

# How Valentino achieved registered recognition for Rockstud shoes

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Famous and exclusive fashion brand Valentino S.p.A. is an Italian luxury fashion house founded in 1960 by Valentino Garavani and forms part of the Valentino Fashion Group.

Valentino filed trade mark applications for the design of its Rockstud® range of shoes in 2019 through the United States Patent and Trademark Office (USPTO), as shown below. Initially, the applications were refused on the basis that the marks could not function as trade marks. According to the USPTO, the features Valentino sought to protect failed to serve as source identifiers of their brand and were non-distinctive product designs with merely ornamental features.



Image: Supplied

As the fashion-conscious consumer will know, these T-strap shoes are known as Valentino's Rockstud range and the collection worn by many celebrities, consists of various metal, pyramid-shaped, stud-adorned shoes which Valentino has been making and selling since 2010.

In order to overcome the USPTO's refusal, the onus was on Valentino to prove that the features it sought to protect had *acquired distinctiveness through use*. Usually, the three basic types of evidence to show acquired distinctiveness are:

1. prior registrations of the mark on similar goods,
2. five years of use of the mark prior to filing applications for its registration, and
3. "*any other evidence*," such as long-term use of the mark, advertising expenses, declarations that assert recognition of the mark as a source indicator, survey evidence, market research and consumer reaction studies.



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In their attempt to show that the trade marks had acquired the necessary distinctiveness, Valentino was able to provide evidence that the Rockstud ballet flat generated over \$41mn in sales between 2014 and 2019. The Rockstud multi-strap pump generated over \$75mn in sales during that same period and the single T-strap pump, alone, generated over \$152mn

in sales over the past 10 years. Valentino made the claim that its Rockstud brand had acquired distinctiveness through exclusive and continuous use since 2010.

As a result of this evidence, the USPTO withdrew its refusal of the applications and the marks ultimately proceeded to registration, effectively granting Valentino a monopoly over the distinctive appearance of its Rockstud shoes.

## ABOUT THE AUTHOR

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