Financial

Patent Protection Gains Traction in Accessories

By Dawn S. Kissi

Patent protection is an important, and often overlooked, strategy for companies to consider.

Trademark and copyright protections are frequently used by apparel designers, but they apply only to limited areas of intellectual property. For some product categories, particularly accessories, patent registrations can be an unexplored avenue of defense against knockoffs and counterfeits, according to Robert Katz, partner at Banner & Witcoff, a national law firm that specializes in intellectual property.

"Traditionally, fashion-related products are particularly susceptible to being copied. Therefore, appropriate consideration of new products for design patent protection should routinely be given," he said. Typically, utility patents are directed to protecting functional innovations and design patents protect the ornamental appearance of items, Katz said.

The protections offered by both types of patents exclude others from making, using, selling, importing and offering to sell infringing products, but the terms of protection are different, he said.

Utility patents can be enforced from the date they are granted and expire 20 years from their date of filing. Design patents, however, have a term of 14 years from their date of issue. That is about to change in the U.S. The term of protection for a design patent will increase to 15 years soon in accordance with an international treaty.

When applicable, design patents are typically one of the strongest forms of protection for products that are purchased partly for what they look like, Katz said.

When considering a design patent, application companies should look at a product's fabric patterns or other surface ornamentation, its shape (including layouts and overlays of panels and sections), and combinations of its surface ornamentation and its shape. In some cases more things beyond just the primary article could also be eligible for protection. This would include product packaging, storefronts, store interiors, affiliated products and Web pages, which are all potentially eligible, Katz said.

"In the fashion industry, commercially successful products are routinely knocked off. Any company that does not procure design protection on its commercial goods likely gives up the right to stop competitors from making and selling knockoffs of their products. This commonly results in the original designs having to compete in the marketplace with the knockoffs," Katz said.

Trademark laws can be used to prevent knockoffs, but they have limitations. Trademark protection only covers the trademarks a company uses to identify its goods and not what the items look like or how they are manufactured. For example, under the law, a handbag that is identical to that of a well-known brand is only a counterfeit or knockoff if it bears a fake trademark. The identical bag under another name or without any trademark is not considered illegal.

"The creators of new designs should look to maximize protection under the design patent laws, but should also give proper consideration to maximize protection under the trademark laws," Katz said.

