

Trademarks, Brands, and Competitiveness

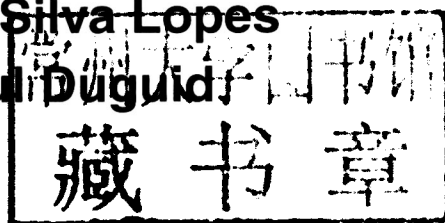
**Edited by
Teresa da Silva Lopes
and Paul Duguid**



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Trademarks, Brands, and Competitiveness

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and Paul Duguid



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Preface

What a wonderful book Lopes and Duguid have compiled on trademarks, brands, and their role in a competitive business world. The chapters, when taken as a whole, allow one to understand the power, the possible longevity, and the need for legal care of brands and trademarks over time.

Since commerce commenced, merchants found ways to stamp their “mark” on their very best goods. However, Lopes and Duguid begin this journey with the explosion in and, importantly, the registration of trademarks in nineteenth-century France, Britain, and the United States.

Several authors underscore the importance of a brand with a registered trademark from the standpoint of innovation. The key here is one of protection. With a protected trademark, a brand owner can begin to invest in unique product quality, in marketing, in innovation, and also in export. Thus begins the virtuous circle of better margins and returns as share of a specific market is increased by the superior brand. Both business historians and economists will be interested in the development of higher economic returns from brand leaders in a product category.

As product quality is improved and marketing investment and share of market increased, a brand begins to build a reputation for both objective qualities (e.g. smoother taste) and subjective (“I feel more confident when I am seen with Johnnie Walker Whisky”).

In the past, under UK accounting principles, these brand reputations have been quantified and put on the balance sheet.

Several chapters explore how a group of brands from one country can actually provide a sector reputation for the country as a whole (Denmark and the UK cases are utilized). I remember, well, in the 60’s/70’s when UK hi-fi components were considered the best in the world, and exports boomed.

The second section, “Trademarks and the Law”, is immensely valuable, as once a brand owner has invested in building a preeminent reputation, trademark infringement or “passing-off” can be quite economically damaging to the rightful trademark owner. Higgins’ chapter reminded me of the common use of geometric forms on beer and other alcoholic beverages, including, of course, Bass Ale’s famous red triangle, which makes an appearance in Joyce’s *Ulysses*. More up-to-date was the battle between Sir

Stelios Haji-Ioannou's "Easy" colour orange on his fledgling mobile phone business and France Telecom's Orange brand.

The chapter by Davis and Maniatis raises the spectre of well-known trademarks creating barriers to entry by new brands. However, it is the share of a market that represents the barrier to a new brand wishing to obtain economic scale. As long as the well-known/high-share brand continues to provide innovation with unique and desirable qualities, advertises effectively, and does not price too high, that brand should be able to defend its market share, not because the brand is well known but because the reputation for quality and value remains intact.

The same article quotes one authority as arguing,

A brand has the unique ability to transfer consumer loyalty between products, services and categories over time.

Well, not necessarily, as the case of Nescafé illustrates. Nestlé, in about 1940, created a new process for making "instant" (soluble) coffee. It became extremely popular, especially in tea cultures where the kettle was always at the ready. On numerous occasions, in several countries, Nestlé attempted to introduce a roast- and ground-coffee line extension. These attempts failed as roast and ground users saw an instant coffee brand as inferior to the "real" coffee. It was not until Nestlé, years later, innovated with the Nespresso trademark and preparation system that they could obtain a meaningful share of the value in the roast and ground coffee market.

Duguid's attention to the supply chain aspect of trademarks/brands is quite welcome. More than ever before in business, a complete analysis of the economic profit or cost in each element of the "value chain", from raw material through to consumer purchase price, is necessary for brands to gain economic advantage.

Stefan Schwarzkopf turns to the role of advertising agencies in creating brands with "unique selling propositions" and "emotional selling" propositions from registered trademarks; I have seen advertising, inspired by insightful consumer research, accelerate consumer sales by remarkable percentages in a brief period of time.

The case study on Shell Oil and corporate advertising is interesting. Shell is an example where the corporate name is also the brand name seen by the consumer. Corporate advertising is wasted for companies like Procter & Gamble, where the consumer brand names are quite different. Kraft Foods is an interesting example, where Kraft means cheese to the consumer, but cheese is a small part of total revenue, hence corporate advertising would serve little purpose.

