

# Product Program

## Cookie Related Intellectual Property and Cause Related Marketing Considerations

This information is broken into three sections. The first section will discuss how GSUSA protects our intellectual property. In Section 2, we are providing some frequently asked questions about beer and wine pairing events. Section 3 will cover cause-related marketing.

### Section 1: Protecting Girl Scout Intellectual Property

Each year during cookie season, GSUSA sees a surge in intellectual property infringements. There are several ways to protect our brand. The ultimate goal is always the same—stop the infringement as soon as possible.

Following are examples of intellectual property and infringements.

#### *Home City Brewery*

Home City Brewery is selling pints of beer without GSUSA’s permission, using the Girl Scout Cookie names. They were investigated and sent a letter. They immediately replied and stopped the infringing activity.

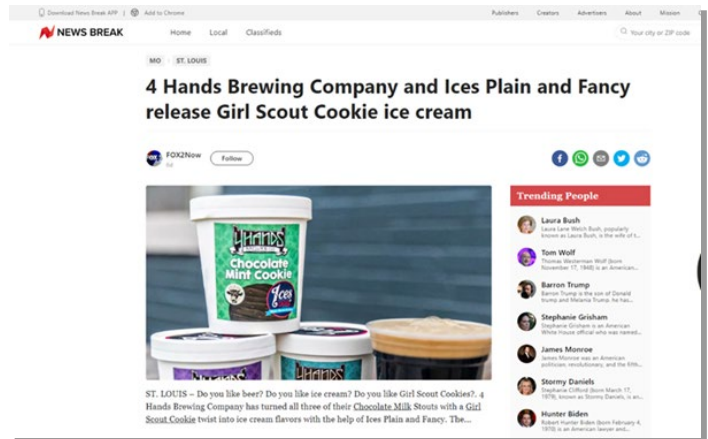


## 4 Hands Brewery

In this example, GSUSA has contacted 4 Hands Brewery objecting to their packaging, which mimics the Girl Scout Cookie packaging. 4 Hands has used the shape and imagery of Girl Scout Cookies. The trefoil pattern is used in the background of the boxes. They paired the flavor's colors associated with Girl Scout Cookies.

During GSUSA's research, it was discovered that not only did they have a beer lineup, but they have partnered with an ice cream company.

GSUSA received assurance from 4 Hands Brewery that they would stop using the images, etc. However, there is a recent resurgence, and this product is back online. GSUSA will continue to pursue actions against 4 Hands Brewery.



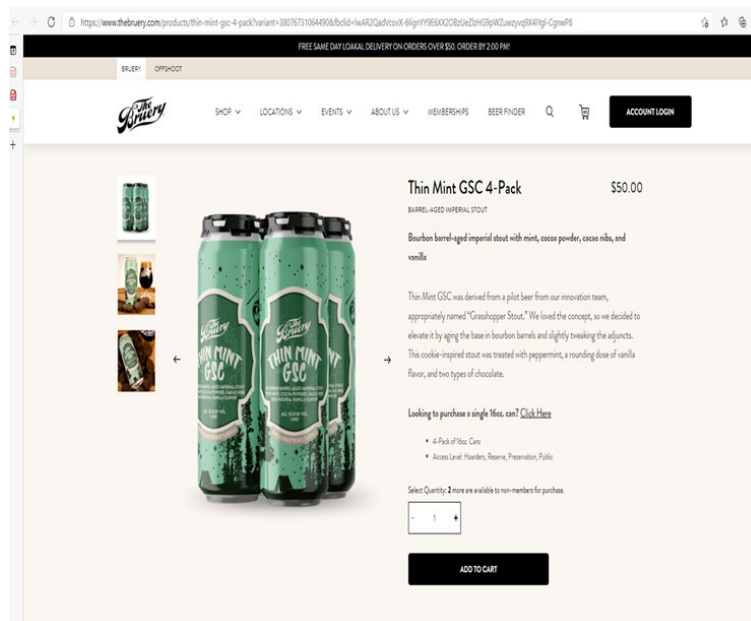
## Blackwater Draw Brewing

Blackwater Draw was hosting a pairing event that they call Girl Scout Cookies. They were sent a cease-and-desist letter.



