

# Changing a Company's Corporate Identity Checklist

by Practical Law

**Maintained** • USA (National/Federal)

*This Checklist provides a general overview of the key business and legal issues to consider when changing a company's corporate or general business identity. Issues addressed include changing a company's name, searching and clearing a new company name, business issues related to a company name change, redesigning product labeling and packaging, revising marketing and corporate communications materials, and announcing a corporate identity change to the public.*

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A company's corporate identity is the overall image it creates in the minds of its:

- Employees.
- Customers.
- Competitors.
- Investors.
- Community.

A company visually expresses its corporate identity in its branding, including its:

- Name.
- Corporate logo.
- Key **trademarks**, **service marks**, and **domain names**, which may be the same as or different from the company's name.
- Design strategy for marketing and other corporate communications materials, including:
  - stationery;
  - brochures, flyers, and other print materials;
  - press releases;
  - advertisements;
  - websites; and
  - social media presence.
- Product labeling and packaging.
- Designs for:
  - its headquarters office;
  - other company offices;
  - signage;
  - delivery trucks and company cars;
  - its retail locations, if applicable; and
  - vending machines, retail kiosks, and other customer-facing machines and displays, if applicable.
- Employee apparel and uniforms.

This Checklist provides counsel with general guidance on key issues to discuss with management when a US-based company intends to change its corporate or general business identity.

## Determine Whether a Corporate Identity Change is Necessary

Companies periodically change their corporate identities for reasons including:

- Merging with another company.
- Acquiring a company division or brand.
- Changing their business strategies.
- Hiring new senior management.
- Changing their organizational structures, for example, by spinning-off businesses.
- Entering a new geographic market.
- Transitioning from regional to international markets.
- Settling a claim of **intellectual property** (IP) infringement.
- Updating their corporate images:
  - to better compete in the market; or
  - to rehabilitate a bad reputation.

When a company faces one of the above situations that may impact its corporate identity, it should weigh the benefits of changing its corporate identity against the fact that the change:

- Is an expensive undertaking. For example, if a company is changing its legal entity name, it can be costly to update the ownership information for all of its IP and other assets. Small companies can expect to spend tens of thousands of dollars on a corporate identity change while global companies can easily spend millions of dollars.
- Affects every aspect of a company's business.
- Takes a long time to implement.
- Has lasting impact on a company's reputation.

Before deciding to change its corporate identity, a company should consider obtaining feedback from key constituents, including its:

- Board of directors.
- Senior management.
- Shareholders.
- Employees.
- Customers.

If a company decides to change its corporate identity, it also should determine how to implement the change. Factors to consider include:

- Company size. Changing a global company's corporate identity is more complex than changing that of a small regional company.
- Forming an internal project team to:
  - develop project objectives;
  - conduct market research;
  - hire corporate identity or brand consultants;
  - involve management and employees; and
  - implement the new corporate identity program.

- Whether to implement a corporate identity change immediately or gradually. In some cases, it may take years to:
  - sell off or close subsidiaries and divisions that do not meet new business objectives; and
  - logistically change the new corporate identity's visual expression on everything from stationery to signage in multiple geographic locations.

## **Decide Whether to Change the Company's Name**

Changing a company's corporate identity does not always involve a technical change of its:

- Legal entity name.
- Principal trademarks or service marks.

Some companies change the design of their corporate logos, packaging, and other visual identifiers, but retain their legal entity name, which may also be their principal trademark or service mark. Coca-Cola is one example. International Business Machines, more commonly known as IBM, is another. Over the last century, IBM, one of the world's most widely recognized brands, has implemented several changes to its corporate identity program without changing its company name or principal trademark.

If a company decides to change its legal entity name, it should consider a list of alternatives developed by:

- Employees.
- Independent contractors.
- Advertising agencies.
- Corporate identity and brand consultants. Although employees and other consultants may assist with developing a new company name, corporate identity and brand consulting firms generally design all of the visual elements of a company's corporate identity program to communicate a consistent message about the company's mission and values.

