

Brand and Trademark – The Challenge to Define the Difference

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Abstract: The terms "brand" and "trademark" are often used as synonyms. However, they have meanings which do not overlap. This article analyses the semantics and origin of the two terms and tries to shed light on the usage of the two terms. It can be concluded that all trademarks are brands, but not all brands are trademarks. The brand contributes to the identification of the company and to its products or services, while the trademark is intended to prevent competitors from stealing the brand image or from creating similar products or services and thus causing confusion on the market. This work further iterates the evolution of brand into internal branding and its contemporary application.

Key words: brand, trademark, branding, internal branding

1 Introduction

Quite often, the terms "brand" and "trademark" have been used interchangeably. This, however, is not accurate as each of them has significant distinctions. These specific differences can be traced back to the etymology of the two words, as well as to their use. The issue is further complicated by the different definitions of brand given by the scientists. The term trademark is much more modern, and its meaning comes straight forward. The purpose of this work is to analyse the differences between the two terms and give some examples of their contemporary usage.

2 Origin of the concept

The word "brand" or "brandr" comes from ancient Norwegian with the meaning of burning, setting a trowel. From the language of the ancient Vikings in the X century, it enters the English language as a loan translation [1]. Originally, the term was created to denote the source, the creator or the owner of the product or of any object. Hence, it's more general meaning - branding bovines, horses, sheep and other domestic animals. With the development of business relationships, branding has begun to designate the origin or source of the product. It helped distinguish one manufacturer from the others which produced similar products. In later times, family characters began to be used as personal and often underwent changes in the hands of different family members. Subsequently, they are used as trademarks or as signs

of artisans and artists [2].

The dictionary of the American Marketing Association defines the term "brand" as: "Name, term, design, symbol or any other characteristic that distinguishes the seller's products and services from those of other sellers" [3]. However, this definition does not mention either the reputation or the marketability. The reasons for this are historical. In the past, the goods have been defoliated, i.e. the buyer did not know the manufacturer's name. [4] The good suppliers suffered from this anonymity because their zeal was left unnoticed by the buyer, and the commodity did not get a conscious preference. It is true that certain manufacturers, such as the craftsmen of porcelain, have put on their stamps. But for some goods, it is impossible to put a stick, such as bulgur or oil. This became possible with the appearance of the packaging. The innovation of the package and the opportunity to decorate it with a certain name was initially scarcely. The ones who has decided to come out of the shadow of anonymity merely relied on their reputation. Only those producers who were confident in the quality of their goods could rely on good reputation. Those producers who put their names on a poor quality were doomed to failure. Buyers started preferring better-quality packaged goods. They also liked the sellers, because they were no longer required to draw and measure, and the loss of spoilage became less. These goods began to bring more benefits to their holders. They became victorious goods [5].

The contemporary term "brand" implies an object with

some remarkable and distinguishable qualities. If such an object is missing, everything else becomes meaningless. Awareness of the distinctive features of the object, its reputation and its image is needed. It is also necessary for people to have good associations when they see or hear about the attributes (name, company graphic elements and other distinctive features) of the object [5].

3 Definitions

Brown [6] has demonstrated the broadest approach to defining brand. His definition of brand is given as the sum of all the instant associations that arise over buyers and brand holders.

Still and Ambler point out two broad philosophical approaches to characterization of the brand. The first approach, called "product plus", treats the brand as an add-on to the product. The second is characterized as an overall perspective focused on the brand itself. With this approach, all the elements of marketing are integrated into one whole, and so are embedded in the company's trademark [7].

According to David Taylor, the brand is "a name and a symbol associated with a familiar, trustworthy experience that is appealing to both the head and the heart" [8].

According to Kevin Lane Keller: "The brand is present in a product that possesses dimensions that somehow differentiate it from other products designed to meet the same need." [9].

D. Bezos says: "It has always seemed to me that the brand is formed not only from what the company says about itself but from what the company actually does." [5]

Stefan King of the WPP group, London, says: "The product is what is produced at the factory; a brand is what the buyer buys. The product can be copied by the competitor; the brand is unique. The product may become aging rapidly; the successful brand is eternal." The brand is essentially the vendor's promise to deliver consistently a set of properties, benefits and services to buyers [10].

Giep Franzen and Sandra Moriarty, define the two main directions of brand development in their book "The Science and Art of Branding" [11]:

- *The idea of the brand as art*: It deals with brand equity and integrated branding. The aesthetics of the brand strategy are guided by the classic "good fit" concept that explains "the beauty and economy of the perfect solution to the functional problem."

- *The idea of the brand as a system*: Systemic thinking refers to strategic thinking.

From the definitions given so far, it can be concluded that the brand is a mechanism for achieving a competitive advantage for the firm by differentiating

its products. The most important aspects of the product differentiation are those distinguishing features of the brand that provide benefits to the clients for which they agreed to pay. The competitive advantage can be defined by the terms: income, profit, added value (in the marketing interpretation of that term) or market share. User benefits can be real or illusory, rational or emotional [2]. The content of the brand is all that it means to the user - the sense and the unique meaning of the mark. This content can be described as an attitude that is maintained and developed through the interaction of the user with the brand [2].

If the brand itself is relatively unchanged and generally characterizes its owner, the "myth of the brand" is volatile. It changes constantly as a result of the efforts of its creator and owner in his competitive struggle and in his constant adaptation to the current social processes [2].

4 Elements of the brand

The process of development of the brand is associated with the ongoing work of researchers. The elements of the brand are accordingly growing in number: [9]

1. Brand name (trademark);
2. Reputation;
3. Web page addresses;
4. Logo;
5. Symbols;
6. Character, style, own personality;
7. Slogan;
8. Colour;
9. Aroma;
10. Melody;
11. Song;
12. Mythology (brand history);
13. Reserved word;
14. Mascot;
15. Brand speaker;
16. Ambassador;
17. Office design;
18. Uniforms;
19. Packaging and others.

