



Steve Baird was quoted by *World Trademark Review*. Read the article below for his insight.

As IHOP becomes IHOb, companies should think twice before trying to emulate this 'rebrand' campaign

- **IHOP chain reveals IHOb rebrand in bid to emphasise new burger range**
- **Other brands take to social media to be part of the online discussion**
- **Experts warn that temporary rebrand exercises are not without risk**

Over the past week, fast food brand International House of Pancakes (IHOP) has been cannily using social media to build up to a rebrand announcement. Yesterday, it unveiled its new IHOb identity, resulting in a level of brand discussion that few marketing budgets could generate. However, industry experts warn that this type of move is not suitable for all companies, with many critical trademark dimensions to be considered.

On June 4 the restaurant chain took to Twitter and claimed that it was changing its name to IHOb, sparking online speculation over what the 'B' would stand for. Yesterday, the company revealed that it references a new range of burgers, announcing that "since the news broke last week on the brand's social media sites, fans can't get enough with more than 30,000 people speculating what the change could 'b', guessing everything from bacon to brunch to bananas... To show the brand is as serious about burgers as it is about its world-famous pancakes, it's flipped the 'p' to a 'b' in their iconic name for the time being, including its Twitter handle." The brand's flagship restaurant in Hollywood has also been wholly rebranded (other stores will feature internal IHOb signage), and a media spot aired nationally on TV, online and on social media.

While some outlets have reported the move as a straight rebrand, this appears not to be the case. Rather it appears to be a temporary move. Clue one is in the press release, which notes that the change is being made "for the time being". Second is the decision not to rebrand external signage across all stores. Additionally, observes Mark H Jaffe,

partner at Tor Ekeland PC: "The company's activity might provide insight on its strategy. They don't appear to be giving up on IHOP. The trademark was registered last year for franchising services. More recently, they applied to register a logo incorporating IHOP on an intent-to-use basis. The USPTO granted a Notice of Allowance last month. Conversely, IHOP Restaurants has no pending applications to register IHOb, at least none that are publicly available to see as of today. It's possible they filed today and we won't see them for a few days. Perhaps the services included 'burgers' and they didn't want to give anything away. But I think it's more likely they see the change as temporary and they don't see the need to register."

In terms of temporary rebrands, the move is not without precedent. As noted previously on the Duets blog, in 2016 – in a move timed to coincide with the Presidential election – Anheuser-Busch announced that it would change the name of its Budweiser brand to 'America'. That move resulted in mixed reactions, with Stephen R Baird, a shareholder at Winthrop & Weinstine, noting that "when brand owners decide to announce a re-brand, name change, or new logo, they realise there will be no shortage of critics, so in most cases there is a strong business reason for the change".

In this instance, the aim, according to Jaffe, appears to be to call attention to the restaurant serving food other than breakfast, while at the same time getting its customers to pledge their loyalty to its pancakes: "There are two obvious branding strategies and at least one not so obvious one. One, they are guiding the public towards its non-breakfast items. Two, they are strengthening loyalty towards the IHOP trademark and its pancakes. The third, maybe, is they want to be exclusively associated with any 'International House of' any food item so that they can oppose any applications to register trademarks with that phrase."

Thus far, the strategy has seemingly paid off, with discussion of both the burger and pancake offerings. Baird adds: "The brilliance of the announcement was in the speculation it generated about the duration of the change, and even more importantly, the unspecified meaning behind swapping the p' for a 'b'. The mystery allowed those who care about the brand to speak up and fill in the temporary blank, yielding priceless advertising and attention for IHOP. "

It has also led to playful sparring, with other brands getting in on the act. Burger King has temporarily rebranded its Twitter presence to 'Pancake King', Wendy's replied to a question about IHOb competing in the burgers market by stating that it was "not really afraid of the burgers from a place that decided pancakes were too hard", White Castle mused on a change of name to Pancake Castle and, also on Twitter, A&W Restaurants announced it was changing its name and flipping its logo, adding: "Please do not ask what it means — we don't know either."

Baird reflects: "The pros to this type of exercise seem clear, potentially massive brand attention and engagement in a short period of time, without the high cost of paid advertising. Done right, it also affords the brand the opportunity to identify and learn more about its emotional bonds with fans while exploring the duration of a planned

business pivot. If the change is clever and well-played, especially with the right dose of humour, the risk of a consumer backlash or accusations of manipulation would appear to be minimal and a reasonable trade for the increased attention and engagement.”

However, such a move is not suitable for everyone, Jaffe reflecting: “The restaurant has built goodwill in its name for decades. I think they are confident they've built enough to take the risk. I doubt I'd recommend this strategy for a younger and smaller company.”

Additionally, Baird adds, before making such a move, that “since brand name and logo changes are debated so heavily online and in social media, the online and social media personality of the brand should be considered before adopting an IHOb-like strategy. Perhaps the worst reaction to a temporary name or logo change would yield a collective yawn, revealing that no-one cares enough to even comment”.

As to the trademark dimensions, a natural question is whether protection should be secured for the new, temporary name. Jaffe suggests: “If they have an intent to continue using it past this short duration, then sure. But they'd need a game plan for its continued use after the restaurant goes back to being IHOP.”

However, Baird argues that changes that are intended to be short-lived are still worthy of consideration for possible protection. He also notes that companies seeking to engage in a temporary rebrand need to engage in due diligence to mitigate risk of third-party claims. For example, “a BBQ restaurant in San Francisco used to use IHOb in its name (‘IHOb – International House of BBQ’) and more than a decade ago, it was refused registration based on a close similarity to IHOP. But what if that restaurant were still in existence and there was no public record indicating a violation of IHOP’s rights? The best practice for a brand considering even a temporary change is to make at least a defensive, intent-to-use trademark filing, upon the heels of a successful trademark clearance search, to minimize the risk of third party claims, even reverse confusion claims. While IHOP might prevail against another restaurant that decided to be IHOb, it would make it much easier to enforce armed with a prior filing for IHOb.”

Other brands will no doubt be monitoring the success of the IHOP/IHOb media blitz. For now, the move appears to have succeeded in its marketing aims and that will, of course, lead others to consider a similar exercise. However, temporary rebrands are not suitable for all and there are potential downsides, as well as trademark implications, to be considered. Crucially, it could be argued that this move has, to date, been successful precisely because it is a relatively rare occurrence. Should other brands start to follow suit, they may find themselves exposed to negative online reaction – or the collective yawn that Baird warns about.

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