

TRADEMARK VS BRAND: A CONCEPTUAL APPROACH

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Abstract:

In this paper we realized a study regarding the concepts of trademark and brand. There are numerous confusions between the two concepts, among theorists and practitioners. We deepened the debate related to these terms, studying a series of articles and papers in the field. Our research showed that there are differences of substance between the two concepts. If the trademark identifies a property right over an enterprise or a product, the brand is the sum of meanings and significations of a product, beyond the utility of that product or the service.

Keywords: trademark, brand, brand capital, brand system.

1. The problem formulation

The problem refers to the precise definition of trademark and brand concepts, this being the more difficult in Romanian language, where the two terms imposed and are used in parallel. For many authors, there is no difference between the trademark and the brand. The two concepts are confused deliberately or not: country trademark vs. country brand, company trademark vs. company brand, personality trademark or personality brand.

A consistent delimitation from a theoretical perspective was made by the branding consultant Aneta Bogdan (2002). The trademark – registered or not – is the unique symbol that differentiates the offer of a seller from the others'. Any company can register a trademark. On the other hand, brand represents all the physical and emotional connections that are created between a product and its consumers (Bogdan, 2002). Brands include linguistic and visual identities, but they are more than that: they are the emotional relation between the buyer and the product, relationship based, especially, on the values expressed by the brand itself.

The trademark offers a property right, meanwhile the brand is a relation between an audience group and a product, idea, service, with the aim of adding value to a business (Bogdan, 2010, p. 32).

The trademark is the mechanism that legally protects the brand and assures the property over this intangible asset. Brand building without the protection of a trademark can be followed by unfavourable results, because there can easily appear the copying phenomenon or, moreover, the trademark can be registered by someone else.

There were numerous cases in which companies lost their property rights over the marks and had to buy them from the new owners, or pay royalties for the usage right. In Ibiza, Spain, the main night clubs were managed by British entrepreneurs. Spanish entrepreneurs registered the clubs' names at the office for trademarks in Spain, requiring important sums of money from the British managers for using the brands again.

For Philip Kotler, the trademark is a guarantee of a constant quality and also a complex symbol with six meanings: characteristics, advantages,

values, conceptions, personality and user.

Regarding characteristics, the trademark reflects the distinctive elements of the product. Advantages refer to the physical or emotional benefits that a product usage involves. A brand aims certain values and consumers appreciate those brands that offer them the values they believe in. A brand presents also some conceptions, most often related to the way products were realized and to the distinctive competencies of this organization. The personality of the trademark refers to the personality elements to which different brands relate to. The user or the user category sends some suggestions about a brand's buyers (Kotler, 1997, p. 558).

2. The debate trademark vs. brand

David Aaker considers the brand a name and/or a distinctive symbol (such as a logo, registered trademark or a package design), used with the intention of identifying the products or services belonging to a producer or a group of producers and differentiate those goods or services from those of competitors' (Aaker 2005, p. 8). The brand capital is an intangible asset. For many businesses, the brand and what it

represents is the most important asset – basis for a competitive advantage and for further income (Aaker 2005, p. 18).

The brand capital is a set of assets and liabilities related to a brand, to its name and symbol, that adds something to (or subtract from) the value offered by a product or service, to a firm and/or the symbol of that brand. For assets and liabilities underlie brand property, they have to relate to the name and/or the symbol of that brand. If the name or symbol changes, one or even all of the assets and liabilities could be affected – if not lost, although a part of these could be past to the new name or symbol. Assets and liabilities on which brand capital is based on are different from one context to another. However, they can be grouped in five categories (Aaker, 2005, p. 22-23):

- Loyalty to brand;
- Name recognition;
- The perceived quality;
- Brand's associations and the perceived quality;
- Other assets being in brand's property – patents, registered trademarks, relations inside the distribution channels etc.

Concept of the brand capital is summarized in figure 1.

