

**OWN THE LABEL**

FROM DESIGN TO LEGACY

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**FREE FIRST CHAPTER**

*Chapter One*

# **The Complete Roadmap**

*The whole journey, in the order it must happen.*

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## CHAPTER ONE

# The Complete Roadmap

*The whole journey, in order it must happen.*



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The night before her first collection went live, the designer I kept thinking about could not sleep, and not because she was worried whether people would buy. The samples were finished. The site was built. The photographs were the kind that stop your thumb halfway down a screen. What kept her awake was a question a near-stranger had asked her a few weeks before, lightly, the way people mention the weather: you protected all of this before you showed anyone, didn't you?

She hadn't. She had done everything her training taught her to do and done it beautifully. She could pattern, cut, and sew a complete line by hand. She had the money. She had the eye. What no one had ever told her, not in four years of school, not in a single critique, was that the garment is the easy part. The hard part is everything around it, and it must be built in an order almost nobody teaches.

That order is what this book is.

I have spent more than twenty-five years on the patent side of a desk, watching gifted people walk the same road. Some arrive before they have shown their work to a soul, and I get to help them build something that lasts. Others arrive after the post, after the pop-up, after a factory on the other side of the world began selling their design under another label, and by then the most powerful and least expensive moves are already behind them, gone, and the best I can do is help them salvage. The difference between those two designers is never talent. It is sequence. This first chapter lays the whole sequence out, end to end, so you can see the map before we walk a single step of it.

**Brands don't die of bad design. They die of bad architecture.**

Walk through any design-school graduation and you will see more talent in one room than most industries see in a decade. Walk back through the same field three years later, and most of those names are gone. Not because the work was bad, very often it was extraordinary, but because the founder treated the clothing as the asset and never built the structure that turns clothing into a business no one can simply copy.

Here is the part it took me years to be able to say plainly. In fashion, the design is the part you already know how to do. The part that decides whether you build equity or just hand a competitor a free head start is everything around it: who legally owns the work, whether it can be copied before it ships, whether your name can be registered and defended, whether the factory you trusted is free to sell your pattern to three other brands, whether your pricing still works the first day a store asks to buy from you wholesale.

A designer makes a garment. A brand owner builds something that can be protected, enforced, licensed, borrowed against, and one day handed to someone else. Getting from the first to the second is a sequence of legal and business moves, and the reason almost no one teaches them is that they live at an unusual intersection. Apparel is one of the few products that can sit inside patent law, trademark law, trade-secret law, and hard business strategy all at once. Most general attorneys never stand at that corner. This book lives there.

### The one mistake that ends the journey before it starts

Before we open the map, I must tell you about the single move that can close the road for good, because if you make it by accident, much of what follows becomes impossible, and I would rather frighten you now than console you later.

In the United States, the moment you show your design to the public, post it, sell one piece, walk it down a runway, pitch it to a buyer, a clock starts. You have twelve months. After that, your right to patent that design is gone, and it does not come back. Much of the rest of the world is harsher still: many countries give you no grace period at all, which means a single photograph,

visible to anyone, can erase your patent rights in those markets the instant you post it.

Let me say it the way I wish someone had said it to her. Showing the work before you have protected it can destroy your ability to ever protect it. Silence keeps the invention yours. Exposure can give it away for good.

That one fact is why everything in this book is sequenced, and why the sequence is not a suggestion. You do not launch and then protect. You protect and then launch. Founders who flip that order aren't being bold, they are quietly giving away the only thing that makes their company worth more than the boxes of inventory in the garage.

### The map: twelve phases from sketch to legacy

Everything ahead follows one path, and two ideas run the length of it: protect the intellectual property first, build the business second. Here is the whole route in a single view. Each phase becomes a chapter of its own, so treat this as the map on the wall you keep coming back to.

**One — Define what is actually new and triage it.** Before a stitch is manufactured or shown, answer one question: what here is genuinely new? Apparel gives you two different patents that protect two different things. A design patent protects how something looks (a distinctive silhouette, an unusual cut, a novel surface) and lasts fifteen years from the day it issues. A utility patent protects how something works (a breathable construction, a reinforced seam, a moisture-moving fabric blend, a method of making it) and lasts twenty years from your earliest filing. The insight most designers miss is that one garment can carry both at once. A swimsuit with a genuinely new

support construction and a distinctive line can support a utility filing and a design filing in parallel. Choose only one when both apply, and you leave protection, and money, on the table. The next chapter is devoted to this single decision.

**Two — Document everything, starting now.** Your sketches are not only creative work; they are evidence. From the first day, keep a dated record, a bound notebook or a reliable time-stamped digital equivalent, of drawings, prototype photos, fabric swatches, supplier quotes, and test results. That record is what later supports your patent claims and proves what you made, and when.

**Three — Source under confidentiality, every time.** The first time you hand your design to an outsider is the first time you can lose it. Before you speak to a single supplier, the relationship must be governed by a confidentiality agreement. Inside the United States, that means a properly written NDA. Overseas, an ordinary NDA is dangerously thin; what you need is an NNN agreement (non-disclosure, non-use, and non-circumvention) written for the realities of foreign manufacturing.

**Four — Build the prototype as proof, not just a sample.** Most designers build a first sample to see how it looks. Build yours to also record what it does: how it breathes, how it holds a seam, how it survives a wash, how it fits, what it costs to make. That evidence strengthens your filings and sets the standard your factory must meet.

