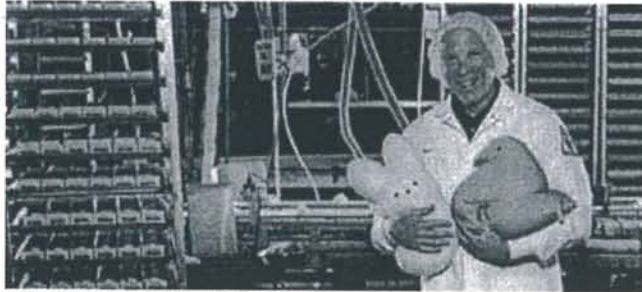


## Hatching New Revenue Streams

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Photograph By Michelle Pedone

**Born Again:** Ross Born recently rolled out a full line of Peeps merchandise.

### **How the maker of Marshmallow Peeps finally leveraged its intellectual property.**

Standing on the sidewalk watching the Macy's Thanksgiving Day Parade in 2003, Ross Born and David Shaffer, cousins and co-CEOs of Just Born--the maker of Marshmallow Peeps, Hot Tamales, and Mike and Ike candy--watched the crowd go wild as a giant yellow Peep balloon floated down Broadway. It was the perfect culmination to the Peep's yearlong 50th anniversary celebration, which had kicked off the previous January with a nationwide bus tour.

Since Born's grandfather, Sam Born, founded Just Born in 1923, the company, based in Bethlehem, Pennsylvania, had focused solely on churning out sugary treats, especially its classic yellow chick. When the occasional linen company or jeweler requested permission to use the iconic Peep image, the company simply requested a small share of the sales. During the previous few years, however, those requests had become increasingly common, which got Ross Born thinking about capitalizing on the Peeps brand with a more ambitious merchandising effort. The crowd's reaction to the Peep balloon cemented his decision. "It really opened our eyes to the power of Peeps," Born says. "We knew we sold a lot of Peeps, but we didn't realize the excitement that they generated."

Intellectual property--broadly defined as any idea, brand, knowledge, or technology with commercial value--has been a hot topic for the past decade. Indeed, such nonphysical assets are a key driver of the U.S. economy, now contributing almost 40 percent to private industry growth, according to a study by the Washington, D.C.-based consulting firm Economists Inc. **Still, many private companies are so focused on expanding their core businesses that they're slow to capitalize on such intellectual assets, says Becky Christensen, an intellectual property attorney at O'Connor, Christensen & McLaughlin, a law firm based in Irvine, California.**

Just Born, for example, waited decades. But it became increasingly apparent that the Marshmallow Peeps brand and the likeness of the fluffy chick were great vehicles to reinforce the emotional connection many consumers have with the candy, which has long been an Easter staple. Ideally, of course, any merchandise would help bolster the company's bottom line. Ross Born's main goal, however, was to use the increased brand recognition to jump-start the company's candy sales, which had been growing steadily, but slowly, for more than 80 years.

Born and Shaffer worried, however, that new product lines would distract them from the candy business. They had mastered the art of making sweets, but they didn't know the first thing about producing and selling clothes and toys. Instead of handling the task in-house, they wanted to farm out the bulk of the process to licensees that design, manufacture, and distribute the products. Of course, outsourcing the job meant they risked losing control over quality. To find top-notch licensees, the company hired Lisa Marks, a licensing agent and president of Lisa Marks & Associates, based in Port Chester, New York. Marks helped Born and Shaffer find 24 licensing partners with strong track records and established distribution networks. She also negotiated all of the licensing contracts in exchange for a cut of the sales.

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The next challenge was determining what kinds of products to license. That's where many companies go wrong, says David Martin, North American president of Interbrand, a New York City-based brand consulting firm. Agree to have your name plastered on too many products and you run the risk of saturating the market and cheapening your brand. The classic example is Pierre Cardin, which Martin says was a relatively strong brand until it started licensing to a large number of apparel companies, some of which produced products that did not appeal to the designer's loyal audience of high-end shoppers.

To prevent Peeps from suffering a similar fate, Just Born relied heavily on market research. For several years, the company's marketing director, Matt Pye, had been gauging consumer interest in various products via an annual survey of select target groups. He and his team also tapped the 50,000-member Peeps fan club for advice. Most customers, the research showed, associated Peeps with Easter. So, Born and Shaffer decided to license products that could be nestled inside Easter baskets, such as books, plush Peeps, and small toys. Marks agreed, but advised them to start off with apparel and accessories targeted at the trendsetting preteen market to create a buzz.

The first official Peeps merchandise, which included socks, jewelry, and loungewear, appeared in thousands of Target, JCPenney, Wal-Mart, and Nordstrom stores in 2004, just in time for Easter. The following spring, Just Born rolled out a more ambitious line that includes everything from cosmetics to egg-dyeing kits to Peeps screensavers. In exchange for the use of the Peeps image and name, licensees hand over royalties equal to between 5 percent and 15 percent of each sale, in addition to up-front payments. Multiyear agreements also include built-in payment guarantees. Last year, proceeds from merchandise sales added 4 percent to Just Born's bottom line.

One downside to the extra attention has been a surge in counterfeit Peeps products. Before its merchandising effort, Just Born employees occasionally stumbled upon unlicensed Peeps T-shirts or bracelets. In most cases, a simple cease-and-desist letter scared off imitators. But counterfeiters have become more common and more persistent. These days, Just Born's staffers devote several hours a week to scouring the Internet for fake Peeps merchandise. In fact, the task has become so onerous that Pye is thinking about enlisting the help of one of the new anticounterfeiting firms that have cropped up recently, such as Boston-based GenuOne and Dallas-based Authentix. GenuOne, for example, sells software that searches the Internet for counterfeit items. To suss out fakes offline, GenuOne tags licensed merchandise with invisible bar codes that clients can verify using hand-held scanners. A yearlong subscription to GenuOne software starts at \$50,000; the company charges a few pennies per product for the tagging service.

Rooting out counterfeiters is time-consuming, but forcing them to stop can be even more difficult. To that end, Just Born hired a law firm that specializes in intellectual property, and is considering filing law suits against fakers for the first time. "If anything, it would show that we're serious about protecting our trademarks," Pye says.

Still, the benefits of the Peeps expansion outweigh the drawbacks, Born says. Thanks to increased brand visibility, sales of the candy will likely jump 5 percent this Easter, according to Pye. Pye hopes that Peeps merchandise, which now includes slippers, bath gels, and stationery, will add 15 percent to the company's annual profits by 2011. "We're doing this to support our brand," Born adds. "We plan to grow aggressively."

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