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The Use of Blockchain in Trademark and Brand Protection

Blockchain is a form of distributed ledger technology, in which a secure, transparent, time stamped, and authenticated record of every transaction is created and reported to everyone on the blockchain platform.[1] Every new block refers to the previous blocks, creating the cryptographically connected chain of information. New blocks cannot be formed without the information being verified by the previous blocks. A record of the date and time and other relevant information is created whenever data is entered on a block. Subsequent blocks in the chain must include information and transaction data from all previous blocks. Essentially, it is a chain of tamperproof information.

Common examples of blockchain technology at work include cryptocurrencies—such as Bitcoin and Ethereum—and smart contracts. The music streaming platform Spotify uses blockchain to match artists with license agreements and tracks. De Beers has worked with diamond manufacturers to implement blockchain technology to securely track diamonds across the full value chain from mine to cutter to polisher all the way through to jeweler.[2] Blockchain quietly works in the background of so many systems that make the commercial world turn, its prevalence and contribution mostly go unnoticed.

Blockchain and Brand Protection

Brand and trademark protection has begun to see benefits from blockchain technology. A few prevalent uses of blockchain in this capacity have emerged over the past several years:

- **Reducing Counterfeits:** Blockchains can help reduce counterfeit goods from hitting the consumer market, offering a level of comfort regarding authenticity to luxury brand trademark owners. For example, each luxury branded product receives a unique identifier, such as a QR code. When an individual purchases the product, they can use the QR code to access its certificate online, which has been cryptographically signed by the brand and everyone down the line of the supply chain, verifying the authenticity of the product. Resellers of luxury goods can also benefit from the use of blockchain to verify authenticity.[3]
- **Increasing the Efficiency of the Trademark Registration Process:** At multiple points in a trademark application's lifecycle the applicant must show use of the mark, whether as evidence of use in the application process or to show acquired distinctiveness. If evidence of actual use of the trademark, along with frequency and dates of use, could be added to a blockchain and recorded at the USPTO, it could be easily shared and available for everyone to see on a blockchain. This could reduce issues with likelihood of confusion by making the ability to check on a registered mark more efficient and reliable.
- **Self-Executing Smart Contracts for Licensing of Trademark Rights:** A smart contract is a self-executing, or self-enforcing, agreement written in computer code and signed by the parties using cryptographic signatures. Because it is self-executing, it does not need third party involvement or external oversight. The code and the agreement live on a blockchain network and the code automatically controls the execution and transactions under the agreement. A smart contract can automatically monitor and calculate each time a royalty payment is due, according to the terms of the contract, and automatically make a payment to a predetermined wallet owned by the trademark holder. This makes for a hassle free and easily enforceable trademark licensing agreement.[4, 5]

Of course, every rose has its thorn, and it is important to consider the downsides of using blockchain in brand protection.

While using blockchain technology is a modern solution that is exemplary of a forward thinking company, "old school" trust still plays an important role in how effective blockchain actually is. Blockchain can ensure that information has not been

altered, but it does nothing to confirm the integrity of the information recorded at the outset. Thus, an initial level of trust in the participating parties is paramount, whether that is the entire supply chain or two independent parties to a smart contract.

Additionally, without an agreed upon and internationally followed set of standards for use in brand protection and IP rights, implementation of blockchain and its advantages would be difficult and inconsistent.

So long as both the benefits as well as the limitations of using blockchain technology in the protection of brand and IP rights are carefully considered, blockchain can be an important asset for the future of any commercial business.

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