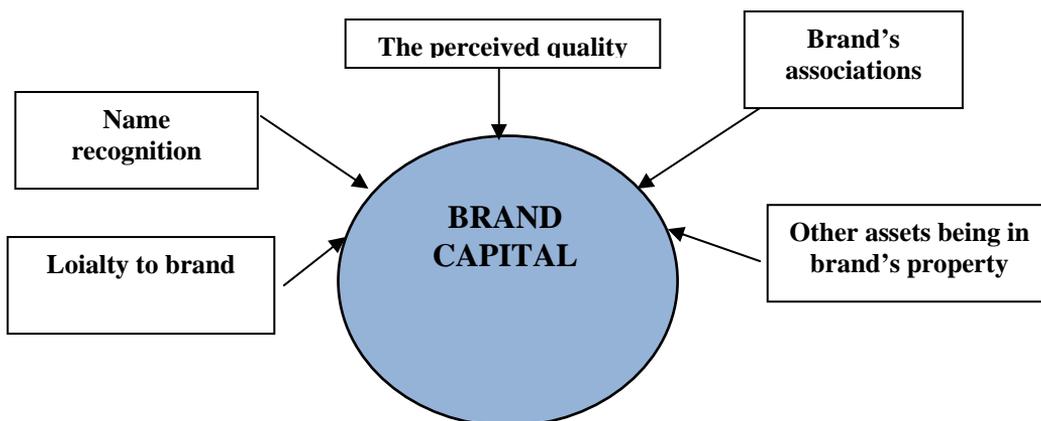


Figure 1. Brand capital in perspective of David Aaker

Source: David Aaker, *Management of a brand capital, Brandbuilders, Bucharest, 2005, p. 22.*

According to Kevin Lane Keller (2008), the value of brands is in consumers' mind. Marketers' challenge is to create strong trademarks from clients' experiences with using of products and services. For that, usage of products and services must lead to creating in consumers' mind some thoughts, feelings, images, beliefs, perceptions, opinions in order to determine a connection between brand and consumer (Keller 2008, p.48). The answer of clients to marketing practices is that which finally gives the value of brand. For Keller, the brand is a set of mental associations, which come to sustain the value of a products or a

service. These associations must be strong, favourable and unique.

Building a brand image is a long-term process. The brand value is given by the intensity of financial, rational and emotional connections established between the brand and its clients. As a consequence, building the brand image is made on a rational and emotional basis (figure 2).

Creation of a successful brand can be represented as pyramid. The left part represents a rational path related to brand building, and the right part represents a more emotional approach. The most powerful brands were built using both directions.

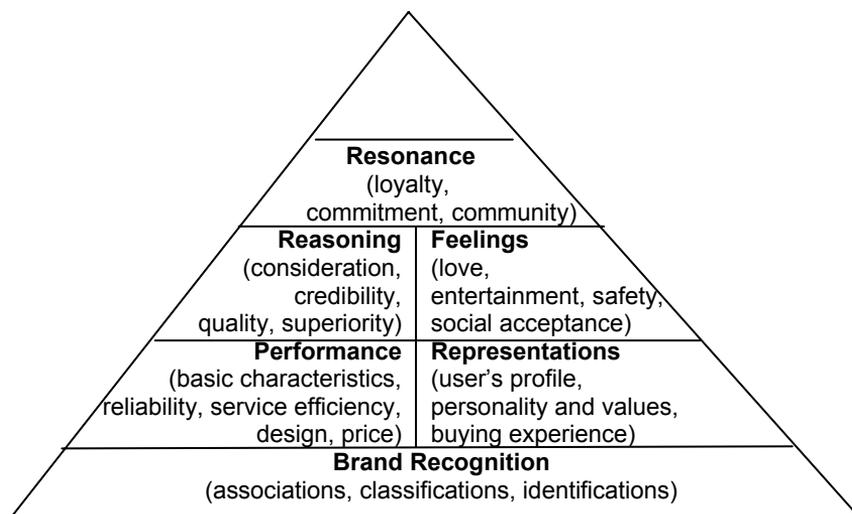


Figure 2. Pyramid of brand building

Source: Kevin Keller, *Strategic Brand Management, Person Education, 2008, p. 61.*

For Kapferer (2008, p. 10), brands are intangible assets, which eventually can be included in the balance sheet with other assets of this kind (patents, software programs, etc.). In the second place, brands are contingent assets. They are contingent assets because in order to create the promised value, they have to work with other production means such as equipments of the enterprise. There is no brand without a

material representation of goods and services. Specialists in brand protection argue that the brand name has to be always followed by the product's specification: Volkswagen automobiles, Milka chocolate.

