

Break-Up Boss trade mark heartache

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Zoe Foster Blake, founder of beauty brand Go-To and author of self-help book “Break-Up Boss”, experienced a break-up of a different kind last week, when trade mark woes forced her to part company with the branding for her new line of merchandise to accompany her book.

Foster Blake’s merchandise heavily featured the word “Boss” emblazoned in various colours across her clutches, tees, sweaters and temporary tattoos. Unfortunately for the Break-Up Boss herself, the word “BOSS” is registered as a trade mark by fashion powerhouse Hugo Boss.

As the owner of numerous Australian trade mark registrations for the word “BOSS” in relation to clothing, Hugo Boss has the exclusive right to use the word “BOSS” as a badge of origin for its range of men’s and women’s clothing, footwear and headgear in Australia. Hugo Boss’ Australian trade mark portfolio is well established, having registered its earliest BOSS trade mark in 1980.

By using the word “BOSS” on her line of Break-Up Boss merchandise, Foster Blake was likely infringing upon Hugo Boss’ exclusive trade mark rights to use that word in relation to their own goods. Given the well-established reputation of Hugo Boss in Australia, there may also have been an argument that in using the word “BOSS” to market her clothing, Foster Blake was passing off her line of merchandise as goods produced by or affiliated with Hugo Boss.

Remedies for trade mark infringement awarded by the Courts can include, amongst other things, an order that any profits made by virtue of the sale of any infringing goods by the infringing party be paid to the owner of the registered trade mark.

Luckily for all parties involved, this matter seems to have settled out of Court with Foster Blake pulling the merchandise from sale and stating, *“We’re gonna re-design and re-launch again soon (‘Now with added due diligence!’) In the meantime I’m just gonna get back to this sneaker line I’m working on. Thinking of calling it Now I Know Everything. (Or, NIKE for short.)”*

Lessons learnt

Start-up brands and designers can learn a big lesson from Foster Blake’s trade mark woes. While undertaking trade mark searches and filing for registration of your trade mark might seem like an unnecessary cost while your brand is in its infancy, the costs of having to re-brand at a later stage is likely to be far more expensive and stressful.

HopgoodGanim offers a comprehensive range of trade mark search options to assist you in making sure you’re fully informed before you incur extensive costs in manufacturing and marketing your goods and services. For further information or to discuss your trade mark, contact a member of our [Intellectual Property](#) team.

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