For a sample independent contractor agreement, see [Standard Document, Independent Contractor/Consultant Agreement \(Pro-Client\)](#). For a sample advertising agency agreement, see [Standard Document, Advertising Agency Agreement \(Pro-Advertiser\)](#).

## **Search and Clear the New Company Name**

Before finalizing its decision to use a new legal entity name, a company should:

- Ensure that the corporate name is available in its state of incorporation as well as each state in which it is qualified to do business.
- Conduct trademark and domain name searches for the name, especially if it is also the company's principal brand name on products and services. For an overview of trademark clearance procedures, see [Practice Note, Trademark Searching and Clearance](#) and [Trademark Searching and Clearance Information Checklist](#).

A global company should also ensure that its proposed name does not have any negative connotations in foreign markets.

After selecting and clearing a new corporate name, a company should:

- Reserve it in the appropriate agency in its state of incorporation to ensure that it is available when the company implements the name change (see [Company Name Change Checklist](#)).
- File applications for federal trademark registration in the **US Patent and Trademark Office** (USPTO).
- File foreign applications for trademark registration in all countries where it has offices or does business.
- Register related domain names and redirect traffic from old domains (see [Practice Note, Domain Names](#)).
- Set up **social media** accounts and company pages.
- After implementing the new corporate name, update ownership information for all:
  - US **patents** and trademarks by filing in the USPTO a recordation cover sheet with proof of the name change;
  - **copyrights** filed in the **US Copyright Office**. Recording a name change in the US Copyright Office is voluntary but confers certain benefits, including providing members of the public with constructive notice of the facts contained in the documents filed;
  - domain names with the appropriate registrars;
  - social media accounts; and
  - other IP registered in foreign countries.

For more information about federal trademark registration, see [Practice Note, Acquiring Trademark Rights and Registrations](#) and [Registering a Trademark Checklist](#).

Instead of developing a new company or brand name, a company may decide to purchase trademark rights from another company. For a sample trademark assignment agreement, see [Standard Document, Trademark Acquisition Agreement](#).

### **Corporate Issues Related to Changing a Company's Name**

If a company is changing its legal entity name as part of a corporate identity change, it may need to take the following corporate actions depending on the law of its state of incorporation and the terms of its organizational documents and any stockholders agreements, convertible securities, options, warrants or other similar agreements, rights, arrangements, or commitments, including:

- Amending its certificate of incorporation to change its name (for example, see [Standard Documents, Certificate of Amendment of Certificate of Incorporation \(DE\)](#) and [Certificate of Amendment of the Certificate of Incorporation \(NY\)](#)).
- Obtaining consent to an amendment to its certificate of incorporation from the board of directors or stockholders, or both.
- Amending its by-laws after the name change becomes effective (see [Standard Document, By-Laws: DE Corporation](#)).
- Issuing replacement stock certificates with the new company name to holders of its outstanding stock.
- Filing an amendment to the certificate of qualification in each state in which the company is qualified to do business.
- Deciding whether to change the names of any subsidiaries to align with the company's new name. For best practices in internal management and corporate governance of subsidiaries, see [Practice Note, Best Practices in Corporate Subsidiary Management](#). For a template that in-house counsel can use to oversee subsidiary management, see [Legal Entity Management Spreadsheet](#).
- Changing its corporate seal.

If a company is publicly traded, it also must comply with additional requirements imposed by the **Securities and Exchange Commission** (SEC) and the national stock exchange on which it is listed, such as the **NASDAQ Stock Market** (NASDAQ) or **New York Stock Exchange** (NYSE). If a company has overseas operations, it should notify foreign counsel to determine what actions are necessary to comply with local law for a corporate name change. For more information about what corporate actions must be taken when changing a company's name, see [Company Name Change Checklist](#).

