
Editorial

Brands™: Interdisciplinary perspectives on trade marks and branding

Trade mark law provides legal rights that protect and sustain branding practices: it regulates who can use communicative signs such as words, names, logos, colours, shapes and smells, and how those marks can be used. Against this legal backdrop, brand owners (ie trade mark proprietors) make investment decisions about product branding and consumers make purchasing decisions. Brands have become objects of immense social importance, and trade mark law plays a crucial role in determining the commercial and cultural success of those brands. Changes in trade mark laws affect what sorts of signs will be registrable as trade marks and likely to attract investment and become brands, and changes in branding practices have repeatedly led to significant restructurings of trade mark laws. The relationship between trade mark laws and branding practices is therefore symbiotic: trade mark laws help to determine a brand's personality, and branding practices influence the sorts of legal regulations put in place by governments and interpreted by judges.

The cumulative cultural effect of this can be dramatic, but the degree to which it depends on interactivity between brand managers and trade mark practitioners should not be underestimated. Where would branding be without trade mark law to protect the brand owner's investment? And

where would trade mark law be without branding to justify its existence? Despite the mutual dependence of branding and trade marks on one another, and the consequent interaction between branding professionals from both disciplines, it is clear that brand management and trade mark practitioners often approach branding practice from quite different perspectives. The brand-dialects they speak and concepts they use are sometimes unintelligible or counterintuitive to those from other disciplines within the branding community. The result can be frustration on all sides.

It is surprising that there has not been more attention paid to this phenomenon. It seems incredible that there has not been more outcry at the empirical costs that ensue when practitioners from different disciplines fail to understand and communicate clearly with one another. And it is startling that such practitioners have not paid more attention to the insights offered by those who have indeed invested in understanding branding from a more objective, interdisciplinary perspective.

It almost goes without saying that the creative dynamism typical of branding practice is nourished and inspired by observing social trends, technological developments, cultural heritage and national/ethnic pride, economic aspirations, and the variety of political viewpoints and personal

identities that humans express in their interactions with one another. Each of these traits is the subject matter of a discipline within the social sciences (sociology, psychology, political science, economics, cultural studies, and so on), and each has its own experts on branding.

Despite all of these applied interdisciplinary interactions between practitioners, and the insights offered by theorists working in the social sciences, remarkably little interdisciplinary work has been published on branding. This special issue of the *Journal of Brand Management* is an attempt to redress this deficiency, offering a variety of perspectives — legal, sociological, marketing and political, academic and practical — that give rise to a number of interdisciplinary insights.

This special issue on trade marks and branding contains papers based on presentations and discussions that took place during an interdisciplinary colloquium entitled ‘The Law of Trade Marks and the Culture of Branding’ held at Queen Mary, University of London on 16th September, 2005. The aim of the colloquium — kindly sponsored by the Institute of Advanced Legal Studies’ External System Legal Research Fund and the *Journal of Brand Management* — was to bring together an interdisciplinary group of branding and trade mark experts to consider the overlap of these disciplines from a variety of viewpoints. The hope was to compare perspectives on branding and trade mark practices, and to emerge with new insight as a result of this interdisciplinary cross-fertilisation of ideas. By the end of a fascinating, challenging day, this aspiration had been more than realised.

The colloquium drew together a number of specialists from a variety of disciplines that are concerned with branding. These included the chairman of the British Brands Group (John Noble), marketing and branding consultants (Dawn Franklin and Giles Lury), representatives from the Patent Office UK, which has responsibility for registering trade marks in the UK (Phil Lewis and Miles Rees), a trade mark and patent attorney (Richard Gallafant), an intellectual property lawyer and legal philosopher (Alexandra George), sociologists (Adam Arvidsson and Celia Lury), and a political scientist (Catherine Needham). The discussion questions around which the colloquium was structured were as follows:

- To what extent does the legal concept of a ‘trade mark’ coincide or conflict with the non-legal concept of a ‘brand’?
- To what extent does branding practice depend on structural aspects of trade mark law (and vice versa)?
- Should core tenets of modern trade mark doctrine be amended to reflect or keep pace with the context of branding practice in which they are applied?

Many of the answers and perceptions offered in response were diverse, intellectually stimulating, and theoretically important.

The colloquium resulted in a varied range of perspectives being put forward throughout a day of vibrant presentations, and lively discussions and debates. As we progressed through the programme, it became increasingly clear how differently the various disciplines tend to approach identical concepts. Lawyers and trade mark

practitioners are guided by myriad definitions and legal rules that sometimes sit uncomfortably with the creative, experimental and experiential approaches favoured by marketing specialists. Sociologists offer insights into the socio-cultural forces that explain branding practices and their effects, while political scientists point to methods by which branding practices can be used to understand and control the ways in which messages are communicated and social power is organised. The papers in this issue of the *Journal of Brand Management* illustrate all of these issues and are testament to the numerous ways in which different disciplines approach similar issues. That these papers span a range of disciplines and range from the extremely practical to the strongly

academic, and thus diverge somewhat from the usual style of the Journal's offerings, is perhaps indicative of the fact that there is usually remarkably little interaction between some of these disciplines in the normal course of events.

As was clear at the colloquium, and is reinforced by the collection of papers contained here, the various disciplines that contribute to the nature of branding, or that draw on branding insights in order to understand other disciplines, have much to learn from one another. It is to be hoped that there will be plenty of interdisciplinary discussion in the future.

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Guest Editor