Weekly Stocks

52-WEEK HIGH	52-WEEK LOW	RETAILERS	P/E	VOLUME (000'S)	AMT LAST	CHANGE
85.77	67.72	Abercrombie & Fitch (ANF)	14.8	19525	74.65	-5.33
29.00	21.19	Acadia (AKR)	43.9	1988	24.12	-1.95
31.88	18.29	Aéropostale (ARO)	16.9	25076	26.08	-0.16
26.23	20.92	Alberto Culver (ACV)	28.9	5257	24.09	-0.51
3.45	1.45	Alpha Pro Tech (APT)	13.3	748	1.60	0.00
34.80	19.42	American Eagle (AEO)	10.5	77001	18.93	-1.62
39.92	24.48	Ann Taylor (ANN)	12.7	26654	23.14	-2.12
8.61	2.49	Ashworth (ASHW)	-	498	3.26	0.62
42.51	31.95	Avon (AVP)	29.6	68624	39.05	-0.94
12.80	2.02	Bakers (BKRS)	-	282	2.26	-0.20
19.92	11.71	Bebe (BEBE)	15.9	10262	11.76	-1.11
38.42	28.67	Benetton (BNGPY)	45.0	0	34.20	-1.70
18.00	13.30	Big Dog (BDOG)	-	409	13.46	-0.99
9.60	5.67	Birks & Mayors (BMJ)	5.4	6	5.85	-0.15
39.15	28.02	BJs (BJ)	18.5	25991	27.54	-6.64
2.65	0.50	Blue (BLUE)	-	102	0.60	0.01
1.38	0.66	Bluefly (BFLY)	-	1592	0.78	0.01
57.66	7.10	Bon-Ton (BONT)	4.8	10686	6.65	-3.32
37.68	13.28	Brown Shoe (BWS)	9.6	12172	12.22	-3.22
43.71	30.86	Buckle (BKE)	13.5	5506	30.95	-3.25
25.10	8.65	Caché (CACH)	24.1	5062	9.24	-0.68
28.28	14.05	Capitalsource (CSE)	12.9	22408	17.23	-0.21
29.00	18.35	Carter (CRI)	-	5323	18.05	-1.85
13.82	4.58	Casual Male (CMRG)	4.2	4817	4.22	-1.11
25.66	13.18	Cato (CTR)	9.9	3912	14.59	-1.71
50.36	23.06	CBL (CBL)	20.6	9907	22.19	-1.69
12.12	8.51	CCA (CAW)	13.7	62	9.15	-0.55
8.03	2.12	Charles & Colvard (CTHR)	16.6	1270	2.05	-0.14
33.93	12.27	Charlotte Russe (CHIC)	10.9	11642	14.35	-1.52
14.44	4.93	Charming Shoppes (CHRS)	10.1	38339	4.82	-0.59
77.77	49.90	Chattem (CHTT)	28.4	2925	72.87	-2.48
48.76	29.50	Cherokee (CHKE)	8.1	1628	30.56	-2.14
27.94	8.45	Chico's (CHS)	11.6	54459	8.03	-1.06
60.97	20.56	Children's Place (PLCE)	16.1	10339	23.13	-2.62
21.17	10.76	Christopher & Banks (CBK)	14.6	7094	10.36	-0.80
42.89	31.14	Cintas (CTAS)	15.8	13335	31.61	-2.57
48.00	13.25	Citi Trends (CTRN)	12.3	3613	13.74	-1.92
54.00	29.22	Coach (COH)	16.2	75164	28.09	-2.38
25.69	6.00	Coldwater Creek (CWTR)	18.2	17262	5.82	-1.00
81.27	63.75	Colgate Palmolive (CL)	23.5	33324	78.78	0.04
70.93	42.18	Columbia Sprtswr (COLM)	11.2	8138	40.34	-4.48
32.19	16.10	Conns (CONN)	10.4	3312	15.73	-1.89
72.68	51.52	Costco (COST)	26.9	49027	65.65	-4.57
75.21	21.50	Crocs (CROX)	20.0	91925	32.75	-5.20
12.30	5.17	Culp (CFI)	-	477	8.00	0.74
2.58	0.52	Cygne Designs (CYDS)	-	68	0.79	-0.01
166.50	55.98	Deckers Outdoor (DECK)	43.9	6790	141.99	-18.20
10.95	2.21	Delia's (DLIA)	-	1161	2.55	-0.13
19.99	6.06	Delta Apparel (DLA)	22.6	318	6.84	-0.31
9.13	5.50	Delta Galil (DELT)	-	10	6.25	0.13
72.33	36.55	Developers Diversified (DDR)	19.8	19570	35.34	-2.35
40.56	15.52	Dillard's (DDS)	8.3	36282	16.27	-2.51
24.65	11.69	Dress Barn (DBRN)	7.8	35765	10.81	-2.08
44.71	17.05	DSW (DSW)	10.9	5125	17.20	-1.81
41.64	26.00	Duckwall-Alco (DUCK)	30.2	71	24.50	-7.17
14.27	5.50	Eddie Bauer (EBHI)	-	5369	4.89	-1.52
28.05	17.41	Elizabeth Arden (RDEN)	14.1	1948	19.26	-0.92
52.31	38.41	Estée Lauder (EL)	20.4	32627	41.87	-1.94
35.42	17.45	Family Dollar (FDO)	10.8	39581	17.00	-1.99
14.60	2.16	Finish Line (FINL)	7.1	22768	1.75	-0.55
25.87	20.05	Forest City (FCY)	29.1	83	23.50	1.50
46.25	20.98	Fossil (FOSL)	25.6	13575	35.97	-6.71
