

In The News

Mark Lichtenstein Analyzes Surge in Retail Bankruptcies on One-Year Eve of *Tempnology* Ruling in Article Co-Authored for *New York Law Journal*

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Mark Lichtenstein co-wrote an article for *New York Law Journal* analyzing the surge in retail bankruptcies during the COVID-19 pandemic, which coincides with the one year-anniversary of the U.S. Supreme Court's decision in *Mission Product Holdings, Inc. v. Tempnology, LLC*, which has a direct impact on the rights of a trademark licensee following the bankruptcy of a debtor-licensor.

“It is no secret that the fashion industry has been steering against a headwind of challenges. Beginning with the rise of e-commerce and the layering on of significant amounts of debt, the current global pandemic might be said to have simultaneously exacerbated these vulnerabilities while also posing new obstacles, such as unforeseen inventory, vendor, and supply chain issues.

In the span of five months, apparel companies such as True Religion, John Varvatos, Lucky Brands, and Brooks Brothers have filed Chapter 11 cases, some hoping to reorganize but, more often than not, ultimately pursuing strategic sales of their assets or opting for wholesale liquidations.

These unprecedented challenges are not without opportunities for acquirers and investors as well as

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licensees of brands. Notably, the wave of bankruptcies also coincides with the one-year anniversary of the Supreme Court's decision *Mission Product Holdings, Inc. v. Tempnology, LLC*."

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