

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, store-fronts, 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						VOLUME						52-WEEK						VOLUME					
HIGH	LOW	RETAILERS	P/E	LAST	CHANGE	HIGH	LOW	RETAILERS	P/E	LAST	CHANGE	HIGH	LOW	RETAILERS	P/E	LAST	CHANGE	HIGH	LOW				
85.77	67.72	Abercrombie & Fitch (ANF)	14.8	19525	74.65	-5.33	35.54	15.70	Jones Apparel (JNY)	-	41992	14.26	-1.99	35.54	15.70	Jones Apparel (JNY)	-	41992	14.26				
29.00	21.19	Acadia (AKR)	43.9	1988	24.12	-1.95	46.16	24.59	Jos. A. Bank (JOSB)	9.6	6392	25.01	-3.04	46.16	24.59	Jos. A. Bank (JOSB)	9.6	6392	25.01				
31.88	18.29	Aéropostale (ARO)	16.9	25076	26.08	-0.16	33.54	14.21	Kellwood (KWD)	-	5863	17.89	-0.30	33.54	14.21	Kellwood (KWD)	-	5863	17.89				
26.23	20.92	Alberto Culver (ACV)	28.9	5257	24.09	-0.51	28.32	16.52	Kenneth Cole (KCP)	18.4	2171	15.76	-2.09	28.32	16.52	Kenneth Cole (KCP)	18.4	2171	15.76				
3.45	1.45	Alpha Pro Tech (APT)	13.3	748	1.60	0.00	72.79	63.79	Kimberly Clark (KMB)	16.9	31136	68.97	-0.97	72.79	63.79	Kimberly Clark (KMB)	16.9	31136	68.97				
34.80	19.42	American Eagle (AEO)	10.5	77001	18.93	-1.62	53.60	33.74	Kimco Realty (KIM)	25.1	29751	33.77	-2.26	53.60	33.74	Kimco Realty (KIM)	25.1	29751	33.77				
39.92	24.48	Ann Taylor (ANN)	12.7	26654	23.14	-2.12	79.55	43.08	Kohl's (KSS)	12.0	98173	40.90	-4.31	79.55	43.08	Kohl's (KSS)	12.0	98173	40.90				
8.61	2.49	Ashworth (ASHW)	-	498	3.26	0.62	34.47	16.27	K-Swiss (KSWSS)	12.4	6586	16.95	-1.36	34.47	16.27	K-Swiss (KSWSS)	12.4	6586	16.95				
42.51	31.95	Avon (AVP)	29.6	68624	39.05	-0.94	22.99	12.72	LaCrosse Footwear (BOOT)	14.3	85	17.52	0.26	22.99	12.72	LaCrosse Footwear (BOOT)	14.3	85	17.52				
12.80	2.02	Bakers (BKRS)	-	282	2.26	-0.20	15.28	10.32	Lakeland Inds (LAKI)	17.4	21	11.30	0.02	15.28	10.32	Lakeland Inds (LAKI)	17.4	21	11.30				
19.92	11.71	Bebe (BEBE)	15.9	10262	11.76	-1.11	29.88	16.50	Limited Brands (LTD)	8.8	87274	16.51	-2.34	29.88	16.50	Limited Brands (LTD)	8.8	87274	16.51				
38.42	28.67	Bennett (BNGPY)	45.0	0	34.20	-1.70	24.23	9.99	Liquidity Services (LQDT)	30.8	1935	11.56	-0.55	24.23	9.99	Liquidity Services (LQDT)	30.8	1935	11.56				
18.00	13.30	Big Dog (BDOG)	-	409	13.46	-0.99	46.84	18.74	Liz Claiborne (LIZ)	12.7	20916	18.22	-1.93	46.84	18.74	Liz Claiborne (LIZ)	12.7	20916	18.22				
9.60	5.67	Birks & Mayors (BMJ)	5.4	6	5.85	-0.15	13.15	2.15	LJ Intl. (JADE)	15.1	37752	4.65	1.18	13.15	2.15	LJ Intl. (JADE)	15.1	37752	4.65				