**Five — File before you show.** Now you lock in your dates. A provisional utility patent application secures a priority date, earns you the right to mark the work “patent pending,” and buys you twelve months to complete the full application, at a fraction of the cost. Alongside it, a design patent application

protects the look. Filed correctly, and before any public disclosure, these are the bedrock everything else stands on.

**Six — Register the name.** Patents protect what you invented. A trademark protects what your customers will remember, your name, and unlike a patent, a properly maintained trademark can last forever. That is exactly why, for most brands, the name becomes the single most valuable thing they own. Registration runs through a clearance search, an application in International Class 25, which is clothing, then examination, publication, and registration. Copyright enters here too: it protects original prints and graphics, but after the Supreme Court's 2017 decision in *Star Athletica v. Varsity Brands*, generally not the shape of the garment itself.

**Seven — Put the business between you and the risk.** Before you manufacture or sell anything, separate yourself from the company. For most independent founders that means forming an LLC, in Florida, or a business-friendly state like Delaware or Wyoming, with articles of organization, a registered agent, an operating agreement, and an EIN, followed by a dedicated bank account you never mix with your own money. That entity is the wall between a business problem and a personal catastrophe.

**Eight — Hand the factory three contracts, in order.** With samples approved, filings in, and the entity formed, production is governed by three documents: an NNN agreement for confidentiality, a product-development agreement that assigns every design, CAD file, and tool to your brand, and a manufacturing agreement covering exclusivity, quality, delivery, and your right to audit. One clause matters above all the rest, that everything created in the relationship belongs to you, not the factory.

**Nine — Price for every channel before you sell on any of them.** Even if you are fully funded, you need the numbers written down. The industry stack is unforgiving: wholesale tends to run about two to two-and-a-half times your cost to make a piece, suggested retail about twice wholesale, and selling direct keeps the full margin. Price is only for direct sales, and the day a store asks for wholesale terms your model falls apart. Price for wholesale from the start, even if you launch direct, and you keep every door open.

**Ten — Launch direct, add wholesale on your terms.** The independent founder launches direct-to-consumer first — usually on Shopify, built for the phone, fed by a pre-launch waitlist and an email and text list you own outright. It is your highest-margin channel and the one you fully control. Wholesale comes later, once you have proof and capacity, on your terms, with minimum opening orders and an advertised-price policy you actually enforce, because the moment you stop enforcing it, your brand's value starts leaking and does not stop.

**Eleven — Go global, then license.** Once your home market is steady, the brand can travel, tested first through international e-commerce, then through local distributors, with branding and sizing adapted to each market. And then comes the highest use of an asset you fully own: licensing. With patents and trademarks in place, you can earn royalties from your intellectual property without manufacturing another unit. A pending or granted patent sharply raises your leverage, because it gives a partner real exclusivity and gives you the right to come after infringers.

**Twelve — Enforce, always.** Filing is the beginning, not the end. Watch the market, act against counterfeiters, pay your patent maintenance fees on time,

keep your registrations current, and build quality control and audit rights into every license so you never fall into the naked-licensing trap that can void a mark outright. The rule in intellectual property is short: enforce it or lose it.

That is the whole road. Twelve phases, one spine: protect first, build second.

## Two founders, the same everything

Let me show you why the order is the entire game. Picture two designers. Identical talent. Identical funding. The only thing that will differ is the sequence they choose.

The first falls in love with the launch. She posts her best piece to fifty thousand followers, sells a small first run out of a pop-up to build some heat, and sends her tech pack to a factory she found online, no NNN, no assignment of ownership. Inside ninety days, a nearly identical version is for sale in that same factory's own catalog. She has no design patent, because the posts she was so proud of started a clock she didn't know was running, and in the overseas market there was never any grace period to begin with. She has no enforceable contract against the factory. She has no entity standing between the mess and her own savings. What she built is no longer a brand. It is public-domain inventory with a logo on it.

The second runs the sequence. She documents from the first week. She sources under an NNN. She files a provisional and a design application before a single public post. She registers her name in Class 25, forms her LLC, and writes ownership of every file and tool into the manufacturing contracts before production begins. When a competitor puts out a copy of her silhouette eight weeks after launch, she doesn't panic — she sends a cease-and-desist backed by

a real filing, and the copy comes down. Two years on, that same protected portfolio becomes the foundation of a licensing deal that pays her royalties on products she never has to manufacture.

Same talent. Same money. Opposite outcomes. The only variable was architecture, built in the right order.

I have watched both women. I sat across from the first one while she came to understand what the word permanently meant, and I never want you to be her. The good news, the reason this book exists, is that being the second one is not about genius or luck. It is about knowing the order and starting early enough to follow it.

### When this actually matters

There are only three moments a fashion founder ever picks up the phone to call someone like me. Before any disclosure. Before manufacturing. Or after infringement. The first call costs the least, by a wide margin. The third costs the most, and is sometimes too late to do anything but grieve. Most of this book is built to make sure you are the founder who calls early, or better yet, the founder who already knew what to do, and never had to make the third call at all.

So that is the map. In the next chapter we make the first real decision on it, the one that must be settled before you sew a stitch: design patent or utility patent, the choice that quietly determines how long your protection lasts, and how much of your work it actually covers.

*You can build this in the right order. Let me show you how.*

KEEP READING

# This was one chapter. The roadmap is nine.

234 pages. Sketch to legacy. The exact sequence that turns a design into a brand you own, defend, license, and pass down.

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