Kapferer concludes that, essentially, the brand is a name which influences buyers. Brand's power to influence buyers is based on representations and relations.

Representations form a system of mental associations. These representations refer to the brand's territory (utility of the product), quality level, product's positioning. Besides representations, there has to be also an emotional connection between the brand and the client: adoration, sympathizing, fanaticism even towards the brand (2008, p. 11-12). A trademark becomes a brand when it has the power to influence the market.

Kapferer agrees that there are three poles of brand: name and symbol, idea of brand and products and services. The three elements are connected in order to form a brand system (2008, p. 12). To gain a higher market share, the brand has to be able to propose a special idea, be experimented by people at contact points, be active through behaviors, be communicated and also distributed (figure 3).

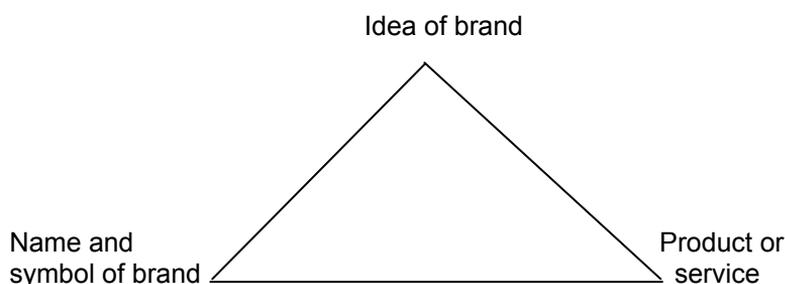


Figure 3. Brand system

Source: Adaptation of Jean Noel Kapferer, *The New Strategic Brand management*, Kogan Page, 2008, p. 12.

The consultancy firm Interbrand defines brand as a mix of tangible and intangible attributes that create and influence a business value¹, if it is followed by a correct and efficient management.

This definition approaches branding as: a mix of tangible and intangible attributes, protected by a legal system, that have to be properly administered and that have to create value both for enterprise and also for the client.

According to American de Marketing Association, the brand defines a name, a term, a symbol, or another element that help the seller of a product or service to differentiate by other sellers. The legal term for brand is *trademark*. A brand can identify a product, a family of products, or all the

products of a seller. If it refers to the entire firm, the preferred term is *trade name*².

This definition focuses more on the legal aspects of the brand and less on symbolic aspects, those that create linkages between consumers and the company and influences the value on a long term.

For Wally Olins (2009, p. 21-23), branding is at present, essentially, a management activity. Branding is a complex process, polyvalent and multidisciplinary, and, also, a resource for marketing, design, communication and behavior. Branding can be explained by a few fundamental specifications:

➤ It is a marketing, design, communication and human resources instrument;

¹ Cited in Aneta Bogdan, *Branding on Eastern Field*, Brandient 2010, p. 34.

² Dictionary of American Marketing Association, <http://www.marketingpower.com/layouts/Dictionary.aspx?dLetter=B>, consulted on 24.03.2012.

➤ branding has to be present in each component of the organization and within the communication strategy with the organization public;

➤ it is a coordination resource because it makes the organization's activities more coherent;

➤ it makes the organization's strategy more visible and more clear for the public.

Branding includes and it is associated with marketing, design, internal and external communication and human resources. Branding becomes the channel by which organization presents itself internally and also in front of different external media. Branding influences each part of the organization and the public. For Olins (2009, p. 28-32), the essence of brand consists in the *specific idea*. The

specific idea is the engine of the organization. It refers to the company's essence, to what it sustains, to its vision. The four vectors by which the brand is formed, are built around the specific idea: products, behaviour, communication and brand environment (figure 4).

