

COVID-19 Trademark Alert

Protection against Counterfeit Face Masks

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You may wish to protect your trademark against its unauthorized use for face masks.

It is no secret that COVID-19 has led to an increase in the use and manufacture of face masks throughout the world, including in the U.S.A. Numerous companies, including many brand owners that did not previously manufacture such masks, are now manufacturing them to meet the high demand and in some cases to make a fashion statement.

Unfortunately, the increase in demand for face masks has led to a surge in the use of counterfeit trademarks on face masks. For example, we are aware that there is large-scale counterfeiting of well-known apparel and fashion marks for face masks in India and China – countries where many companies manufacture or sell face masks.

Along with the obvious risks associated with the marketing of counterfeit face masks comes the risk that trademark pirates and counterfeiters will apply to register well-known brands in key manufacturing countries. China and many other countries are first-to-file jurisdictions, which means that the first person or entity applying to register the mark in that country may obtain prior rights, thereby creating an obstacle to anyone else's registration and use of that mark to manufacture or sell the specified goods. Opposing such applications after the fact can be an expensive and uphill battle.

Even if your company does not produce or sell face masks, you may encounter adverse publicity issues or liability claims associated with the sale and use of defective or ineffective counterfeit face masks.

Therefore, you may consider applying as early as possible to register your trademark for face masks in countries where you manufacture or sell them or anticipate possible counterfeiting issues. Of course, we recommend conducting a trademark search before filing the application. We are ready to assist your company with such searches and filings at any time.

For further information, please contact [William M. Borchard](#), [Joel Karni Schmidt](#), [Meichelle MacGregor](#) or your primary contact at CLL.

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Joel handles U.S. and international intellectual property counseling, protection and enforcement matters.

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