

# Black, Blue, and Green: Trademarks, Social Responsibility, and Environmental Sustainability

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Knobbe **Martens**

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Worldwide

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# Eco Initiatives

Madewell

DO WELL

**OLD JEANS, MEET NEW LIFE**

Bring your old jeans into any Madewell store and they'll be turned into housing insulation for those in need. (And you'll get \$20 off a new pair.)

LEARN MORE

BLUE JEANS GO GREEN  
DENIM RECYCLING

WORN WEAR

patagonia

THESE ARE CLOTHES MADE FROM OTHER CLOTHES

GROWN FOR GOOD

**Grown for Good**

We've introduced *Grown for Good*, McCormick's sustainable sourcing framework, which is the first-ever sustainability certification program in the herb and spice industry and goes beyond current industry standards.

**A Conscious Clean for Every Home**

Learn more about our 50+ year mission to bring safer, sustainable cleaning to every home.

**ECOS**

**Can conscious cleaning help clean up the earth?**

Absolutely. We've spent five decades perfecting clean manufacturing and sustainable business practices, so that what's good for you is positive for the planet, too. We see every aspect of our business as an opportunity to make our planet a little greener – and there's no step too small along the way.

**ENVIRONMENT**

COMMITMENT: We will protect the environment on which our well-being relies.

**Jacuzzi**

We have identified four material issues within this pillar:

**CLIMATE CHANGE**

Climate change is the most pressing environmental issue of our time and it is critical for companies to address their impact. Jacuzzi Brands has completed a GHG emissions inventory to better understand our current areas of impact and what we can do to improve. We are in the process of setting a Science-based Target.

Consumers are increasingly concerned about climate and their own energy use. Our products currently adhere to the strictest applicable standards for energy efficiency and we are working to continuously improve our products' energy efficiency beyond those standards.

**Apple and partners launch first-ever \$200 million Restore Fund to accelerate natural solutions to climate change**

Investment builds on the company's forestry and responsible packaging innovations to deliver new financial and climate returns

**Lighter on the planet. Right out of the box.**

iPhone

Durable, energy-efficient devices started a design revolution. Using low-carbon materials and processes is the next step in reducing the footprint of every Apple product in the world.

**Planet & Society**

We're a company of brands and people with a big purpose: to make sustainable living commonplace.

We want to push our business – and the way business is done – further than ever before. Find out how we're taking action on the issues affecting our world.

**Unilever**

**Climate action**

Climate change is now a climate crisis. We're taking action across our business and through our brands.

**Protect and regenerate nature**

The natural world is being lost at an alarming rate. We're on a mission to put nature loss into reverse.

**Waste-free world**

Today's throwaway culture must end. We're working to keep waste in the economy and out of the environment.

**NIKE**

**MOVE TO ZERO**

**THE HOME DEPOT**

**ECO OPTIONS**

# Green Buzz Terms

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- Green
- Eco-Friendly
- Natural
- Clean
- Sustainable
- Cruelty Free



## Things to Think About

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- Clearance
- Protectability
- Enforceability
- Use in Advertising
- Consumer Reactions

## Things to Think About – Clearance

Conduct a clearance search for prior marks.  
Examples of currently registered marks include the following:

**NATURAL®** for portion control sugar packets

**“GO-NATURAL”®** for cosmetics

**CLEAN®** for snack bars

**CLEAN®** for facial makeup

**CLEAN®** for scented-candles

**SUSTAINABLE®** for living plants

**GREEN TOYS®** for toys made from recycled materials

WORD APPEARING IN MARK	NUMBER OF USPTO FILINGS JAN 1, 2020 TO PRESENT
CLEAN	1744
GREEN	1652
NATURAL	1041
ECO/ECO FRIENDLY	690
ORGANIC	528
SUSTAINABLE/SUSTAINABLY/ SUSTAINABILITY	306
	Total: 5961

## Things to Think About – **Protectability and Enforceability**

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Genericness

Descriptiveness

Deceptiveness / Deceptively Misdescriptive



Application for GREEN SEAL refused on grounds of deceptiveness and deceptive misdescriptiveness.

