

Lessons from Best Cellars for plaintiffs wanting to exclude competitors

{be very specific on what you claim as T.D.
a high level of generality is better} → *[arrow drawn
to next line]*

articulate many that are common

make it sound very specific
(you can choose after the dispute
begin[s])

say packaging – package it
as “packaging” rather than “design”

many generalities together
sound suddenly specific

functional elements within packaging
doesn't preclude distinctiveness

tell the glorious story of the plaintiff's
cleverness, sweat equity, etc.

license often and early,
and then wave around