5 Comparative analysis of the "brand" and "trademark" terms

Here we must first point out that brand and trademark are not synonymous. Brand is a more general term than trademark. Trademark is a legal term and includes only those words, symbols, or signs registered under the Marks and Geographical Indications Act, with only one company entitled to use them to distinguish its products. [12]

The concept of "brand" is relatively new in the Bulgarian market and is just beginning to be imposed. There is a significant difference between brand and trademark: almost all companies have a trademark but few of them have a brand. The brand above all is a trademark with a sustainable image. Therefore, after its creation, the trademark must be successfully positioned, developed, popularized and imposed on the market by means of the brand communications [2]. The trademark is the most visible and important part of the brand, but it is just one of the many elements of modern brands [12].

In order to distinguish the two concepts better, we should also consider a few brand definitions:

- A trademark is the sign that can distinguish the goods or services produced or provided by an enterprise from those of other enterprises [13].
- The American Marketing Association defines a trademark as follows: "The trademark is a name, term, sign, symbol, design or combination thereof to identify the goods or services of one or a group of sellers in order to differentiate them from those of the competitors." [14].
- The trademark is a sign which can distinguish the goods or services of one person from those of others and may be represented graphically. Such characters can be words, including face names, letters, numbers, drawings, figures, the shape of the product or its packaging, a combination of colours, sound signs, or any combination of such signs [15].
- A trademark is the name associated with one or more elements in the product series that is used to determine the source and character of the elements. Example: "Nokia" [12].
- Essentially, the trademark identifies the seller or manufacturer. [10]
- The trademark is a sign of quality guarantee in the eyes of the consumer. [16]
- Trademarks help users make their choices much more confident. [17]

The term "brand" is similar to that of "trademark" and „stamp". All three special signs are to be put to one purpose - first, to distinguish and, secondly, to identify the goods and / or services marked with a single mark by a manufacturer or dealer of a similar type to another manufacturer; trader, marked with another mark. Therefore, both the stamp and the brand can be called a brand [2].

The difference lies in the fact that a "trademark" is a legal concept, the limits of its use are narrowed to the legal field. Everything that is entitled to be called a

"trademark" is described in the Law: the type of markings that can be registered as a trademark, the order of registration, the field of use, etc. All registered commercial signs are therefore protected by special laws, sub-laws, regulations, international treaties and others. Compliance with them is a must, and their violation can be brought to court [2].

The term "brand" has a much wider meaning and application. It includes everything that consumers think of and feel about a product or service. [18]The brand is what the consumer's mind is about even regarding just one aspect of the product: consumer's own experience, lifestyle, advice given by friends or by opinion leaders, advertisement, delivery, ease of use, availability service, warranty, reuse of packaging and much more. Thus, through the designation of the distinction of certain goods and / or services similar to those of the competitor, the brand is able to create consumer preferences and build loyalty to a particular brand. Or, according to Al and Laura Ray's definition, it is the "unique idea or concept" of a product that is embedded in the user's head [2].

A trademark may be part of the brand only when it becomes an important consideration for the consumer when choosing what to buy. Exactly this cognitive distinction of the brand in the mind of the consumer is impossible to be legally protected [19]. For example, many people are convinced that "Volvo" is the safest car, and if they value road safety to a high degree, they will opt for this brand when they decide to buy a car. Consequently, it is theoretically possible to register as a trademark the advertising slogan: "Volvo - the safest car". But it is impossible to legally fix the perception of these users of "Volvo" as the embodiment of road safety. What people think and feel about one or another product cannot be the subject of legal discussion or legal regulation. That is why the company's concept of the brand and the strategies for its creation, positioning, launching and maintenance is the non-price tool for conducting competitive struggle aimed at forming and managing the image (perception, reputation, style) of the company [2].

5. Evolution of the Term "Brand"

5.1. Branding

The term "brand" is associated with a name, a sign or a symbol that identifies a service or a product. Branding is the continuous process of creation and enhancement of the brand. It is the most significant means of product differentiation. Shortly, branding is a set of sequential activities and directions to create a complete image of the product or service that corresponds to consumer demand. Branding is a brand management.

5.2. Internal Branding

Nowadays there are numerous challenges in brand management. Most of the employees are aware of and appreciate branding even unconsciously. It is important for the company to organize events and surveys within the organization to find out if each employee makes the necessary quality support for the brand. Brand management is most successful when everyone in the organization has a perception of what the brand is, how its actions help or harm the existence of this brand and, accordingly, assess how to work harmoniously [4]. Internal branding is perceived as an approach that offers mechanisms with insufficient potential to motivate staff to synchronize their work values and behavior with those of the brand. Internal branding acts in two directions on the attitude of the brand-related staff. On one hand, it motivates them by providing work satisfaction and by creating an inspiring working environment. On the other hand, through internal communications, employees get to know the brand of the company, as well as their role and responsibilities in implementing brand strategies [19]. When internal branding is used accordingly it assists the management of the whole enterprise contributing to its agility and thus ensuring sustainability of the production process [20].

6 Conclusion

By comparing the terms brand and trademark, we may recapitulate that trademarks are brands, while not all brands are trademarks. The brand is the image of the enterprise. It is often associated with positive perceptions by the public and is what buyer sees and thinks about a certain company. The trademark is an aspect of the brand and has legal protection. The brand is a corporate image that accumulates features such as personality, character, identity and reputation recognized by the public. The trademark is the legal protection of the trademark granted by the Trademark and Patent Office. The trademark is intended to prevent competitors from stealing the brand image or from creating similar products or services and thus creating confusion on the markets.

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