

# IP Touchstone 360: Creating a Circle of Protection Around Your Franchise Brand

Amy Brozenic and Nicole Dobyne

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# Presenters



**Amy Brozenic**

Partner  
Kansas City, MO  
Intellectual Property



**Liz Dillon**

Franchise Practice Group Leader  
Minneapolis, MN  
Franchise & Distribution



**Nicole Dobyne**

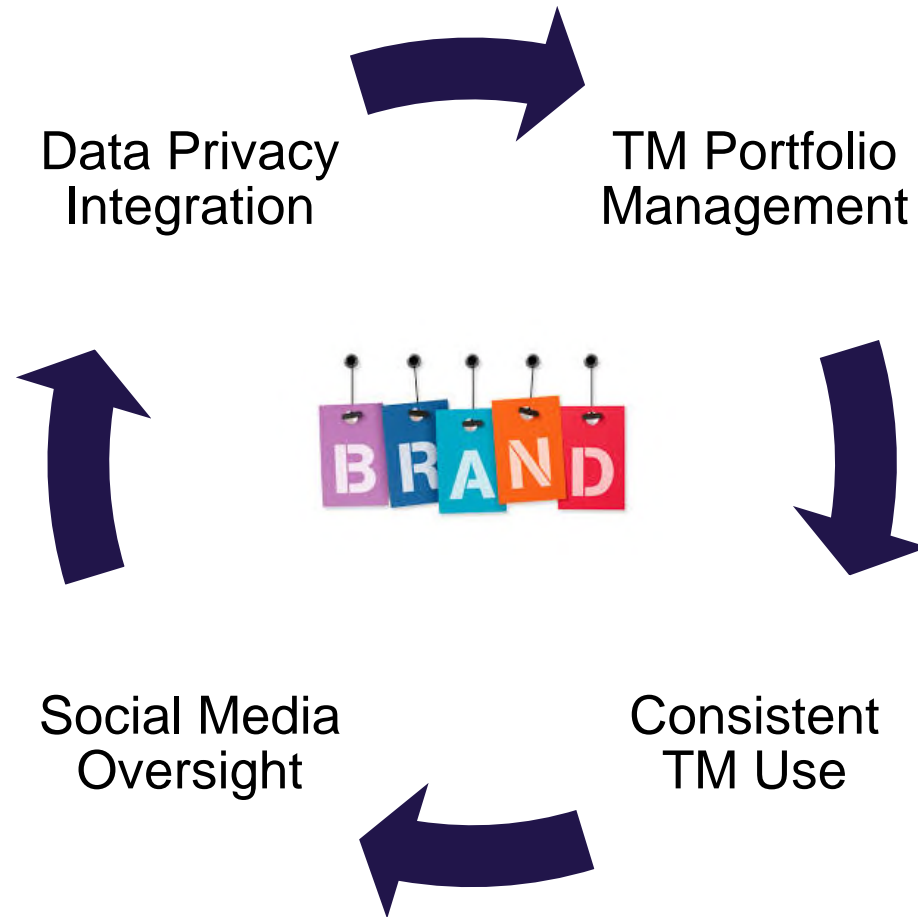
Associate  
Chicago, IL  
Intellectual Property



# Agenda

- Importance of Trademark Portfolio Management
- Establishing Consistent and Uniform Trademark Use
- Social Media Oversight
- Integrating Data Privacy Into Your Brand Strategies

# Protection



# Trademark Portfolio Management

Effective trademark portfolio development and management are critical to maximizing and protecting the value of a company's brands, which are often among its most valuable business assets.

If a trademark portfolio is not properly developed and managed, the company may:

- Face an increased risk of infringement claims and other objections.
- Be unable to fully exploit and obtain value for its trademarks.
- Have difficulty enforcing its rights against infringers.



# Types of Trademarks

- Words (APPLE)
- Slogans (JUST DO IT)
- Initials and Acronyms (B 31 R)
- Symbols (Shell Design)
- Devices (pocket tab for LEVI'S jeans)
- Trade Dress (shape of COCA-COLA bottle)
- Characters (Big Boy)
- Sounds (NBC chimes)
- Colors (pink for OWENS-CORNING insulation)



# Due Diligence – Importance of Clearance Searches

- Evaluate the protectability, strength, and registrability of the trademark.
- Assess risks, including likelihood of confusion with or dilution of other marks disclosed by the search.
- Prepare and file an application to register the trademark with the U.S. Patent and Trademark Office (USPTO).
- The USPTO is becoming increasingly more complex to navigate; having the insight of an experienced trademark practitioner is more important than ever.
- Federal registration comes with many benefits.

