
# Co-branding of wearable tech: Fashion forward and tech savvy

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## The market for wearable technologies - mobile devices that gather and display information - is large and growing. Market researchers estimate that some 21 million wearable devices were sold in 2014* and it seems that the smart watch will be one of the most successful products of 2015.

The challenges of wearables is to deliver a product that is both fashionable and contains compelling and intuitive technology. The overlap between technology and fashion creates opportunities for technology and fashion companies to work together to develop, market and sell wearables − as Google Glass and Luxottica, Fitbit and Tory Burch, and Samsung and Swarovski have done.

There are a number of benefits for such collaborators, among them:

- a fashion company can provide design input that creates a more elegant and aesthetic product, while the technology company can focus on the functional and innovative aspects;
- co-branding enables the participants to leverage their reputations in their respective fields of fashion and technology and may also increase brand recognition; and
- where the parties have different distribution channels, co-branded products are accessible to more and different customers and markets across their combined channels.

However, there are practical challenges in getting technology products to market. For example, manufacturing problems delayed shipment of the Jawbone UP3 fitness tracker from December 2014 to mid-2015. Such challenges mean that fashion companies should consider the reputation, image and protection of their brands when exploring co-branding opportunities - particularly because of their importance in the fashion industry. Fashion companies might also consider mitigating certain challenges through well-crafted legal documents. Key legal issues include:

- Exclusivity
  it may be appropriate to prohibit a party from entering into co-branding, co-marketing or strategic alliance agreements with competitors of the co-branding partner to protect and maximize the arrangement's value.
- Term
  the initial term should be relatively short with renewal options providing flexibility for changes in business strategy and allowing enough time to successfully implement the co-branding strategy.
- Product liability
  allowing the use of a trademark on a product may expose the owner of the brand or trademark to product liability actions in different jurisdictions. Even if remedies such as indemnities are available under the agreement, it is often difficult to repair reputational damage arising from these types of claims.
- Specifications
  co-branding agreements should specify how the respective trademarks will appear and be positioned on the products (i.e. location, colour, size, proximity).

Whether fashion companies are looking to maximize their opportunities or simply keep pace with their competitors in the rapidly expanding field of wearables, they should carefully consider the commercial and legal aspects of any proposed arrangement for the co-branding of wearables.

***The Economist (14 March 2015), citing research by IDC. See http://www.economist.com/news/business/21646225-smartwatches-and-other-wearable-devices-become-mainstream-products-will-take-more**

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