## The Brewery

This brewery produced a beer using the Thin Mint name, but also clearly use GSC, the abbreviation of Girl Scout Cookie. They even tied it all together with a camping theme and a badge outline. They were sent a cease-and-desist letter.





## Other infringement

This example is particularly egregious for two reasons. The colors of our cookie packages and the names are very similar. Not only is this company infringing on Girl Scout intellectual property, but also falsely advertised and stated that with every sale of beer, a donation would be made back to the council.

This is known as cause marketing, which will be presented in this handout. This is regulated in sales promotion laws. The company was notified that not only were they infringing on the GSUSA service mark, but they were violating their state sales promotion law because they were falsely inducing purchasers to buy a product under the belief that their purchase was benefiting the local council.

Ultimately, the local council did receive a check from this brewery, and they did stop selling the infringing products.

The next two images illustrate that infringement does not specifically have to hijack the cookie names or the Girl Scout name. Infringement can be in the form of creating an association with Girl Scouts by the look and feel of the packaging alone. On one, the words Scout's Honor with a cookie image are infringement. The second is called Super Troopers and features a female wearing a uniform similar to a Girl Scout uniform and includes a trail for a symbol.

Taking all these elements together gives a clear picture that there is deliberate intent to call to mind the Girl Scout brand and leverage that brand.

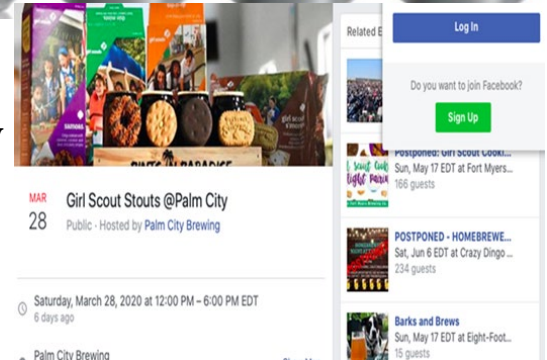
## Your Role in Protecting Girl Scout Intellectual Property

Report infringements to GSUSA at [trademarks@girlscouts.org](mailto:trademarks@girlscouts.org)

When collaborating with any “partner”, communicate IP use restrictions:

Businesses do not have the right to create product using any of the Girl Scout IP or any intellectual property that is confusingly similar to any such property or evokes Girl Scouts.

This includes product that is: branded with, states that it includes, or describes it as inspired by Girl Scout Cookies.



## **Section 2: Guidance and FAQs**

### ***Can any business use Girl Scout Cookies and cookie-inspired flavors in their products?***

A restaurant or small business may use Girl Scout Cookies in its desserts, provided it buys the Girl Scout Cookies from a Girl Scout, but it cannot use the Girl Scout name or trademarks to brand and market the products.

Prohibited use are “Thin Mint Shake”, “Girl Scout Cupcake,” “Thin Mint Cake,” and similar constructions.

GSUSA has contractual relationships with select companies to include Girl Scout Cookies and cookie-inspired flavors in their products and to use the Girl Scout name and trademarks in conjunction with those products. These rights are granted under national licensing agreements, and GSUSA is the only entity that may enter into such an agreement. For more on rules and regulations pertaining to the Girl Scout brand, or to inquire about becoming a licensee, email [permissions@girlscouts.org](mailto:permissions@girlscouts.org).

### ***Can a local business use cookie images, packaging images and/or logos to promote the cookie-inspired product to their customers?***

Generally, No. Local businesses do not have authorization to use the Girl Scout brand or cookie related images without written permission from GSUSA.

### ***Can a business take their own cookie product pictures to help promote a cookie-inspired product?***

Generally, No. Businesses cannot use GSUSA’s intellectual property to market, promote, advertise or sell their own product without written permission from GSUSA.

### ***Can a business have cookie pairings without permission from the council? Can they charge a ticket price for the pairing event?***

A business does not need council permission to host a generic cookie pairing event or an unbranded cookie pairing event. However, a business does need permission from GSUSA (or a council, if using the council’s name) to market their event with the Girl Scout brand/marks, product images or create any branding that projects a false association with Girl Scouts.

Under unbranded circumstances, the local business may charge ticket prices for their event/product. They cannot state or imply they are making donations to a local council without permission from the local council.