### **Other Business Issues Related to Changing a Company's Name**

If a company is changing its legal entity name, it also should:

- Notify:
  - employees (see [Consider Labor and Employment and Employee Benefits and Executive Compensation Issues](#));
  - banks and other financial institutions;
  - secured parties that have financing statements filed;
  - federal, state, and local taxing authorities;
  - other government agencies with jurisdiction over the company's business;
  - insurance carriers and brokers;
  - vendors, suppliers, distributors, and customers;
  - logistics providers, such as carriers, freight forwarders, and warehouse operators;
  - landlords and tenants;
  - professional organizations and trade associations;
  - accounting, law, and other professional services firms. If a company is involved in pending litigation when its name is changed, it (or its counsel) must inform the parties, opposing counsel, and the court where the action is pending;
  - utilities, telephone, internet, and other services providers; and
  - the post office.
- Review and update:
  - insurance policies;
  - contracts. For a generic form of agreement for use in amending many types of commercial contracts, see [Standard Document, Amendment Agreement](#);
  - leases, deeds, mortgages, and other real property records; and
  - directory listings.

### **Consider Real Estate Issues**

When changing their corporate identities, some companies commission architects and other designers to create a new look for their:

- Corporate headquarters and other company offices, including:
  - signage;
  - interior design; and
  - delivery trucks and other company vehicles.

- Retail locations, if applicable.
- Vending machines, retail kiosks, and other customer-facing machines and displays, if applicable.

For information about hiring architects and builders, see [Practice Note, Standard Construction Industry Documents: Overview](#) and [Owner-Architect Contract for Design-Bid-Build: Owner's Drafting Checklist](#). If a company decides to move its headquarters in connection with a corporate identity change, see [Moving the Company Headquarters Checklist](#).

## **Consider Labor and Employment and Employee Benefits and Executive Compensation Issues**

When changing their corporate identities, companies should communicate their rationale and strategy for the change so that employees feel included throughout the process, from name and concept development through to final implementation. This can help to ensure that they understand and embrace their companies' new mission and message.

A company may need to hire new employees or conduct layoffs if the corporate identity change was prompted by a:

- Merger, acquisition, or other reorganization.
- Sell-off or closure of a subsidiary or division that no longer fits with its new business focus.

For key considerations when recruiting and hiring new employees, see [Employee Hiring and Orientation Toolkit](#). For more information about planning and implementing a reduction in force, see [Reductions in Force Toolkit](#).

Other labor and employment and employee benefits and executive compensation considerations include:

- Reviewing and updating, as necessary:
  - employee handbooks (see [Employee Handbook Toolkit](#));
  - employment agreements (see [Executive Employment Agreement Toolkit](#));
  - offer letters (see [Standard Documents, Executive Offer Letter](#) and [Offer/Letter Short-Form Employment Agreement for a Non-Executive](#));
  - mandatory arbitration agreements (see [Drafting a Mandatory Arbitration Agreement: Best Practices Checklist](#));
  - confidentiality and inventions assignment agreements (see [Drafting an Employee Confidentiality Agreement: Best Practices Checklist](#));
  - **employee benefit plans**;
  - **summary plan descriptions** (see [Summary Plan Description \(SPD\) Toolkit](#));
  - adoption agreements (see [Best Practices for Completing Adoption Agreements Checklist](#));
  - other employee literature; and
  - recruiting materials.
- Issuing new company identification badges to employees.
- Ordering new employee apparel and uniforms.
- Training employees about how a new corporate identity program affects their jobs.
- Creating company-wide programs to reinforce cultural values symbolized by the company's new corporate identity. For example, creating employee initiatives that drive:
  - quality;

- service;
- integrity;
- innovation; or
- a commitment to community service.

If a company is changing its legal entity name as part of a corporate identity change, it should:

- Require employees to take certain actions, including:
  - applying for new corporate credit cards;
  - updating their voice mail greetings and email signatures;
  - ordering new business cards; and
  - attending training.