Many companies, especially the smaller ones, being at the beginning of their business are not preoccupied to propose a philosophy to the buyer. They are interested of functional qualities of products and services and of the operational aspects of marketing. This specific idea expresses a position, an attitude of the organization, a belief that can resonate with consumers' brain and heart. This means that organization is aware of its mission.

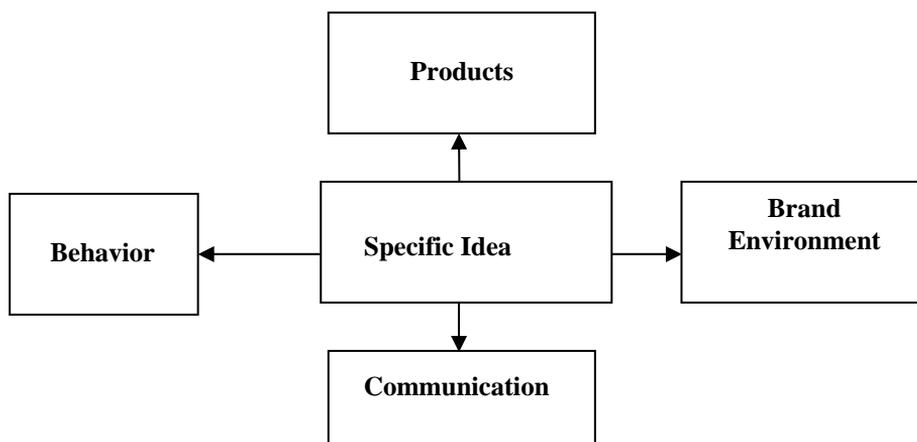


Figure 4. Brand in the perspective of Wally Olins

Source: Wally Olins, *Branding Handbook*, Vellant Publisher, Bucharest, 2009, p. 28-32.

For Kornberger (2010, p. 13), brand states as an interface between the emotional part of consumption and the rational part of production. After the great crisis between 1929 and 1933, consumption was stimulated only with important efforts. Brand became the banner of the demand that wants to be seduced and convinced. Brand includes all symbols associated with product consumption, so that production

became a way of satisfying not some tangible needs, but some ideals and values. Tangible products such as cars, furniture, electronics, and clothes are material expressions of our ideational values.

Brands changed usual products into personal and emotional products. Goods became social objects, and these objects behave as social and cultural markers, used for establishing

our place in society and for differentiate ourselves from others. We buy brands for stating who we are and for identifying with some social groups. We communicate through the brands we use. We borrow the personality of brands we buy. Brands have their own personality with which people want to identify themselves.

Brands are that thing that you must have. Brands became an ideal that many people want to reach – so we talk about aspiration brands. Above aspiration brands, there are identification brands, with which people want to identify themselves. Dependency is created at different levels but it is a total one.

By the transaction act, significations of the brand are transferred to the buyer and so the buyer can state his/her new identity. Brands create consumer's identity. They are prefabricated identities.

For a certain level, determined by satisfying primary needs, consumption is a process full of significations. When we buy a car, the possible evocations are numerous: we search a sport car, a safe one, one with a great speed, elegant, but also offering the pleasure of driving. How many of these evocations refer to the primary use of the product to transport us from point A to point B? As long as the promise of the primary functionality is met, the buying decision is exclusively based on product's symbolism. When people buy a BMW, they do not but the possibility to travel from a point to another, but the idea of sportsmanship and elegance. BMW symbolism consists in sportsmanship and elegance. Other brands offer a better sportsmanship and a more evident elegance, but no other brand succeeded to combine both as good as BMW.

Brand doesn't belong to those who register it: it represents the sum of thoughts and emotions, interpretations and representations of insiders and

outsiders, so that it is difficult to control (Kornberger 2010, 15).

For Allen Adamson (2006, p.33-34), brand is a promise that links a product or a service to a consumer. Brands represent mental associations that activate themselves in relation with different products we buy. Brand is a shortcut that helps and simplifies the buying decision process and creates a symbolic content, with many significations for the buying act.

