

A Winthrop & Weinstine blog dedicated to bridging the gap between legal & marketing types.

## Touchmarks, Trademarks & Tixels

August 1, 2011 by Steve Baird

Augmented Legality writes:

*"Soon, technologies that augment our sense of touch may lead to a rush of trademark applications seeking to protect a wide variety of artificial textures."*

Brian Wassom goes on to identify an interesting new technology being promoted by Senseg, a Helsinki-based company that apparently knows a lot about tixels (tactile pixels):

*"Senseg E-Sense makes use of an electro-sensory phenomenon that replicates the feeling of touch. As very tiny electrical charges pass into the tixel elements, the individual tixels generate a controlled electric field which extends several millimeters above the surface. Senseg E-Sense is a wholly new way of creating a sophisticated sensation of touch without the use of less sensitive haptic technology like vibration or mechanical actuators such as motors, piezoelectric actuators or electro-active polymers."*

So, with this technology, for example, a book cover could be "augmented" to manipulate consumers into sensing wetness, or a plastic squirt gun could be "augmented" to feel metallic. Clearly, this opens up a lot of opportunities in the realm of non-traditional trademark protection.

As you may recall, I have written more than a few times about touchmarks, including this:

*"As arguably one of the most intimate of the senses: 'Touch is the first sense developed in the womb and the last sense used before death.' Given that and given other unique characteristics of 'touch' among the senses, it is a bit surprising that touch marks haven't been pursued more by marketers looking to create intimate, emotional connections with a brand: 'Another distinction of the sense of touch is that it is identified with the real. You can't believe your eyes, nor your ears, and taste is personal and subjective, but touch is proof.' By the way, since touch/tactile/texture marks are so uncommon, why can't we agree on what to call them? For what its worth, my vote is to call them "touch" marks since that is the term that names the underlying basic human sense."*



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Augmented Legality prefers the term "haptic" trademarks over "touch" marks, what is your vote?

Reliance on this new technology to create and protect touchmarks will require careful collaboration of legal and marketing types to navigate the potential functionality concerns and the likely need for the tactile equivalent of "look-for" advertising with this type of non-traditional trademark.

In case you missed it, here is a link to my article and cover story "A Trademark Touch: Strategies for Owning and Protecting Touchmarks," previously published in Brand Packaging magazine.

Finally, will "touch" continue to be considered "proof" if this augmented reality technology takes off?

