

Hennessy and Allison in Ad Age: How Marketers Can Protect Their IP During a Refresh

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PRACTICES Intellectual Property, Trademark and Advertising

Haynes Boone Partner [Erin Hennessy](#) and Counsel [Annie Allison](#) authored an article for *Ad Age* after Mtn Dew announced plans to restore the full spelling of Mountain to its name.

Read an excerpt below.

Mtn Dew recently announced plans to restore the full spelling of Mountain to its name with an updated look that gives a vibrant nod to the drink's past.

The updated visual identity, set to roll out next summer, is part of a broader revitalization program for the beverage line, which recently brought back its famous "Do the Dew" tagline, claimed Mountain Time as its official time zone and introduced the "Mountain Dude"—a burly 1970s mountain man sporting a lime-green fur coat and a bottle of Mtn Dew.

The brand was marketed as Mountain Dew from the 1940s (when it was developed as a cocktail mixer) until 2009 when the name was changed to Mtn Dew. Returning to the full spelling of Mountain is a nod to the brand's origins, according to PepsiCo Senior VP and Chief Design Officer Mauro Porcini, who played a role in the redesign. Originally marketed as an energy drink thanks to its sugar and caffeine content, Porcini told CNN that the new visual identity is meant to convey a "different kind of energy that's coming from the outdoors."

Mountain Dew is one of several high-profile beverage brands leaning on nostalgia-based brand refreshes. These include Pepsi, whose 2023 rebrand saw the Pepsi name move back inside the company's iconic red, white and blue Pepsi circle (where it sat from the 1950s into the late 1990s); Gatorade's revival of its "Is It In You?" tagline, made famous in the 1990s with ads starring Michael Jordan; and the return of Sprite's "Obey Your Thirst" slogan.

Brand refreshes and makeovers are prompted by several considerations, including reaching new audiences, communicating a change in direction, differentiating from competitors or simply refreshing an outdated image. Redesigns involve input from nearly every corner of a company's organization. While the majority of the effort in a brand revitalization comes from the creative and marketing teams, early integration with intellectual property counsel can be useful in avoiding roadblocks to the rebrand.

Following are a few key considerations to help creative and marketing teams stay ahead of IP issues that could derail a revitalization or rebrand campaign:

Clearance

"Look before you leap" is ever applicable in a brand refresh/redesign scenario. It's crucial to know what trademarks, logos and taglines are already in use by third parties before launching a new campaign. Even when the rebrand is merely a minor adjustment of an existing mark, it is beneficial

to run a clearance search if only to identify other third parties whose marks and brand usage may be problematic going forward in light of the change.

For companies with an international reach or plans to expand beyond their current borders, it is also important to clear the proposed new marks in territories where it is already operating or has plans to expand. Identifying risks early on during the clearance process can help marketing teams easily pivot or swerve to avoid roadblocks to the rebrand.

Global Protection

It is helpful to consider global trademark portfolios when planning for a rebrand—especially when managing the project budget—since costs for new trademark filings can increase exponentially when multiple countries are in play. Cost-effective filing strategies are available through the Madrid System, which allows for a single international trademark registration to be extended to multiple countries through a single application, often at a lower price point than filing in each country.

To read the full article from *Ad Age*, click [here](#).