

Tasting Note Series

Food for Thought: What's Patentable?






In the food and beverage industry, both utility and design patents can be vital to intellectual property protection. They allow companies to mark their products as patented or use the label “Patent Pending,” warning potential competitors and increasing credibility with consumers.

Utility Patents

Utility patents protect innovative products, processes, and equipment, gaining exclusive rights and a competitive advantage. A few examples include:

- **New food formulations**, such as plant-based meat substitutes
- **Beverage formulas**, like enhanced nutritional drinks
- **Manufacturing methods**, like those used for new potato chip styles
- **Specialized equipment**, like AI-enhanced smart ovens




Utility patents cover a wide range of products and technologies, ranging from food formulations to specialized equipment.

Product	Process	Equipment
<p>Novel functional features or unique ingredients and compositions</p>  <p><i>e.g. Methods and Compositions for Affecting the Flavor and Aroma Profile of Consumables</i></p>	<p>Novel methods for making or testing foods and beverages</p>  <p><i>e.g. Method and Apparatus for Processing Potatoes</i></p>	<p>Novel devices or systems for making or testing foods and beverages</p>  <p><i>e.g. Beverage Forming Device with Activation Button</i></p>

Design Patents

Design patents have been filed for things like novel kitchen utensils, cooking appliances, pizza trays, and packaging for produce. Design patents covering the shape of a whiskey bottle, spiral-cut french fries, and Copper Chef pans, among many others, have been litigated.

Design patents can cover more than just the ornamental design of a unique soda bottle or food package.

Product	Presentation	Packaging
Unique appearance that has no functional purpose	Unique presentation of a product that may or may not have a functional purpose	Unique presentation/appearance that may or may not have a functional purpose
		
e.g. Candy Bar Appearance	e.g. Serving Tray Presentation	e.g. Water Bottle Appearance

For additional information, please contact:



Danica Harbaugh, Ph.D.
Patent Agent
DHarbaugh@perkinscoie.com
[Read Danica's Bio](#)



Alberto Araiza
Partner
AAraiza@perkinscoie.com
[Read Al's Bio](#)