<https://ttabvue.uspto.gov/ttabvue/ttabvue-85211019-EXA-13.pdf>

# Things to Think About – Use in Advertising

FTC

NAD – National Advertising Division

State AG

Competitors

Consumers



# Things to Think About – Consumer Impressions



THE WEEK

Redskins officially rebrand as 'Washington Football Team,' at least for now



Cream of Wheat packaging with chef image under 'immediate review' after Aunt Jemima, Uncle Ben's news

Kelly Tyko USA TODAY  
Published 7:24 a.m. ET Jun. 18, 2020 | Updated 6:44 p.m. ET Jun. 19, 2020



Mrs. Butterworth's undergoing 'brand and packaging review' after Aunt Jemima, Uncle Ben's announce redesigns



We're excited to announce that **CHEER**™ Cheese will be the new name for COON cheese. **CHEER**™ Cheese is a cheese for everyone and supports our values as a company.

**CHEER**™ Cheese is the same recipe that millions have come to love, and will continue to grow up with, for generations to come. We remain committed to our Australian farmers who continue to produce the high-quality milk that goes into all our products, including **CHEER**™ Cheese.

**CHEER**™ Cheese will appear on supermarket shelves nationwide from July 2021.

# Additional Resources

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Jacuzzi Brands 2020 ESG Report

- <https://www.jacuzzi.com/en-us/social-responsibility.html>

Green Guides:

- [https://www.ftc.gov/sites/default/files/documents/federal\\_register\\_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf](https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf)

ABA Resource on the NAD:

- [https://www.americanbar.org/groups/intellectual\\_property\\_law/publications/landslide/2018-19/march-april/navigating-national-advertising-division/](https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2018-19/march-april/navigating-national-advertising-division/)

Link to Selsun Blue Naturals complaint filing:

- <https://www.truthinadvertising.org/wp-content/uploads/2021/02/Mustakis-v-Sanofi-US-complaint.pdf>

Select FTC Cases:

- <https://www.ftc.gov/enforcement/cases-proceedings/192-3077/truly-organic-inc>
- [https://www.ftc.gov/system/files/documents/cases/1623079\\_benjamin\\_moore\\_complaintc\\_number\\_added.pdf](https://www.ftc.gov/system/files/documents/cases/1623079_benjamin_moore_complaintc_number_added.pdf)
- [https://www.ftc.gov/system/files/documents/cases/161212\\_docket\\_no\\_9370\\_california\\_naturel\\_opinion\\_of\\_the\\_commission.pdf](https://www.ftc.gov/system/files/documents/cases/161212_docket_no_9370_california_naturel_opinion_of_the_commission.pdf)

Select TTAB Cases:

- <https://ttabvue.uspto.gov/ttabvue/ttabvue-85211019-EXA-13.pdf>

## Additional Resources (continued)

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### Select NAD Published Recommendations:

- NAD Finds Tide purclean's Website "Plant-Based" Claims Supported But Label Claims Should be Modified; P&G to Appeal "4x Cleaning Power" Finding; Aug. 13, 2020 <https://bbbprograms.org/media-center/newsroom/nad-finds-tide-purclean-s-website-plant-based-claims-supported-but-label-claims-should-be-modified-p-g-to-appeal-4x-cleaning-power-finding>
- NAD Finds Perdue Farms' Artwork and "Raised Cage Free" Advertising Claims for its Non-Organic Fresh Chicken Product Line Not Misleading; Sept. 17, 2019 <https://bbbprograms.org/archive/nad-finds-perdue-farms-artwork-and-raised-cage-free-advertising-claims-for-its-non-organic-fresh-chicken-product-line-not-misleading>
- NAD Recommends Nurture Modify, Discontinue Certain Claims for 'Happy Family' Baby Food; Finds Advertiser Can Support Certain 'Organic' Claims; May 21, 2014: <https://bbbprograms.org/archive/nad-recommends-nurture-modify-discontinue-certain-claims-for-happy-family-baby-food-finds-advertiser-can-support-certain-organic-claims>
- Meal Delivery Service Gobble Says it will Discontinue 'Eco-Friendly' Advertising Claims for its Packaging; Nov. 18, 2015; <https://bbbprograms.org/archive/meal-delivery-service-gobble-says-it-will-discontinue-eco-friendly-advertising-claims-for-its-packaging>
- NAD Recommends GreenPan Modify, Discontinue Certain Eco-Friendly Claims for its Non-Stick Cookware; Nov. 19, 2012 <https://bbbprograms.org/archive/nad-recommends-greenpan-modify-discontinue-certain-eco-friendly-claims-for-its-non-stick-cookware>
- NAD Recommends Housewares America Modify, Discontinue Certain Claims For Debby Meyer Greenbags; Company To Appeal June 8, 2009 <https://bbbprograms.org/archive/nad-recommends-housewares-america-modify-discontinue-certain-claims-for-debby-meyer-greenbags-company-to-appeal>

# Knobbe Martens

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