39.15	28.02	Bj's (BJ)	18.5	25991	27.54	-6.64	39.39	29.53	Lucottica (LUX)	20.0	3439	29.68	-2.04	39.39	29.53	Lucottica (LUX)	20.0	3439	29.68				
2.65	0.50	Blue (BLUE)	-	102	0.60	0.01	103.59	68.12	Macerich (MAC)	69.7	10725	64.86	-5.77	103.59	68.12	Macerich (MAC)	69.7	10725	64.86				
1.38	0.66	Bluefly (BFLY)	-	1592	0.78	0.01	46.70	23.34	Macy's Inc. (M)	13.4	141055	22.40	-3.08	46.70	23.34	Macy's Inc. (M)	13.4	141055	22.40				
57.66	7.10	Bon-Ton (BONT)	4.8	10686	6.65	-3.32	24.49	11.82	Maidenform (MFB)	9.0	1390	11.51	-1.86	24.49	11.82	Maidenform (MFB)	9.0	1390	11.51				
37.68	13.28	Brown Shoe (BWS)	9.6	12172	12.22	-3.22	56.64	25.33	Men's Wearhouse (MW)	7.4	17502	25.12	-2.35	56.64	25.33	Men's Wearhouse (MW)	7.4	17502	25.12				
43.71	30.86	Buckle (BKE)	13.5	5506	30.95	-3.25	26.20	14.60	Marcus (MCS)	17.2	2148	14.14	-1.81	26.20	14.60	Marcus (MCS)	17.2	2148	14.14				
25.10	8.65	Caché (CACH)	24.1	5062	9.24	-0.68	43.81	14.48	Mothers Work (MWRK)	-	654	16.41	-0.71	43.81	14.48	Mothers Work (MWRK)	-	654	16.41				
28.28	14.05	Capitalsource (CSE)	12.9	22408	17.23	-0.21	35.40	23.78	Movado (MOV)	11.4	2546	22.35	-3.22	35.40	23.78	Movado (MOV)	11.4	2546	22.35				
29.00	18.35	Carter (CRI)	-	5323	18.05	-1.85	3.50	1.39	Movie Star (MSI)	-	338	1.55	-0.07	3.50	1.39	Movie Star (MSI)	-	338	1.55				
13.82	4.58	Casual Male (CMRG)	4.2	4817	4.22	-1.11	26.15	20.20	National Retail Prop. (NNN)	15.1	17046	21.65	-1.95	26.15	20.20	National Retail Prop. (NNN)	15.1	17046	21.65				
25.66	13.18	Cato (CTR)	9.9	3912	14.59	-1.71	16.20	5.69	New York & Co. (NWY)	27.5	7046	5.59	-0.65	16.20	5.69	New York & Co. (NWY)	27.5	7046	5.59				
50.36	23.06	CBL (CBL)	20.6	9907	22.19	-1.69	67.93	47.46	Nike (NKE)	18.3	55395	61.74	-2.57	67.93	47.46	Nike (NKE)	18.3	55395	61.74				
12.12	8.51	CCA (CAW)	13.7	62	9.15	-0.55	9.38	1.41	Nitches (NICH)	-	276	2.15	0.52	9.38	1.41	Nitches (NICH)	-	276	2.15				
8.03	2.12	Charles & Colvard (CTHR)	16.6	1270	2.05	-0.14	59.70	30.46	Nordstrom (JWN)	11.6	123534	31.50	-5.43	59.70	30.46	Nordstrom (JWN)	11.6	123534	31.50				
33.93	12.27	Charlotte Russe (CHIC)	10.9	11642	14.35	-1.52	6.77	3.60	Orange 21 (ORNG)	-	60	4.19	-0.07	6.77	3.60	Orange 21 (ORNG)	-	60	4.19				
14.44	4.91	Charming Shoppes (CHRS)	10.1	38339	4.82	-0.59	25.00	5.00	Orchids Paper (TIS)	19.4	27	8.50	-0.28	25.00	5.00	Orchids Paper (TIS)	19.4	27	8.50				
77.77	49.90	Chattm. (CHTT)	28.4	2925	72.87	-2.48	50.98	21.46	Oxford (OXM)	9.1	3443	23.00	-3.36	50.98	21.46	Oxford (OXM)	9.1	3443	23.00				
