



**BRAND  
PROTECTION?  
IT'S FOOD AND  
DRINK TO US.**

POTTERCLARKSON.COM





# THE FOOD AND DRINK INDUSTRY WAS ONE OF THE VERY FIRST TO RECOGNISE THE VALUE OF BRAND

Since Bass filed the very first UK trade mark in 1876, the food and drink industry has grown into a highly complex and competitive sector.

Food and drink is now the UK's largest manufacturing sector, contributing more than £100bn to the UK economy every year.

## **BUT WHAT IS IT THAT MAKES US BUY OUR FAVOURITE FOODS AND DRINKS?**

Whilst quality and personal preference will always be important, we'd say purchasing decisions are driven by brand; the name, design, and packaging that helps our favourite products stand out from their competitors on our shops' increasingly crowded shelves.

However, with so much revenue, so many opportunities and so much competition at stake, food and drink manufacturers must recognise the risks to their brands have never been higher.

The threat of other manufacturers accidentally (or otherwise) copying or infringing your brands or of you launching a new brand only to find it infringes someone else's rights can have a hugely damaging impact on your business.

This means that now more than ever, you must do everything you can to protect your products' identities and key selling point to secure the competitive advantage, revenues and market share you have worked so hard to create.



**HOW DO WE HELP  
FOOD AND DRINK  
COMPANIES *PROTECT*  
*THEIR BRANDS?***

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**Protecting your brand is not a compliance exercise, it is an active way to protect your business. It will safeguard the value of some of your most crucial business assets by stopping others from exploiting your brand for their own gain.**

And once you are in full control of your brands, you will be able to better leverage their value long into the future.

We have extensive experience of helping every type of food and drink manufacturer at every stage of their life, from some of the most recognisable and established multinationals to craft beer breweries just starting out.

**The areas we have helped them with include:**

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## BRAND CLEARANCE & STRATEGY

Food and drink businesses have to market hard in order to succeed but their investment will be in vain if the brand in question hasn't been cleared for you to use.

We will work with you during the brand development process, checking the relevant trade mark registers and flagging any existing trade marks that could present a problem.

And if we do spot a potential infringement, we will work with you to find an alternative way to proceed.

2

## TRADE MARK REGISTRATION

No matter the nature of your product or where in the world you want to protect your brand, we will provide strategic, sound advice to ensure you secure the rights you need in a timely and cost-effective way.

This will help you create a trade mark strategy that clearly sets out what you want to register and when and where to file your applications.

We will then look after the filing and prosecution of your trade mark applications and bring in some of the members of our established and trusted international network should more specialist 'local' support be needed to file your trade marks in certain overseas territories.

3

## IP PORTFOLIO MANAGEMENT

Our state of the art administration systems will ensure your portfolio is managed to the highest standard.

This reminds you when renewals are due and provides an accurate snapshot of your portfolio and its coverage so you can continue to develop your IP strategy and grow your business.

4

## ENFORCEMENT & DEFENCE

If an infringement does occur, our team will be on hand to support you every step of the way.

With a first-class reputation in this field of litigation, which brings together the expertise of our trade mark attorneys and specialist IP solicitors, you can be confident we will do everything to protect and defend your brand/s.



## ONLINE SURVEILLANCE

The global nature of the food and drink industry means that your brands could be infringed anywhere in the world at any time. This is why we offer our clients access to our specialist online monitoring services.

To combine these services and make international brand portfolio management as easy as possible for our clients, we recently launched what we consider to be the most dynamic brand protection service available.

Our online brand protection service combines the most intuitive and most comprehensive monitoring and watch services with our expertise in strategic, tactical, and international brand protection and brand enforcement.

Once you are signed up, we will continually find, filter, and report when your brands are being exploited and make sure the right team is in place to prioritise, suggest, and execute the required preventative action immediately.







# HOW ELSE CAN WE *PROTECT YOUR FOOD AND DRINK BUSINESS' IP RIGHTS*

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In addition to protecting your brand, the design and patent attorneys and IP solicitors in our multi-disciplinary food and drink team will ensure all the other intellectual property rights your business depends on are also protected and enforced by:

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# **PROTECTING THE LOOK AND FEEL OF YOUR PRODUCTS USING DESIGN RIGHTS**

# **01**

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**Many of our design team are product designers as well as qualified attorneys. This is why we are so passionate about smart, innovative, ground breaking design whether that relates to your packaging, the shape of your bottles or the finished appearance of a food product.**

Sometimes in the hierarchy of IP protection, the value of design rights is underestimated but in the food and drink sector, your designs can be hugely powerful and hugely profitable. However, leveraging their power and value in such a crowded market requires a specialist approach.

The attorneys in our design team have both the technical and industry knowledge to secure the design rights you need in the most effective and cost-effective way.

You can use all this experience to transform even the most functional item into a truly valuable business asset.

Once you are signed up, we will continually find, filter, and report when your brands are being exploited and make sure the right team is in place to prioritise, suggest, and execute the required preventative action immediately.