### ***Can a council partner with a brewery or winery for a fundraising cookie tasting event?***

Yes, this would be a cause-related marketing endeavor and councils should follow cause-related marketing guidelines in the next section.

Reference Safety Activity Checkpoints for guidance around having girls present at the event.

## Section 3: Cause-Related Marketing

Please note that Girl Scouts of the USA cannot provide legal or tax advice. It is recommended that specific advice be sought from a professional tax advisor or attorney for more information as to a particular tax or legal issue.

### *What is Cause-Related Marketing?*

Any campaign where a company advertises that a portion of the purchase price will go to charity, or if their goods/services are purchased, they will donate to a charity. Examples:

- \$1 from every t-shirt sale will be donated to Girl Scouts of XYZ Council
- For this month of December, for every purchase of a pizza, Joe's Pizza will donate \$1 to Girl Scouts of Local Council
- This September, 8 cents from each sale of Dove Body Lotion at participating Walgreens will be donated to Girl Scouts of the USA

Reminder: As you develop relationships with your commercial co-ventures or charitable sales promotions (CCVs), please note: No new products can be created that feature, include or identify the product with the Girl Scout brand/marks or other Girl Scout intellectual property.

Any use of the Girl Scout Council name is only as a beneficiary/recipient of the proceeds of the sale of product.

### *8 Best Practice Tips*

#### **1. Engage in a Strong Vetting Process**

Engage in a strong vetting process because there are some cause marketing campaigns that just aren't a great fit. In the example, KFC teams up with breast cancer charities. A lot of negative comments about fried chicken, or buying KFC buckets fight breast cancer were in the news.

THE BLOG 05/17/2010 08:51 am ET | Updated Nov 17, 2011

### **Greed, Cancer and Pink KFC Buckets**

By John Robbins



When a good cause turns chicken

Posted on June 29, 2010 by Holly Minch — No Comments ↓

abc NEWS

### **Fried Chicken for the Cure?**

By COURTNEY HUTCHISON and ABC NEWS MEDICAL UNIT · Apr. 24, 2010

## **The Washington Post**

**Is that right? Buying KFC buckets fights breast cancer?**

## **2. Remember the Blue Book Policy**

Review the Blue Book Policy on Cause- Related Marketing (p. 19)

GSUSA may develop alliances and relationships with corporations and businesses for the purpose of advancing Girl Scouting. A Girl Scout council may develop similar alliances with businesses within its jurisdiction or may work in partnership with GSUSA to develop strategic alliances outside of its jurisdiction. These corporations must have policies and operations compatible with the values of Girl Scouting. The guiding principles for such relationships shall be as follows:

The Girl Scout image will be preserved and enhanced;

Significant revenue and/or visibility will be generated;

Program activities will be enriched;

Membership outreach efforts will be supported; and the integrity and financial well-being of GSUSA and Girl Scout councils will be maintained or enriched.

## **3. Cause Marketing is Regulated**

Check your state's laws on cause marketing or requirements on written agreements, pre and post campaign filings, disclosures in ads, or charity registration to solicit in your state.

The Better Business Bureau will assess in renewing your status as a BBB-accredited charity (Standard 19). This is two-fold:

Consumer protection—consumers are not deceived about where their money is going

Charity protection—the company gives the charity what it was promised

## **4. Get a Written Agreement**

A written agreement is often required by law. But, it is also a best practice to protect your council. The agreement should include:

- Dates of the campaign
- Description of the promotion—what products are offered, where, and how?
- Geographic scope
- How the company is allowed to use the council name and local lock-up logo and the approval rights
- Amount to be donated (Money or percentage, on a per unit basis), including any cap or minimum

- Schedule for donations to be transferred and accounting to council (at least 90 days—required by law in many states, including CA)
- Right to audit and receive reports
- Requirement that company will comply with the law and the Better Business Bureau standards

## 5. Advertisements: Transparency is Key

The Save Lids to Save Lives Campaign Ads suggested 50 cents per lid would be donated to breast cancer charity.

9.4 million lids were returned; that would have resulted in a \$4.7 million donation.

Campaign was capped at \$100K.

The campaign cap was only disclosed on the underside of the lid. The consumer could only see the disclosure after the item was purchased.

