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How to Protect Food Presentation by Intellectual Property

“We Eat with our Eyes First”

(Apicious)

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Cakes by
Jasmine
Rae

1. Copyright protection for food presentation

Bidimensional
presentation
(foodie culture)

Tridimensional presentation: the
plating, work of applied art



“originality”
“work”
Cofemel Case



Copyright protection for food presentation

Cake by Chef Zumbo



Menestra de texturas en verduras, by Ferrán Adrià



Misticum



Protection of Food Presentation as Design

- Protection of the appearance of the product

- Novelty



This requirement may be difficult to fulfill because food is a mixture of tradition and innovation

- Individual character

- Partial cumulation of protections: copyright/design in the EU

The Mondrian Cake,
by Caitlin Freeman



Protection of Food Presentation as Trademark



Protection of Food Presentation by Trade Dress



Other Forms of Protection Food Presentation

- **Trade secrets**
- **Non-disclosure agreements**
- Fiduciary duties
- Related rights
- Manufacturer of databases right
- Unfair competition rules

- **Self-regulation codes:**
 - A chef must not copy innovative recipes exactly;
 - If a chef reveals a recipe to a colleague, this last chef cannot reveal information to others without consent;
 - Respecting attribution rules (“adapted from”; “inspired by”).

Conclusions



Food presentation can be protected by copyright and by other intellectual property rights, namely **design, trademarks** and **trade dress**;



Other forms of protection are also very important, namely **trade secrets** and **confidentiality agreements**;



Self-regulation codes of conduct play a very important role, having normally a more open approach;



Excessive protection, given the history and tradition of gastronomy, **may harm** creativity, innovation, and ultimately competition;



The **type of protection required** has to do with **what the chef wishes to protect**, the form of presentation that ought to be protected, and to know whether we are before a signature dish, a restaurant/bar owner, or a food industry company.

Thank you!

- If you have any questions, I'll be happy to answer.
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