# Trademark Registration Internationally

- Trademark rights are recognized on a country-by-country basis.
- Countries take different approaches regarding rights
  - **Rights recognized through use - United States, Canada, Europe**
  - **First to File – China, other Asian countries and Middle Eastern countries**
  - **Registration timelines also vary by country - e.g. Canada takes several years to obtain a registration**
- What are the key markets for future expansion?
- Due Diligence – also important for any new country you enter
- Budget Considerations





# Establishing Consistent Trademark Use

## BEST PRACTICES

- Developing and implementing internal and external trademark usage guidelines for company employees and third parties outlining the proper use of the company's marks;
- Conducting in-person trainings of business personnel on proper trademark use;
- Conducting a public educational advertising campaign highlighting the brand name significance of company marks; and
- Taking appropriate enforcement action against third parties that misuse company marks.



## Monitor the Marketplace for Infringement and Misuse

Establish a system for monitoring the marketplace for infringement and misuse of company trademarks by third parties, which may include:

- Periodic searches of the USPTO, foreign trademark databases and the internet to identify third-party infringements and misuse.
- Engaging commercial vendors to provide monitoring services.
- Instructing appropriate business personnel, for example, sales teams, to promptly report suspected infringements and misuse to the company's legal department.

## Social Media Oversight

### **Social media offers huge potential benefits.**

- Increased brand awareness
- Search engine optimization
- Increased web traffic
- Brand loyalty
- Cost effective way to advertise

### **Social media offers huge potential risks.**

- Intellectual property (both company and third-party rights)
- Defamation
- Advertising and marketing, including sweepstakes and word-of-mouth campaigns.
- Employment practices and employee relationships

# Social Media – Ownership of Social Media Accounts

- Secure your social media accounts
- Ownership of Franchisor social media accounts
  - Appropriate corporate policies
  - Accounts registered in company name
  - Limit persons with administrative control
- Options
  - Franchisor owns/controls all
  - Franchisor allows franchisees to operate localized accounts with the help of guidelines and takedown controls.



## How Franchises Use Social Media

**Use of branded pages.** Facebook or Instagram, allow companies to quickly and easily establish a social media presence.

**Promotions and contests.**

**User-generated content (UGC).** Asking consumers to submit content-rich descriptions of why they love a certain product or service.

**Endorsements.** Word-of-mouth marketing via blogs and influencers.

**Customer service and feedback.** Social media can also foster customer feedback and engagement with a brand.

**Responding to rumors and negative publicity.** Companies can use social media to quickly respond to rumors or other negative publicity.

**Disclosure of information to the public.** Effectively reach more actual or potential customers, investors and shareholders.

# FTC - Teami, LLC Case

The FTC's complaint alleges that Teami, LLC, claimed without reliable scientific evidence that their Teami 30 Day Detox Pack would help consumers lose weight and fight certain diseases or ailments.

- Warning letters sent to Influencers – inadequate disclosures



## Data Privacy – How We Collect Data

- Promotions
- Sweepstakes / Contests
- Customer Feedback
- Consumer Requests / Customer Service



# Privacy Policy

A website privacy policy notifies users about the website operator's practices concerning the collection, storage, use, and disclosure of information, including **PERSONAL INFORMATION**.

- Examples of personal information include an individual's:
  - Name, home or other physical address, email address
  - Telephone number, Social Security number, driver's license number
  - Bank account number, credit or debit card number
  - Personal characteristics, including photographic image, fingerprints, handwriting or other unique biometric data





# Questions?

# Contact Us



**Amy Brozenic**

[amy.Brozenic@lathropgpm.com](mailto:amy.Brozenic@lathropgpm.com)

913.451.5103



**Liz Dillon**

[Elizabeth.Dillon@lathropgpm.com](mailto:Elizabeth.Dillon@lathropgpm.com)

612.632.3284



**Nicole Dobyne**

[Nicole.Dobyne@lathropgpm.com](mailto:Nicole.Dobyne@lathropgpm.com)

312.920.3355