15.74	9.20	Freds (FRED)	15.2	9988	8.70	-1.15
44.46	34.81	G&K (GKSR)	17.3	1296	36.59	-1.49
30.73	11.65	Gaiam (GAIA)	82.9	2665	26.31	-2.47
22.02	15.20	Gap (GPS)	20.4	138091	19.66	-1.70
67.43	38.24	General Growth (GGP)	31.0	45556	36.66	-3.89
54.15	24.98	Genesco (GCO)	20.1	5285	33.00	-5.50
26.74	11.94	G-III Apparel (GIII)	13.1	984	13.90	-1.55
46.47	23.11	Gildan Activewear (GIL)	38.2	7482	39.85	-1.76
29.69	13.77	Glimcher (GRT)	-	3156	13.71	-0.31
15.37	2.65	Gottschalks (GOT)	-	2535	2.36	-0.96
57.20	32.02	Guess (GES)	18.7	21654	35.30	-3.67
45.95	28.17	Gymboree (GYMB)	10.6	23581	26.69	-3.10
20.25	12.00	Hampshire (HAMP)	79.4	36	12.90	0.44
33.73	23.80	Hanesbrands (HBI)	-	10485	24.33	-3.51
8.69	3.02	Hartmarx (HMX)	40.5	1085	3.30	-0.02
29.26	15.68	Helen of Troy (HELE)	7.8	3671	15.07	-2.72
12.11	4.96	Hot Topic (HOTT)	17.2	7352	4.58	-1.20
4.45	0.35	House of Taylor (HOTJ)	-	33	0.44	-0.01
40.99	25.08	IAC Interactive (IACI)	39.3	28283	25.29	-1.70
24.48	18.01	Iconix (ICON)	18.9	9067	17.66	-2.33
29.18	16.42	Inter Parfums (IPAR)	18.3	731	18.14	-0.05
57.17	33.50	J. Crew (JCG)	21.2	17677	42.18	-6.58
87.18	39.70	J.C. Penney (JCP)	7.9	73346	37.64	-6.13
14.25	2.10	Jaclyn (JLN)	31.8	283	6.78	-0.12
2.45	0.67	Joe's Jeans (JOEZ)	36.7	675	1.04	-0.06
35.54	15.70	Jones Apparel (JNY)	-	41992	14.26	-1.99
46.16	24.59	Jos. A. Bank (JOSB)	9.6	6392	25.01	-3.04
33.54	14.21	Kellwood (KWD)	-	5863	17.89	-0.30
28.32	16.52	Kenneth Cole (KCP)	18.4	2171	15.76	-2.09
72.79	63.79	Kimberly Clark (KMB)	16.9	31136	68.97	-0.97
53.60	33.74	Kimco Realty (KIM)	25.1	29751	33.77	-2.26
79.55	43.08	Kohl's (KSS)	12.0	98173	40.90	-4.31
34.47	16.27	K-Swiss (KSWS)	12.4	6586	16.95	-1.36
22.99	12.72	LaCrosse Footwear (BOOT)	14.3	85	17.52	0.26
15.28	10.32	Lakeland Inds (LAKE)	17.4	21	11.30	0.02
29.88	16.50	Limited Brands (LTD)	8.8	87274	16.51	-2.34
24.23	9.99	Liquidity Services (LQDT)	30.8	1935	11.56	-0.55
46.84	18.74	Liz Claiborne (LIZ)	12.7	20916	18.22	-1.93
13.15	2.15	LJ Intl. (JADE)	15.1	37752	4.65	1.18
39.39	29.53	Luxottica (LUX)	20.0	3439	29.68	-2.04
103.59	68.12	Macerich (MAC)	69.7	10725	64.86	-5.77
46.70	23.34	Macy's Inc. (M)	13.4	141055	22.40	-3.08
24.49	11.82	Maidenform (MFB)	9.0	1390	11.51	-1.86
56.64	25.33	Men's Wearhouse (MW)	7.4	17502	25.12	-2.35
26.20	14.60	Marcus (MCS)	17.2	2148	14.14	-1.81
43.81	14.48	Mothers Work (MWRK)	-	654	16.41	-0.71
35.40	23.78	Movado (MOV)	11.4	2546	22.35	-3.22
3.50	1.39	Movie Star (MSI)	-	338	1.55	-0.07
26.15	20.20	National Retail Prop. (NNN)	15.1	17046	21.65	-1.95
16.20	5.69	New York & Co. (NWY)	27.5	7046	5.59	-0.65
67.93	47.46	Nike (NKE)	18.3	55395	61.74	-2.57
9.38	1.41	Nitches (NICH)	-	276	2.15	0.52
59.70	30.46	Nordstrom (JWN)	11.6	123534	31.50	-5.43
6.77	3.60	Orange 21 (ORNG)	-	60	4.19	-0.07
25.00	5.00	Orchids Paper (TIS)	19.4	27	8.50	-0.28
50.98	21.46	Oxford (OXM)	9.1	3443	23.00	-3.36
23.11	12.85	Pacific Sunwear (PSUN)	-	25390	12.28	-1.87
7.97	2.63	Parlux Fragrances (PARL)	-	1567	4.06	-0.04
37.20	14.84	Payless Shoes (PSS)	9.2	24953	15.50	-1.77
35.22	13.92	Perry Ellis (PERY)	7.0	3701	12.84	-2.34
62.19	34.36	Phillips-Van Heusen (PVH)	10.8	12669	32.69	-4.78
5.65	1.10	Phoenix Footwear (PXG)	-	299	1.96	0.26
