



You can protect your product from copycats

Don't let a rival rip off your idea

By Laura Petrecca
USA TODAY

Quick, what's the name of the blanket with sleeves?

If you said Snuggie, you'd be in good company. But that wouldn't make Gary Clegg or Sean Iannuzzi very happy. Clegg created the Slanker and Iannuzzi created the Freedom Blanket before the Snuggie launch — and then they were out-marketed by Snuggie-maker Allstar Products Group.

Sure, their "functional" blankets sell, but it's the Snuggie that rose to superstardom with its wacky TV infomercials. It's Snuggie that Jay Leno, Ellen DeGeneres and Oprah Winfrey mentioned in front of millions of TV audience members.

And as Allstar President Scott Boilen conceded during an interview on *The Oprah Winfrey Show*: "It's not a wholly original idea." But that didn't stop his company from reaping millions in sales off the concept.

There's a slew of Snuggie-esque stories in the business world.

It's the oft-repeated tale of an innovative firm coming out with a novel idea or a fresh take on an existing product, and then a new competitor — seeing the riches to be made on a popular product — creates a similar version.

Adam Glickman says that after he opened his first Condomania condom retail store in New York in 1991, several stores in the U.S. copied his idea, and the idea was quickly replicated in Japan, Singapore and South America. Yuen Yung, creator of customizable-sushi restaurants in Texas, says he found out earlier this month that his idea has been copied in Cincinnati.

And Jane Wyler, creator of a reusable dry cleaning bag called the Clothesnik, says she was "shocked" when her product idea was knocked off by a couple she met at a trade show where she was selling her product.

Sometimes the imitation is

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To see video of the founders of FootzyRolls talking about their business, go to money.usatoday.com.

happenstance — it's the great-minds-think-alike phenomena. But often, it's another firm tweaking an idea or outright copying a product.

Easy to rip off ideas

In this time of technological innovation and rapid-fire manufacturing, it's easier than ever for a rival to rip off an idea, says David Kappos, director of the United States Patent and Trademark Office. "If someone sees your idea built, they will almost certainly be able to copy it and have it manufactured," he says.



By Kyrine Pappas, USA TODAY

Entrepreneurs: Sisters Sarah and Jenifer Caplan created FootzyRolls Luxe, flat shoes that can be rolled up to fit inside a purse. They try hard to keep their creations unique to stay ahead of copycats.



Clothesnik: Reusable dry cleaning bag created by Jane Wyler.

The first line of defense, Kappos says, is a patent.

"If you have a great idea, you've got to protect it," he says.

"If you don't protect (your ideas), it's very easy for others to legitimately take them."

The filing charge per patent is about \$1,000, but individuals and small businesses are able to get a 50% discount, Kappos says. His other advice is a bit more costly to follow: He suggests that firms hire legal help with the patent filing. The fees can be stiff: "in the ballpark of \$5,000 to \$10,000," he says. But "it's just like preparing a will or contract or leases. Sure, you can do them yourself, but it really is better to get an attorney, if you can."

Yet, investing in patent protection doesn't mean a company can become complacent. Firms should monitor for patent infringements and be ready to dole out cease-and-desist letters, as well as lawsuits.

And even if a company secures a patent, there is always a chance that competitors can legitimately tweak a product idea then sell their own version.

It sickens Wyler that she helped a rival to replicate her idea. In 2008, she met a couple at a trade show who expressed interest in investing in her company. She was intrigued by the potential partnership and filled the husband in on business. Wyler's reusable dry cleaning bags were made of organic cotton. Soon afterward, she discovered that the couple had modified her concept to create a reusable bag made from the material polypropylene.

"I'm so naive that I didn't think people would do this to me," she says. "I told him all of my trade secrets."

Kappos' advice is that all innovative firms ask others to sign non-disclosure agreements before spilling any information. "NDAs are very common, and people don't react negatively to them," he says.

Another way to stay ahead of competitors is to consistently innovate, says Mark Rampolla, founder of coconut-water compa-

ny Zico.

When he launched in 2004, demand for the beverage (made from the clear liquid inside young, green coconuts) was small. Now it's a huge industry that is consistently attracting more makers.

Rampolla says he's focused on the brand's core attribute — it's an all-natural body hydrator — but that he will also tinker with the marketing, packaging and other elements to stand out. The latest change: He offers plastic bottles in addition to the more-common carton that most companies fill with coconut water.

The new bottle "is a very unique offering, and that is consistent with our positioning of nature's sports drinks," he says.

Sarah and Jenifer Caplan, co-founders of the flat shoe brand FootzyRolls Luxe, also spend much time trying to keep their product line unique as rivals step onto their turf.

"We look at our market and say, 'How can we be different?'" Jenifer says.

There were few competitors when they entered the market last year with rollable ballet flats that easily fit in a handbag. But the rivalry has heated up immensely.

Their newest competitor is Dr. Scholl's. The footwear king just launched Fast Flats foldable shoes, which it markets as "a practical solution for a long day or night in heels."

Competing with the big boys

Dr. Scholl's deployed a large ad campaign, and stores nationwide now have large Fast Flats displays. That type of promotional footprint worries the Caplans.

"We are two girls who started this company from nowhere," Jenifer says. "We don't have the money to go out like Dr. Scholl's and do multimillion-dollar marketing campaigns."

Despite their concerns, the sisters have crafted a plan to stay one step ahead of Dr. Scholl's and other rivals. They are coming out with new styles and colors, as well as forging partnerships that can take their distribution beyond retail stores.

With so many others entering the rollable-shoe market, Sarah says that many smaller brands will likely be stomped out of business: "Only a few are going to be able to survive," she says. And, if they keep innovating, "We know that we're going to be able to."