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THE **Licensing**
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Technology Licensing

Jed Ferdinand and
Michael Howald

Licensing Implications of the 3-D Printing Revolution

3-D printing, also known as additive manufacturing, is the process of making almost any three-dimensional object from a virtual model. This revolutionary process is rapidly increasing in both availability and quality, while decreasing in price. It seems inevitable that this technology will soon become part of our everyday lives.

3-D printing is used for both creating prototypes and for manufacturing. Applications for 3-D printing are varied, including fashion, jewelry, industrial design, architecture, construction, military, engineering, and many other fields. The players in the 3-D printing market include both printer manufacturers and software developers.

With this newfound ability to manufacture just about anything, and even replicate commercial products in one's own living room, a broad spectrum of legal issues arise. A number of commentators have written articles discussing the intellectual property implications of 3-D printing. This column focuses instead on the licensing implications of the 3-D printing revolution.

Interference with Existing Licensing Programs

The first issue is one related to trademarks and IP protection,

namely the ability of counterfeiters and infringers to use 3-D printers to sell unauthorized products and, as a result, interfere with existing licensing programs and wreak havoc for brand owners and licensee alike. The main concern of 3-D printing for trademark owners stems from the ease of replicating identical products to those on the market, including the marks and brands on the products.

Counterfeiting and the creation of new products that infringe trademarks, such as a model luxury automobile with emblems and badges or any creation that seeks to associate itself with another manufacturer with marks, are the issues that are most likely to arise from widespread 3-D printing. [Model Lamborghini and Emblem, Shapeways, <http://www.shapeways.com/model/721544/150mm-hollow-lamborghini-aventador.html?li=productBox-search>; <http://www.shapeways.com/model/1015984/lamborghini-pendant.html?li=productBox-search>.] However, there are steps that can be taken to protect trademarks. Monitoring the Internet and Web sites such as www.shapeways.com that provide a platform for the sale of 3-D printed products and using their notification system to get infringing content taken down and destroyed may be the most cost-effective method to handle counterfeiting or trademark infringement. [Take Down Policy and Procedure, Shapeways, http://www.shapeways.com/legal/content_policy.] Additionally, the implementation of new technology, such as placing nanotechnology or

quantum dots in the materials used by the printers, may help identify counterfeit products. [Laboratory for Engineered Nanosystems, Virginia Tech, <http://www.lens.ictas.vt.edu/research.html>.]

Traditional Licensing for a Novel Technology

While 3-D printing presents great risk to brand owners, at the same time it presents new and innovative licensing opportunities. Brand owners may choose to embrace the new technology and use it to their advantage to expand into new, unexploited areas. CBS Consumer Products, owners of the rights to *Star Trek*, provide a good example of using this new technology and creativity to gain an advantage in the market. CBS has licensed a 3-D printing company to use *Star Trek* logos, uniforms and designs, to create products for sale. [Nasdaq OMX, Globe Newswire, <http://globenewswire.com/news-release/2013/05/07/545060/10031676/en/3D-Systems-Launches-Star-Trek-TM-App-on-Cubify.html>.] This license agreement will allow CBS to maintain control over the quality of the goods being produced and profit from the venture with relatively little risk.

Working with the 3-D printing companies through licensing relationships creates further protections for brand owners. By granting licenses and giving the 3-D printing manufacturers an opportunity to profit, they in turn will help to police the marketplace and protect the brand, which is to the benefit of both parties. Thus, a collaborative effort would appear to be the most mutually beneficial option available, and could greatly increase the ability of a licensor to protect its rights.

We will continue to pay close attention to this new and exciting technology and its implications for the licensing industry, and will

look to provide further thoughts in future columns.

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