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# USING PATENTS TO MAXIMISE THE VALUE OF YOUR INNOVATIONS

# 02

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**Consumer tastes are changing, and food and drink companies are working hard to keep pace by developing new products in areas as diverse as healthy eating, veganism, alcohol free drinks and using the seemingly endless list of new agricultural technologies and processes that are continuing to appear.**

If you are using innovative new methods to produce your food and drink products you may wish to consider patenting your ideas to protect them from being used by your competitors.

The hugely experienced patent attorneys in our specialist agritech team will talk you through the different options and help you design a patent strategy that will maximise the value of your innovations.

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# MAKING THE BEST USE OF *TRADE SECRETS*

# 03

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Some of the world's most valuable trade secrets - including KFC's blend of herbs and spices and the Coca Cola recipe - are internationally recognised as being the reason for a product's success but despite their importance, trade secrets are all too often the forgotten component of a company's IP portfolio.

This is usually because businesses don't completely understand trade secrets. They know that they exist and know roughly what they are, but they're not sure how to audit, protect and safeguard them.

Our proprietary **SafeGuard** model will help you protect your trade secrets using a combination of administrative, legal, and technical measures, and make sure that if you have to share your secrets with others, you have the legal framework in place to ensure the other party also keeps your secrets.

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**ENSURING YOU HAVE  
ALL THE *COMMERCIAL*  
*AGREEMENTS* TO  
SUPPORT YOUR  
BUSINESS**

**04**

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**In addition to drafting, prosecuting, and defending/opposing trade marks and patents, our specialist in-house solicitors are experts in drafting and negotiating all types of IP agreements to enable you to develop, capture, scale-up and exploit your brand, ideas, and products.**

Always focussed on your commercial priorities the team will provide effective, strategic advice and if enforcement becomes necessary, our IP solicitors will draw upon their deep experience

of running technically difficult and procedurally complex cases, to achieve a commercially beneficial resolution.

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WHICH FOOD AND DRINK BUSINESSES  
HAVE WE HELPED?



BRUICHLADDICH  
SINCE 1881



SEGGIANO







## AND HOW EXACTLY HAVE WE HELPED THEM PROTECT THEIR BRANDS?

While the work we do for our food and drink clients is as varied as our clients, here are some specific examples of the successes we have achieved for them:



### **MAKING SURE NOTHING AFFECTS OUR FOOD AND DRINK CLIENTS' RIGHT TO USE THEIR RIGHTS.**

Our client supplies food products under their trade mark to major retailers including Marks & Spencer, Tesco, Aldi and Lidl. By bringing all these retailers together, we were able to convince an applicant who had attempted to register the same trade mark for their own exclusive use to withdraw their application. Thankfully given the rate at which this market is increasing, our intervention ensured our client's market was preserved and the applicant was unable to gain an exclusive right to use our client's trade mark.



### **MAKING SURE OUR SMALLER INDEPENDENT FOOD AND DRINK CLIENTS AREN'T BULLIED BY THE BIG BOYS.**

When a small brewery found themselves facing an opposition from a much larger high street name, and a company that's well-known of using legal proceedings as a way of generating publicity, we not only helped them obtain a favourable decision, we also persuaded the opponent to sit down with our client and negotiate the withdrawal of the offending product and any further applications.



### **MAKING SURE NOBODY MISUSES OUR FOOD AND DRINK CLIENTS' NAMES FOR THEIR OWN GAIN.**

Another spirits manufacturer needed to prevent the registration and use of any trade marks for other alcohol products that used one of the two words in the name of their primary product. We successfully prevented any competing alcohol product to use and/or register the word in question.



### **MAKING SURE NOTHING CONFUSES OUR FOOD AND DRINK CLIENTS' MARKET POSITION.**

One of our clients is the manufacturer of a leading spirits drink, the name of which is now synonymous with this type of drink. As such it is crucial they prevent anything that may tarnish their reputation, affect their market-leading position or confuse their customers. When a competitor applied for a trade mark with a name that was only one letter different to our client's we prevented its registration and secured the competitors' agreement their mark would never be used.



## YOUR CORE TEAM

MARK KRAMER  
PARTNER  
IP SOLICITOR



SARAH TALLAND  
PARTNER  
TRADE MARK  
ATTORNEY



CHRIS BAUME  
SENIOR ASSOCIATE  
TRADE MARK  
ATTORNEY



MARIA MUNTEAN  
ASSOCIATE  
TRADE MARK  
ATTORNEY



## A PROVEN APPROACH

### OUR ACCOLADES

You can be truly confident in our abilities – we are recognised as a top-tier firm in Europe, having received accreditations from the IP profession's leading benchmarking organisations and programmes.



An excellent firm to deal with. They have invested in gaining a thorough understanding of our approach to projects, their communication is timely and concise, and their advice is easy to understand.”

**Chambers & Partners, 2022**

A key strength of Potter Clarkson is their combination of expert attorneys with solicitors, which gives comprehensive advice on highly technical matters using patent attorney expertise and solicitor know-how, as well as commercial and branding matters with trade mark attorneys and solicitors working together.”

**Legal 500, 2022**



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