The Georgia Attorney General investigated General Mills. General Mills settled for an additional \$63,000 which represented the estimated participation from Georgia residents.

The company’s ads should disclose, at the point of purchase (PRIOR to the sale):

- Name of the charity and the CCV
- The start and stop date of the campaign
- The portion of purchase price actually going to the charity, whether dollar amount or percentage
- Any cap on total donations, flat donations or guaranteed minimum
- In some states: charity contact information, how donations will be used

The language of “Proceeds benefit” or “Net Proceeds” is NOT recommended. See the following:

**NO: “Proceeds benefit Girl Scouts of XYZ council”.** This statement will fail the BBB test and is not recommended by the New York Attorney General. Refer to BBB Standard 19 for Accredited Charities



**Cause Marketing Disclosures - Clearly disclose how the charity benefits from the sale of products or services (i.e., cause-related marketing) that state or imply that a charity will benefit from a consumer sale or transaction. Such promotions should disclose, at the point of solicitation: a) the actual or anticipated portion of the purchase price that will benefit the charity (e.g., 5 cents will be contributed to abc charity for every xyz company product sold), b) the duration of the campaign (e.g., the month of October), and c) any maximum or guaranteed minimum contribution amount (e.g., up to a maximum of \$200,000).**



YES: “\$1 from each purchase will benefit Girl Scouts of XYZ Council”

YES: “10% of the retail purchase price will benefit XYZ Council”

## **6. Be Careful of UBIT**

All marketing should be done by the for-profit business and not by your council. Try to get the company to commit to a minimum amount of advertising.

## **7. A Note on Social Media Promotions**

Councils should be careful with social media promotions such as “Like us on Facebook and we’ll donate \$1”. Councils must determine if registrations and disclosures are required. This is an evolving area and councils should consult their own legal team before implementing a social media promotion.

It is safe to say that the council should follow best practices to protect themselves. Do your due diligence, have a written agreement, and be transparent with the language used, including the start and end date and any cap associated with the promotion.

## **8. Practical Considerations for Promotions of Different Sizes**

Council cause-marketing relationships are local and each council should check their own state laws.

If your council wants to hold a small cause-marketing event such as a one day promotion at a local ice cream store, remember to do the following:

- Do your due diligence on the company
- Require a contract
- Watch for transparency in ads
- Save the ads in a file for the BBB application
- Think about UBIT

### ***What About National Opportunities?***

Girl Scout councils fundraise locally and develop relationships within their jurisdiction—per their charter, state regulations and the Blue Book policy.

The Blue Book contemplates that councils will work in partnership with GSUSA if outside their jurisdiction.

Reach out to GSUSA if the company or the alliance might have national reach, or if there is a potential for national strategic opportunities. Contacting GSUSA allows:

GSUSA to help the council leverage the partnership

Avoiding conflicts with other national partners or Movement initiatives (e.g. exclusivity, existing national relationships, or convention)

GSUSA to work strategically with the council to find ways to best protect the brand and IP and maximize opportunities across the Movement

Development of a comprehensive partnership vetting process with the strategic partnership steering committee which is comprised of both GSUSA and council representatives. Councils and GSUSA can work together to provide input on national partnerships that could have Movement-wide impact.

## Resources

BBB Standards: [Http://www.give.org/for-charities/How-We-Accredit-Charities/](http://www.give.org/for-charities/How-We-Accredit-Charities/)

NYS AG Charities Bureau 5 Best Practices for Cause Marketing:

[https://www.charitiesnys.com/cause\\_marketing.html](https://www.charitiesnys.com/cause_marketing.html)

Blue Book: [https://www.girlscouts.org/content/dam/girlscouts-gsusa/forms-and-documents/about-girl-scouts/facts/GSUSA\\_BlueBook.pdf](https://www.girlscouts.org/content/dam/girlscouts-gsusa/forms-and-documents/about-girl-scouts/facts/GSUSA_BlueBook.pdf)

Contact [trademarks@girlscouts.org](mailto:trademarks@girlscouts.org) if you have a concern about a local cookie-inspired food or drink product that was not authorized by the local council.

For cause-related marketing questions, contact Kelsey Parker, Director of Council Fundraising Support at [kparker@girlscouts.org](mailto:kparker@girlscouts.org).