



FARMERS SEE RED OVER PURPLE WAX TIP – *how far one woman went*

Even an idea as simple as putting red tips on eco-friendly bananas is an idea worth stealing. Wherever there is money to be made there will be people ready to copy your intellectual property. SHARON GIVONI highlights the importance of protecting your ideas and intellectual property.

When Dianne Sciacca sought to trade mark the red wax tip of a banana some 12 years ago, she never dreamed it would become so famous and such a valuable asset.

Queensland farmer, Dianne, is extremely proud of the notoriety that the red wax tipped specially grown bananas have received to date. Her website reminds visitors that “Environmentally Friendly Bananas with the distinctive red tip!” mean bananas grown by her business “Pacific Coast Eco Bananas”.

HOW DID THIS ALL COME ABOUT AND WHY RED WAX TIPS?

Dianne explains that their bananas are “grown via a special ecological farming system that produces a sweeter, creamier banana with a longer shelf life. But this means we need to sacrifice yield to produce superior fruit.”

Given the great investment involved on their part, this stand out tip was a simple way to “communicate the message to consumers at a glance”.

PROTECTING THEIR IDEA

From the beginning, Dianne and her husband Frank knew they needed to protect their innovative idea. They did this by registering a trade mark over a red wax tip applied to ‘a third’ of a banana. Today, they have exclusive rights to use this type of tip in all colours in relation to bananas.

Since they started using a red wax tip on bananas some 12 years ago, Dianne’s company has enjoyed so much success that they have extended their offering to wax tips in all colours.

This includes a beautiful candy pink coloured wax tip to promote breast cancer awareness (on the Mother’s Day Classic ‘Walk for Life’ fundraiser, walkers were fuelled by some 80,000 pink tipped bananas!). Football clubs and conference delegations have also ordered tailored wax tipped bananas instead of stationery.

“Many people think that having a well known colour or shape trade mark is something reserved for large companies but this is far from the truth,” says Dianne.

Yes, large multinationals do own such marks (for example, Tiffany & Co with its baby blue box, purple packaging for Cadbury chocolate, and silver which is associated with Philadelphia cream cheese), but Dianne encourages other business women to think broadly about trade mark protection – you never know how far you can go until you try.

If you do not protect yourself, you leave yourself and your valuable IP vulnerable to unscrupulous copycats. “They say the best form of flattery breeds imitation,” says Dianne, “but we weren’t flattered at all when we recently discovered that another Queensland-based banana farmer was selling purple wax tip bananas and had applied for his own purple wax tip trade mark despite our enormous rights and investment over many years. This was especially hard to swallow after having to survive the damage of cyclone Yasi.”

Determined to protect their brand, through their lawyers, Dianne and her husband initiated legal proceedings against the farmer.

Her efforts eventually paid off and resulted in Orders obtained in the Federal Court of Australia forcing the other farmer to discontinue to supply bananas with wax tips. He was also ordered to pay damages and costs in excess of \$49,000 and withdraw his own trade mark application.

“We never doubted our success,” says Dianne, “and are very relieved that we protected ourselves legally from the outset.”

TIPS FOR BUSINESS WOMEN DRAWN FROM THIS REAL LIFE CASE STUDY:

1. Think laterally about how you can differentiate the special characteristics of your own goods and services and whether you can protect them legally.

2. If someone copies you, you may have legal rights to stop them. Don’t give up easily.

3. If you have a great idea, don’t be scared to develop and nurture it – Dianne’s bananas sell Australia wide and in major supermarkets.

If two farmers can achieve this level of success, despite the setback of a cyclone and someone trying to reap the fruits of their labour (excuse the pun) – so can you.

Disclaimer: this article is of a general nature only and current at the time of writing. It should not be relied upon as legal advice. ■

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