102.58	59.80	Polo Ralph Lauren (RL)	16.1	34791	56.59	-5.17
33.67	13.31	PriceSmart (PSMT)	62.1	949	27.55	-3.11
15.75	7.80	Quiksilver (ZQK)	-	17728	7.49	-1.15
13.14	6.32	R.G. Barry (DFZ)	3.3	163	7.26	0.21
38.75	20.63	Ramco-Gershenson (RPT)	6.6	1852	20.07	-1.09
93.49	61.41	Regency Centers (REG)	29.3	10744	58.71	-4.98
23.30	3.91	Retail Ventures (RVI)	1.6	18868	4.70	-0.60
1.51	1.00	Revlon (REV)	-	9957	1.16	-0.04
19.23	5.84	Rocky Brands (RCKY)	73.1	475	6.01	-0.24
35.17	24.20	Ross Stores (ROST)	12.8	25106	23.14	-2.20
23.25	14.38	Saks (SKS)	86.8	36516	17.73	-2.74
195.18	98.25	Sears (SHLD)	13.4	37370	101.42	-0.68
35.26	10.54	Shoe Carnival (SCVL)	10.8	985	12.38	-2.11
7.43	1.01	Shoe Pavilion (SHOE)	-	781	1.00	-0.01
123.96	82.60	Simon Properties (SPG)	35.3	49566	79.56	-7.53
38.03	17.36	Skechers (SKX)	10.3	4370	17.15	-2.04
5.28	1.82	Sport-Haley (SPOR)	-	0	2.01	0.04
17.17	4.31	Stein Mart (SMRT)	6.5	9980	4.07	-0.82
5.00	2.72	Stephan (TSC)	-	118	3.30	-0.01
37.47	17.10	Steve Madden (SHOO)	9.6	2062	18.01	-2.03
13.60	9.38	Superior Uniform (SGC)	31.1	204	9.84	-0.02
22.08	12.17	Syms (SYM)	45.7	286	13.19	-0.78
26.40	10.50	Talbots (TLB)	-	21761	9.46	-2.36
3.85	0.30	Talon Intl. (TLN)	2.5	241	0.40	0.04
13.70	7.91	Tandy Brands (TBAC)	-	26	8.75	-0.65
8.25	2.70	Tandy Leather Factory (TLF)	6.2	164	3.20	-0.10
44.43	32.32	Tanger Factory Outlet (SKT)	53.6	7797	35.01	-2.65
70.75	48.85	Target (TGT)	14.4	146663	48.08	-2.66
2.20	0.96	Tarrant Apparel (TAGS)	12.0	39	1.18	-0.03
63.87	45.67	Taubman (TCO)	56.5	9573	44.79	-3.98
10.98	3.50	Tefron (TFR)	13.5	409	5.01	0.04
57.34	38.17	Tiffany & Co. (TIF)	16.7	27223	41.38	-4.74
31.67	15.05	Timberland (TBL)	20.1	5138	15.98	-2.30
32.46	25.74	TJ Maxx (TJX)	17.5	57654	27.26	-1.28
23.74	13.89	True Religion (TRLG)	19.5	7789	17.84	-4.04
47.00	22.75	Tween Brands (TWB)	14.8	10128	25.23	-1.15
73.40	41.37	Under Armour (UA)	44.5	13718	41.80	-0.66
3.07	1.83	Unifi (UFI)	-	1155	2.33	-0.04
48.00	34.60	Unifirst (UNF)	15.1	1590	40.08	0.90
29.40	19.20	Urban Outfitters (URBN)	32.0	62767	27.10	0.11
96.20	66.43	VF Corp. (VFC)	12.5	9495	63.79	-6.43
51.00	18.54	Volcom (VLCM)	13.6	10691	19.34	-3.96
51.44	42.09	Wal-Mart (WMT)	15.0	202191	45.72	-2.36
44.94	24.40	Warnaco (WRNC)	15.2	14996	29.40	-5.10
52.30	30.23	Weingarten (WRI)	21.0	16393	29.10	-2.82
34.31	22.69	Weyco (WEYS)	13.3	133	26.46	-1.32
2.36	0.80	Wilsons (WLSN)	-	597	0.87	-0.11
31.08	22.78	Wolverine (WWW)	13.5	2899	21.99	-2.51
30.15	14.34	Zale (ZLC)	12.1	21373	13.56	-2.10
53.99	20.07	Zumiez (ZUMZ)	23.6	33160	18.65	-6.86

Fast Stats

Geographical center of the contiguous United States: Lebanon, Kan.

Population of Lebanon, Kan., as of the 2000 U.S. Census: 303

Total number of Macy's employees impacted by the closure of nine stores announced on Dec. 28: 899

Distance from Lebanon, Kan., to the nearest Macy's in the state, located in Topeka: 223 miles

SOURCE: COMPANY REPORTS, U.S. CENSUS

WWD Index

Composite
838.60

-54.68

Weekly % Changes
(ending Jan. 4)

Gainers	Change
LJ Intl.	34.01
Nitches	31.90
Ashworth	23.48
Phoenix Footwear	15.29
Talon Intl.	11.11

Decliners	Change
Bon-Ton	-33.30
Gottschalks	-28.92
Zumiez	-26.90
Finish Line	-23.91
Eddie Bauer	-23.71