent case, *Nomination*, considered this issue in the context of UK exhaustion of trade mark rights, which can be of crucial importance to many retailers. We will review the current state of the law, outlined in a number of recent decisions including BMW, as well as providing practical guidance on repackaging, product and third-party brand referencing, and the wider “fair-use” of competitors’ trade marks.

2.00pm – 2.20pm *Break*



**Rebecca Field**

Rebecca is a trade mark attorney who actively manages the trade mark and design portfolios of retail and fashion clients. Rebecca also files domain name actions and deals with custom notices in relation to counterfeit goods. Rebecca has experience of working with retailers in protecting IP across the globe, notably in China and the US.





2.20pm – 2.50pm

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## *Sky v Skykick UK* and the benefits of a lean trade mark filing strategy

The High Court decision last year in *Skykick* looked in some detail at whether it constituted bad faith when the owner of an EU or national trade mark application files an application with no genuine intention to use the trade mark on all of the goods/services covered by the application.

Over-wide filing programmes, particularly for larger and more prominent retail brands, have been relatively common in the retail sector. Is there likely to be a major change in approach post-*Skykick*? What does a good filing strategy look like now?



**Richard Wylie**

Richard is a trade mark attorney who works for clients across a range of industries including retailers and other industry leading consumer brands. Richard's experience includes providing clients with strategic advice for brand management and protection.





# 2.50pm – 3.20pm

## Keeping pace with change

Change at all levels within retail, particularly technical and commercial, is creating new challenges for retail brands. For example, the evolution of new smartphone apps means that a new phone can simultaneously also be a camera, a computer, or even a diagnostics device.

As a consequence, the convergence of technologies means that products and specifications which were previously not conflicting can now do so. This can impact on the scope of searching, monitoring and brand protection, as well as impacting on co-existence agreements. Similar issues can arise with the proliferation of in-store experiences and concessions, which can hugely change what might be regarded as “confusingly similar”.

What is the best way of future proofing IP portfolios, co-existence agreements and brand protection policies? We look at the issues and suggest some answers.



**Lauren Somers**

Lauren is a trade mark attorney who works with a varied range of retail clients, from fashion and cosmetics to consumer electronics and automotive products. Lauren has delivered IP training to the management, marketing and design teams of a number of leading UK retailers, and provides strategic IP portfolio management advice.



*3.20pm – 3.40pm*

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## Global developments in the trade mark field

And finally, we will provide a guide through the most important global developments in trade mark protection, including recent law changes in China, Canada and India, as well as a brief forecast of the UK landscape in the year ahead.



**David Potter**

David is head of the trade mark team at HGF and advises clients on the protection and management of their trade mark portfolios, encompassing all aspects of trade mark protection. David has over 20 years' experience of working with major brands.

*3.40pm – 3.45pm Close*



## *About HGF's Retail Team*

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HGF is one of the largest full-service IP firms in Europe with over 200 IP professionals and 21 offices across the UK, Ireland, the Netherlands, Germany, Austria and Switzerland.

Our Retail Team acts for a growing number of the UK's high street and international online brands and offers a full range of IP services in retail and fashion including advising on social media, e-markets, advertising and design clearance, rebranding and portfolio management plus online / bricks and mortar brand protection.

Our LinkedIn groups, Retail+IP, Fashion +IP and Food&Drink+IP have over 7,000 members and are designed to bring together those in retail and fashion to discuss stories, recent IP development and legal updates.

-  Retail+IP
-  Fashion+IP
-  Food&Drink+IP
-  @hgf\_IP



# Strategic protection by IP specialists



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HGF offer a fully integrated IP solution, bringing together over 200 patent attorneys, trade mark attorneys and IP solicitors across Europe.

HGF has teams of specialists across strategic business units with experience and expertise covering chemistry, engineering, electronics and life sciences.



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