48.76	29.50	Cherokee (CHKE)	8.1	1628	30.56	-2.14	23.11	12.85	Pacific Sunwear (PSUN)	-	25390	12.28	-1.87	23.11	12.85	Pacific Sunwear (PSUN)	-	25390	12.28				
27.94	8.45	Chico's (CHS)	11.6	54459	8.03	-1.06	7.97	2.63	Parlux Fragrances (PARL)	-	1567	4.06	-0.04	7.97	2.63	Parlux Fragrances (PARL)	-	1567	4.06				
60.97	20.56	Children's Place (PLCE)	16.1	10339	23.13	-2.62	37.20	14.84	Payless Shoes (PSS)	9.2	24953	15.50	-1.77	37.20	14.84	Payless Shoes (PSS)	9.2	24953	15.50				
21.17	10.76	Christopher & Banks (CBK)	14.6	7094	10.36	-0.80	35.22	13.92	Perry Ellis (PERY)	7.0	3701	12.84	-2.34	35.22	13.92	Perry Ellis (PERY)	7.0	3701	12.84				
42.89	31.14	Cintas (CTAS)	15.8	13335	31.61	-2.57	62.19	34.36	Phillips-Van Heusen (PVH)	10.8	12669	32.69	-4.78	62.19	34.36	Phillips-Van Heusen (PVH)	10.8	12669	32.69				
48.00	13.25	Citi Trends (CTRN)	12.3	3613	13.74	-1.92	5.65	1.10	Phoenix Footwear (PKG)	-	299	1.96	0.26	5.65	1.10	Phoenix Footwear (PKG)	-	299	1.96				
54.00	29.22	Coach (COH)	16.2	75164	28.09	-2.38	102.58	59.80	Polo Ralph Lauren (RL)	16.1	34791	56.59	-5.17	102.58	59.80	Polo Ralph Lauren (RL)	16.1	34791	56.59				
25.69	6.00	Coldwater Creek (CWTR)	18.2	17262	5.82	-1.00	33.67	13.31	PriceSmart (PSMT)	62.1	949	27.55	-3.11	33.67	13.31	PriceSmart (PSMT)	62.1	949	27.55				
81.27	63.75	Colgate Palmolive (CL)	23.5	33324	78.78	-2.04	15.75	7.80	Quiksilver (ZQK)	-	17728	7.49	-1.15	15.75	7.80	Quiksilver (ZQK)	-	17728	7.49				
70.93	42.18	Columbia Sportswr (COLM)	11.2	8318	40.34	-4.48	13.14	6.32	R.G. Barry (DFZ)	3.3	163	7.26	0.21	13.14	6.32	R.G. Barry (DFZ)	3.3	163	7.26				
32.19	16.10	Conn's (CONN)	10.4	3312	15.73	-1.89	38.75	20.63	Ramco-Gershenson (RPT)	6.6	1852	20.07	-1.09	38.75	20.63	Ramco-Gershenson (RPT)	6.6	1852	20.07				
72.68	51.52	Costco (COST)	26.9	49027	65.65	-4.57	93.49	61.41	Regency Centers (REG)	29.3	10744	58.71	-4.98	93.49	61.41	Regency Centers (REG)	29.3	10744	58.71				
75.21	21.50	Cross (CROX)	20.0	91925	32.75	-5.20	23.30	3.91	Retail Ventures (RVI)	1.6	18868	4.70	-0.60	23.30	3.91	Retail Ventures (RVI)	1.6	18868	4.70				
12.30	5.17	Culp (CPI)	-	477	8.00	0.74	1.51	1.00	Revlon (REV)	-	9957	1.16	-0.04	1.51	1.00	Revlon (REV)	-	9957	1.16				
2.58	0.52	Cygné Designs (CYDS)	-	68	0.79	-0.01	19.23	5.84	Rocky Brands (RCKY)	73.1	475	6.01	-0.24	19.23	5.84	Rocky Brands (RCKY)	73.1	475	6.01				