### **Redesign Product Labeling and Packaging**

Manufacturing companies may decide to redesign product labeling and packaging to incorporate graphic elements of a new corporate identity program. Like company and brand names, product labeling and packaging (also known as product **trade dress**) should be legally cleared before use and may qualify for trademark protection. For more information, see [Practice Note, Trade Dress Protection](#).

Product labeling also must comply with numerous federal and state product labeling laws. Many of those laws concern the following product types:

- Consumer products (see [Practice Note, FTC Labeling Requirements for Consumer Goods](#)).
- Food (see [Practice Note, Food Product Labeling](#)).
- Drugs.
- Medical devices (see [Practice Note, FDA Medical Devices Regulations: General Device Labeling Requirements](#)).
- Cosmetics (see [Practice Note, FDA Cosmetic Labeling Regulations](#)).
- Alcoholic beverages.
- Tobacco products.
- Industrial products.
- Imported products.

For more information on the key issues to consider about product labeling for various product types, see [Practice Note, Product Labeling](#) and [Product Labeling Checklist](#). If a company is launching new products in connection with its corporate identity change, see [Launching a New Product Checklist](#).

### **Revise Marketing and Corporate Communications Materials**

Changing a company's corporate identity includes revising all internal and external marketing and corporate communications materials to ensure that they deliver a unified message to all constituents. These materials include a company's:

- Website design and related metadata.

- Social media pages.
- Brochures, flyers, and other print materials.
- Stationery, including:
  - letterhead;
  - envelopes;
  - business cards;
  - invoices;
  - shipping labels and
  - other business forms.
- Presentation templates.
- Newsletters, catalogs, and other publications.
- Videos and product demos.
- Trade show materials, including:
  - booth signage;
  - banners; and
  - promotional giveaway items.

All of the above materials generally follow a corporate identity or design standards manual that is prepared by corporate identity or brand consultants to provide guidelines for using company:

- Logos.
- Colors.
- Typography.
- Other graphic devices.

The legal department should review early drafts of the design standards manual and approve the final version to ensure that it complies with company policies. A company's inside or outside IP counsel should also review and approve the design standards manual to ensure that the new designs meet legal criteria for proper IP use.

Before finalizing the design standards manual and all designs for packaging, advertising, and other marketing and corporate communications materials, a company should consider polling employees and customers to assess their approval of the proposed new corporate identity.

Once approved, the design standards manual should be uploaded to a company's intranet and distributed to its:

- Employees involved in:
  - advertising;
  - public relations;
  - sales and marketing;
  - corporate communications;
  - human resources; and
  - new product design and development.
- Outside vendors that design and develop marketing and corporate communications materials, such as advertising agencies.

## **Announce the Corporate Identity Change**

After implementing new corporate identity programs, companies often launch public relations and advertising campaigns to introduce their new look and message to the general public. Some companies develop these campaigns in-house, while others contract with:

- Public relations agencies. For key issues in-house counsel should consider when advising company executives who may be interviewed by the media, see [Practice Note, Dealing with the Media: Business Briefing](#).
- Advertising agencies (see [Standard Document, Advertising Agency Agreement \(Pro-Advertiser\)](#)).
- Marketing consultants and other service providers (see [Standard Document, Promotion and Marketing Agreement](#)).

Advertising campaigns in support of corporate identity changes generally include one or more of the following:

- Press releases.
- Traditional print and media advertising (see [Practice Note, Advertising: Overview](#), [Standard Document, Advertising Agreement: Print Publication](#), and [Drafting and Negotiating an Advertising Agency Agreement Checklist](#)).
- Online advertising, including social media (see [Social Media Usage Toolkit](#)).
- Direct marketing (see [Practice Notes, Direct Marketing](#) and [CAN-SPAM Act Compliance](#)).

Advertising programs must comply with various federal, state, and local laws and regulations or risk facing costly litigation and government action. For more information about key business and legal issues to consider when undertaking advertising and marketing activities, see [Advertising and Marketing Toolkit](#).