In the spirit of definition given by Olins, Adamson appreciates that the most powerful brands have success not only because they established a differentiated significance for their brands, assuring that this is relevant, but because they reduced this difference to a simple thought, a simple idea that people will immediately understand. The complex nature of brand significance has to be transmitted in a clear and concise way. A successful brand respects its promise and offers the basic product or service at a high level. The idea of brand has to be sustained by the business strategy (2006, p. 52-53).

Adamson (2006, p. 54-55) makes the difference between brand and branding: brand is a mix of mental associations that are created in people's mind. Branding is the tangible process of creation and management of signals that transmit the idea of branding. The establishment of simple, differentiated and relevant brand significance must have the power to inspire efficient signals of branding and open the branding way to success.

Kevin Roberts (2004, p. 76-78), executive of the advertising agency Satchi and Satchi considers that future's brands will be especially emotional brands. Consumers have to love these brands in the same way they love, for example, their families and, for that reason, there will be created a loyalty beyond reason. In his vision, brands will be real lovemarks. Brands like lovemarks belong to consumers and not

to producers. Creation of lovemarks is made on three levels: using mystery (by evoking stories, catching the attention, inspired actions), through sensuality (the brand building has to be done involving all the five senses), through intimacy with the client (represented by commitment, passion and empathy).

Peter Fisk (2008, p. 150-151) considers that, at the beginning, brands were property symbols. But today, it is more important what they do for people, the way they represent them and also stimulate them, in which they define aspirations and allow them to do more. Powerful brands can determine the success on commercial and financial markets, becoming the most valuable assets of an organization.

A powerful brand is that which:

- defines a mobilizing goal, a brilliant idea, transcending the product or its activity field and with which people resonate;
- represents the client, allowing the client to associate him/herself with the company's products and services;
- links the customers with something familiar and important, even if the world is constantly changing;
- evolve at the same time with the markets and clients, having the

capacity to easily move to new markets and connect different activities;

- attracts the targeted clients, offering a reason for buying and also the possibility to practice a higher price.

Depending on how the brands relate with people, Fisk (2008, p. 154-156) classifies brands in four categories (figure 1.5):

- a) confirmation brands that help people to be perceived as they want;
- b) aspirational brands that people want to buy in order to reach a certain status;
- c) functional brands, appreciated for their utility and for an increased functionality;
- d) belonging brands help people to feel they belong to a certain community, due to a real connection or perceived as improved.

Powerful brands are based on passion, relevance and activation. Passion includes mission and spirit, the culture and the value of the brand transmitted in an enthusiastic way to the target public. Relevance means that brand represents the customer's values and aspirations. Activation means that the brand is relevant for clients and for the company, a defining landmark for the business success.

<p>Confirmation Brands Confirm that people are important</p>	<p>Aspiration Brands Show what people want to become</p>
<p>Functional Brands Allow various activities</p>	<p>Belonging Brands Create communities</p>

Figure 5. Typology of brands

Source: Adaptation after Peter Fisk, *Genius in marketing*, Meteor Press Publisher, Bucharest, 2008, p. 155.

3. Conclusions

Analyzing the above definitions, we can identify a series of common elements. First, brand starts from a specific idea, the essence of brand. This idea is related with an initial offer, a different way to make business, a constant state of mind. The specific idea refers to the essence of the brand around which the brand element will shape. The most visible part of the brand consists of the brand's semiotics or its elements: name, symbol, logo, associated colours. These are the most visible elements that help to memorize and remind. Many consumers do not go beyond this superficial level of brand recognition. A brand is powerful only in relation with its consumers. A brand is

especially valuable since there is a larger community of persons that share its values. The brand value resides in the collective mind of those who know it, use it and appreciate it. Brand is the sum of a product significances and meanings, beyond the products or service's utility. Brands stimulate production and selling of goods and services, offering value to companies and consumers. Starting from the facts described, we appreciate that the brand, identified by its elements, represent a set of relevant meanings for the buyers, in relation with certain products or services, having the role to support the demand and to professionalize the supply.

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