166.50	55.98	Deckers Outdoor (DECK)	43.9	6790	141.99	-18.20	35.17	24.20	Ross Stores (ROST)	12.8	25106	23.14	-2.20	35.17	24.20	Ross Stores (ROST)	12.8	25106	23.14				
10.95	2.21	Delta's (DLIA)	-	1161	2.55	-0.13	32.25	14.38	Saks (SKS)	86.8	1590	17.73	-2.74	32.25	14.38	Saks (SKS)	86.8	1590	17.73				
19.94	6.06	Delta Apparel (DLA)	22.6	318	6.84	-0.82	195.18	98.25	Sears (SHLD)	0.31	37370	101.42	-0.68	195.18	98.25	Sears (SHLD)	0.31	37370	101.42				
9.13	5.50	Delta Galil (DELT)	-	10	6.25	0.13	35.26	10.54	Shoe Carnival (SCVL)	10.8	985	12.38	-2.11	35.26	10.54	Shoe Carnival (SCVL)	10.8	985	12.38				
72.33	36.55	Developers Diversified (DDR)	19.8	19570	35.34	-2.35	7.43	1.01	Shoe Pavilion (SHOE)	-	781	1.00	-0.01	7.43	1.01	Shoe Pavilion (SHOE)	-	781	1.00				
40.56	15.52	Dillard's (DDS)	8.3	36282	16.27	-2.51	123.96	82.60	Simon Properties (SPG)	35.3	49566	79.56	-7.53	123.96	82.60	Simon Properties (SPG)	35.3	49566	79.56				
24.65	11.69	Dress Barn (DBRN)	7.8	35765	10.81	-2.08	38.03	17.36	Skechers (SKX)	10.3	4370	17.15	-2.04	38.03	17.36	Skechers (SKX)	10.3	4370	17.15				
44.71	17.05	DSW (DSW)	10.9	5125	17.20	-1.81	5.28	1.82	Sport-Haley (SPOR)	-	0	2.01	0.04	5.28	1.82	Sport-Haley (SPOR)	-	0	2.01				
41.64	26.00	Duckwall-Alco (DUCK)	30.2	71	24.50	-7.17	17.17	4.31	Stein Mart (SMRT)	6.5	9980	4.07	-0.82	17.17	4.31	Stein Mart (SMRT)	6.5	9980	4.07				
14.27	5.89	Edible Arrangements (EBH)	14.5	5369	4.80	-0.72	15.52	7.72	Spartan (SPTN)	12.7	330	1.30	-0.01	15.52	7.72	Spartan (SPTN)	12.7	330	1.30				
28.05	17.41	Elizabeth Arden (RDEN)	14.1	1948	19.26	-0.92	37.47	17.10	Steve Madden (SHOO)	9.6	2062	18.01	-2.03	37.47	17.10	Steve Madden (SHOO)	9.6	2062	18.01				
52.31	38.41	Estée Lauder (EL)	20.4	32627	41.87	-1.94	13.60	9.38	Superman Uniform (SGUC)	31.1	204	9.84	-0.02	13.60	9.38	Superman Uniform (SGUC)	31.1	204	9.84				
35.42	17.45	Family Dollar (FDO)	10.8	39581	17.00	-1.99	22.08	12.17	Syms (SYM)	45.7	286	13.19	-0.78	22.08	12.17	Syms (SYM)	45.7	286	13.19				
14.60	2.16	Finish Line (FINL)	7.1	22768	1.75	-0.55	26.40	10.50	Talbots (TLB)	-	21761	9.46	-2.36	26.40	10.50	Talbots (TLB)	-	21761	9.46				
25.87	20.05	Forest City (FCY)	29.1	83	23.50	1.50	3.85	0.30	Talon Int'l. (TLNL)	2.5	241	0.40	0.04	3.85	0.30	Talon Int'l. (TLNL)	2.5	241	0.40				
46.25	20.98	Fossil (FOSL)	25.6	13575	35.97	-6.71	13.70	7.91	Tandy Brands (TBAC)	-	26	8.75	-0.65	13.70	7.91	Tandy Brands (TBAC)	-	26	8.75				
14.74	9.20	Freds (FRED)	15.2	9988	8.70	-1.15	8.25	7.25	Tandy Leather Factory (TL (TL														