

Fashion and Retail

In the fashion, luxury and retail business, having a trusted brand is key. Companies must protect the value and reputation of their brands and related intellectual property.

About

We have decades of experience representing the most recognized names in fashion, luxury goods, retail apparel and consumer products in areas of law that include advertising law, bankruptcy, corporate, employee benefits, international trade, IP, labor and employment, regulatory issues, litigation and product safety, among others. Our team understands the particular challenges these companies face in developing and protecting those key assets, complying with consumer product safety and consumer protection regulations, managing the import and export of goods, handling employment issues, and enforcing and defending their rights in litigation before U.S. Courts and other tribunals.

Our national practice combines attorneys from New York, Washington, D.C., Los Angeles, Stamford, and New Jersey to represent clients in the full scope of advisory, regulatory, transactional and litigation matters that concern companies in this sector. We represent manufacturers, retailers, wholesalers, brand owners and fashion houses in matters arising throughout the course of business, including in the following issue areas:

Trademark and Copyright—We represent and advise fashion and retail clients in all aspects of trademark and copyright practice, including clearance, prosecution, maintenance and enforcement of trademarks and copyrights worldwide; distribution and licensing arrangements; grey market and counterfeiting issues; marketing practices; and adversarial proceedings in U.S. Federal District Court, U.S. Trademark Trial and Appeal Board (TTAB) and ICANN Domain Dispute proceedings. The international flavor of Kelley Drye’s practice has proven advantageous in handling the diverse legal problems of the globalized economy. Our Trademark and Copyright practice is ranked by *Chambers, Legal 500* and in the report of Best Law Firms published by *U.S. News* and *Best Lawyers*.

Patent—Our patent attorneys perform a significant amount of opinion work, counseling and prosecution for fashion and luxury goods, retail apparel and consumer goods companies. We handle litigation, prosecution, portfolio management, licensing and clearance in patent matters across all technical disciplines. Our capabilities include searching, preparing and prosecuting U.S. and foreign patents; counseling on all aspects of patent acquisitions, term extensions, transfers and licensing, including related regulatory issues such as antitrust considerations; advising clients on right-to-use disputes; providing strategic advice on matters such as infringement avoidance, alternative dispute resolution and settlement options; conducting due diligence on IP and patent assets in connection with corporate mergers and acquisitions, and joint venture, co-marketing and investment agreements; and supervising audits identifying and evaluating IP and patent assets, and implementing comprehensive “best practices” IP management programs.

Advertising and Marketing—Our advertising and marketing practice group includes more than 40 attorneys, many of whom previously served in senior roles at the Federal Trade Commission (FTC) and State Attorneys General offices. We regularly advise fashion and retail companies, brand

owners, and consumer products manufacturers on the full range of advertising and marketing compliance matters. We help clients substantiate advertising claims, develop compliant product labels, execute preventative marketing strategies, and challenge competitors' misleading claims. Our team reviews traditional and digital advertising for truth in advertising, claim substantiation, intellectual property use, and compliance with consumer protection rules. We counsel on new media marketing, including social media, endorsements, influencer campaigns, native advertising, and consumer-generated content—issues particularly relevant to fashion brands building direct consumer relationships. We have helped clients run hundreds of sweepstakes, contests, and promotional campaigns, drafting rules, advising on implementation, and negotiating agreements with promotional partners. The group is ranked in *Chambers USA* and *Legal 500*, recognizing our strength in advertising and marketing law.

International Trade—Our leading international trade attorneys guide clients through complex trade rules and restrictions to successfully import and export their products and services. We have worked in every substantive area in customs law, including entry process; classification, valuation, country of origin and marking; admissibility, quotas and other importing restrictions; duty savings opportunities such as bilateral and multilateral trade agreements; preferential trade programs; drawback; Foreign Trade Zones; “First Sale”; Temporary Importation under Bond and Bonded Warehouses; internal compliance reviews, recordkeeping and compliance programs; focused assessments and audits; penalty proceedings and liquidated damages claims; seizures and forfeitures; Customs-Trade Partnership Against Terrorism and other security measures; ruling requests; and protests and other administrative and judicial challenges. This group is nationally ranked by *Chambers USA* and consistently named a *Law360* practice group of the year.

Consumer Product Safety—Our consumer product safety attorneys regularly advise fashion and retail clients on compliance with the Consumer Product Safety Act and related regulations. We help clients design practical internal compliance programs, counsel on reporting obligations to the CPSC, and respond promptly and discreetly to incident investigations, potential hazards, and product defects—mitigating risk before issues escalate. In the event of a product recall, we work with clients and CPSC staff to develop effective remediation programs that address safety concerns while minimizing penalties and preserving brand reputation. When the CPSC threatens or initiates enforcement actions, clients count on us to provide strategic counsel that protects corporate interests and maintains business momentum.

Privacy and Information Security—In the course of conducting business, retailers are subject to various state and federal data privacy laws applicable to direct marketing, targeted advertising, and disclosure of data to third parties, technology companies, or vendors supporting e-commerce operations and brand promotion. At the forefront of this area of law, we help companies minimize risk while meeting their legal and contractual obligations. We assist with contract negotiations with vendors on favorable data privacy and security terms. We also provide practical guidance on evolving privacy, consumer protection, and IP issues around AI adoption, including the use of AI technologies to enhance customer service, marketing, brand loyalty, and logistics workflows. With a team that includes several former FTC officials and attorneys who have served in consumer protection roles at State Attorneys General offices, we are uniquely positioned to guide clients through all aspects of privacy and data security matters. Leading industry publications—including *Chambers USA* and *Legal 500*—have ranked our privacy practice among the top in the country.

Labor and Employment—Our labor and employment attorneys have represented the interests of employers for more than 60 years. We appear on their behalf before federal, state and local agencies in matters involving traditional labor relations, wage and hour issues, employment

contracts, wrongful discharge, harassment and hostile environment, and employment discrimination claims.

Employee Benefits and Executive Compensation—We provide clients with comprehensive legal and counseling services that help them motivate talented employees, retain key executives and transition their workforces in times of change. The firm advises on a spectrum of employee benefits and executive compensation programs, including retirement and welfare programs, executive compensation, and associated legal and tax issues.

Corporate—We have capabilities to support fashion industry start-ups and established brands alike with the legal aspects of achieving business success, from supporting major strategic moves to forming alliances; from funding growth to dealing with core operational challenges.

Bankruptcy—We represent landlords, owners and developers of shopping centers, and purchasers of real property and real property leases. The firm has confronted virtually every bankruptcy and real estate issue that may arise in a retail bankruptcy case. We have established relationships with retail liquidators, retail consultants, asset-based lenders and most retail debtors' counsel across the country. Our lawyers are able to draw on these relationships to reach consensual resolutions of many issues. This translates directly into substantial savings for our clients.

Litigation—Throughout the firm's history of more than 170 years, our litigators have guided clients through the thicket of business litigation. Protecting a brand name in the highly competitive environment of retail and consumer products and dealing with advertising issues, antitrust, unfair competition and intellectual property claims requires the guidance of skilled professionals who understand how to protect and preserve a brand and its intellectual property. We have handled all types of litigation centered on brands and related intellectual property and have tried significant cases to protect both patents and trademarks.

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