

# **COSMETICS BUSINESS**

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**Headline: 4 intellectual property 'musts'  
when launching a beauty innovation**

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# 4 intellectual property 'musts' when launching a beauty innovation

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Knowing which aspects of the cosmetics consumer experience need intellectual property protection isn't always obvious, here are four practical points to help



*Kim Kardashian has faced a trademark lawsuit over her make-up line*

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*The possibility of a trademark lawsuit is an issue that every industry has to face. From HBO and its *Sex and the City* franchise, which tried to warn off a New York entrepreneur who launched a health and fitness business called "Health and the City", to Kim Kardashian being slapped with an infringement lawsuit by a Danish make-up artist.*

*According to industry lawyers, these legal issues are only exacerbated with the rise of e-commerce and social media.*

*Leanne Rakers is a patent attorney at US-based intellectual property law firm **Harness Dickey**.*

*Here she reveals to *Cosmetics Business* why beauty brands need to pay more attention than ever to their intellectual property in the digital age.*



*Leanne Rakers*

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"The global beauty market is predicted to grow from US\$432.7bn in 2016 to \$750bn by 2024. One reason for this remarkable outlook may be that modern cosmetic companies are now focusing on their consumers' experience. But what does that mean?

It means engaging consumers to provide them with a positive social and emotional experience throughout the purchasing process.

Brands accomplish this through beautiful and often innovative packaging and, importantly, by enabling ongoing interaction via social media to create a personalised experience.

Even if the product is fairly ordinary, research shows that consumers who have an exceptional experience with a product are likely to buy it – and more importantly, they'll share their purchase on social media.

The secret to owning – and leveraging – a consumer experience that will differentiate you from your competitors can be summed up in a two-letter acronym: IP.

Global cosmetics giants meticulously protect their intellectual property positions by filing patent applications and fastidiously monitoring their brands' trademarks and copyrights.

But whether your company boasts an international following or is just getting off the ground, knowing which aspects of the consumer experience need intellectual property protection isn't always obvious.

As you develop a new consumer experience around a single product, line, or brand, here are four practical points that will help ensure your IP strategy is as up-to-date as your brand:

## 1. Packaging innovation

**If packaging innovation can provide a competitive advantage, why not protect all aspects?**

Design and utility patents can be utilised to protect your packaging innovation. For example, take L'Oréal's new transition from conventional label printing to digital label printing to meet consumer needs while producing less waste.

Perhaps this new process can be patented.

Another example is Estée Lauder's End-to-End Packaging, which purports to deliver differentiated branded products and experiences by forming an organised pathway from product development and suppliers to marketing and sales before arriving at counters and, ultimately, to the consumer.

Perhaps this system has a new packaging development or a supplier innovation that can be patented.

## 2. Consumer engagement technology

**If distribution is the most important part of your brand-building strategy, can you patent any new technology your company created for engaging with your consumers?**

An increasingly popular tool for new consumer engagement is the branded smartphone app.

Specifically, many luxury brands use diagnostic apps, which leverage digital technology to offer product suggestions or feedback based on various personalized factors such as a user's skin, mood, and environment.

An example is L'Oréal's Style My Hair 3D app, which uses 3D hair and face simulations for consumers to test out colours.



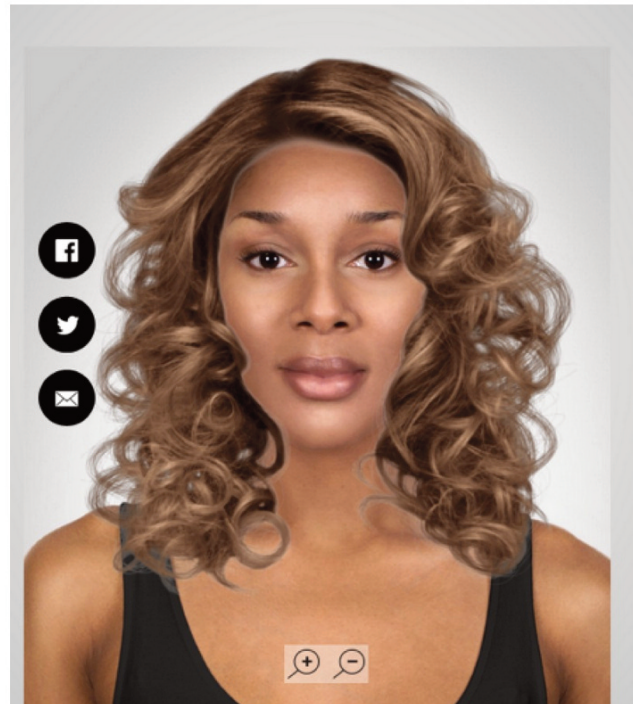
Further, there are new technologies that rely on apps to provide consumers with tailored beauty regimens, such as Shiseido's recently introduced Optune skincare system and L'Oréal's UV Sense technology.

Utility patents may protect new apps if the app does something new, causes a change in the real world, or improves the operation of computers.

Design patents, on the other hand, can be used to protect the appearance of the app's icon and its graphical user interface.

Further, trademark protection can apply to the name of the app, the appearance of its icon and the appearance of its graphical user interface.

Bottom line – if your company is moving beyond the Internet sales channel to help the product spread, so should your intellectual property portfolio.



*L'Oréal's Style My Hair 3D app*

### 3. Consumer engagement spaces

**If you have developed any new consumer engagement spaces beyond the traditional brick-and-mortar store, how can you safeguard those design elements?**

Protect the design of those spaces, or aspects of those spaces, with design patents.

For example, L'Oréal's Beauty Terminal, discussed above, is an in-house content studio where social and digital content can be created and shared to engage and connect with customers faster and in new ways.

Imagine seeing a new make-up trend in the morning, creating a short how-to video in the afternoon that uses your brand's products, and sharing it with consumers by their evening commute.

The overall look of this studio space, or certain aspects that remain the same, could be protected with design patents.

### 4. Consumer engagement services

**If personalised services are important, can the intellectual property behind them be protected?**

Service marks are used to distinguish your services from your competitors'. Service marks are similar to trademarks, but as the name implies, they protect services rather than physical products.

In addition to an app to engage your consumers, have you developed a service mark for your new hair and make-up counseling services?

For example, Shiseido is offering new services at their just-launched Tokyo store, Shiseido The Store.

New types of consumer engagement services can potentially be protected with a service mark.

Remember, in addition to protecting your new product technology, your intellectual property should be constantly updated to match your modern brand building.

These aspects of building better and personalised consumer experiences should be added to your IP checklist."



*Shiseido The Store*