Peter Miskell provides a great coda to the book with his chapter that explores the "wars" between advertised brands and the retailers' private labels. This is especially relevant as we see today's budget-conscious consumers trading down to lower-priced options. I have always found that

the best strategy for the advertised brand is to build in more demonstrable product quality benefits and to fine tune the emotional links using sound consumer research.

I have been blessed in business with having worked with stable and very strong international brands, both at Kraft/General Foods and at Diageo. I presided over either the leading brand in a category or at least a very strong number two. My job was then to strengthen the consumer perception of these brands by improving or maintaining high quality, providing appropriate marketing spending behind well researched campaigns, and, in many cases, creating line extensions consistent with the individual brand's consumer values.

Lopes and Duguid's book contributes to a better understanding of how careful management of trademarks and brands can contribute to economic advantage in the marketplace.

*Jack Keenan
London, 2008*

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Introduction

Brands and Competitiveness¹

Teresa da Silva Lopes and Paul Duguid

It is widely accepted that competitiveness—the comparative strength of nations, regions, and firms in providing goods or services—is a critical factor in modern economic development (Porter 1985). Brands, and by extension trademarks, provide one particularly important weapon in the arsenal of competition, yet their role is less well understood than it should be (Lopes 2007). The chapters in this book set out from several directions to understand how brands promote competitiveness at a variety of levels, from the nation and the region to the firm and the supply chain.

Throughout, the authors provide their own distinctive accounts of brands and marks and use them to analyse aspects of competitiveness at the level of the nation, the region, the firm, or the supply chain. All agree, however, on the general definition of a brand as a name, term, symbol, or design (or combination of these) used by a firm to identify its goods or services and differentiate them from the competition. A trademark is then that aspect of the brand that can gain legal protection through registration. These broad definitions do not ignore the different tasks that brands perform. As the following chapters show, brands play different, though related, parts to support different aspects of buying and selling. For consumers, for instance, they can make it easier to find and recognize particular products and, by acting as an indicator of quality, they can help to reduce the risks and uncertainty inherent in the purchase of a product. For producers, on the other hand, they have the capacity to shape consumers' interests and tastes and to develop loyalty. Consequently, brands tend to be generally looked at in this book, and elsewhere, as economically beneficial. Nevertheless, it is important to consider, as some of the following chapters do, the extent to which brands, as a kind of monopoly, can distort markets, inhibit innovation, provide unreasonable barriers to entry, and promote rent-seeking behaviour. This book attempts to give a rounded view of brands and their part in promoting competitiveness, without being blind to their limitations. To do this, it has drawn on new work from scholars in a variety of disciplines that, together, set brands and trademarks in economic, social, cultural, and historical context.

Overall, the book addresses some of the enduring questions concerning brands, trademarks, and competitiveness. How do brands and trademarks work? What are they good for? What kinds of competitive advantage can they promote? How do they differ in practice? What are the strengths and deficiencies of contemporary trademark laws? Does trademarking promote or discourage innovation? What does national trademarking activity tell us about the evolution of business? How are successful brands created and how do they embody reputation? How important have public relations and advertising been to the modern conception of the brand? And how do brands differ among our different levels of analysis—the country, the region, the firm, and the supply chain?

Thematically, the book is divided into three sections. The first addresses the relation of brands and marks to national competitiveness. The second looks at the law, and thus focuses more on trademarks in particular than brands in general. The third then turns back to brands and examines how they transcend the limits of the mark to be built into robust competitive tools. Each section draws on the disciplinary strengths of the different authors, who have backgrounds in business, economics, history, law, and marketing. Inevitably, the different chapters are not always in complete agreement with one another, but collectively we hope they build, together, to provide a useful, multiperspectival, and complementary overview of brands in theory and brands in practice.

Although the theoretical perspective is broad, the empirical cases discussed focus primarily on the United Kingdom and UK regions. This focus in part reflects the background of the authors and the origin of this book in a workshop organized by the School of Business and Management at Queen Mary, University of London. But this focus is also theoretically advantageous. The United Kingdom has historically been strong in consumer goods (Chandler 1990). And consumer goods, for their part, are particularly helpful for analysing the role of brands: Firms in the consumer goods sector tend to rely heavily on brands for their competitive advantage. The book does, though, discuss other countries and other sectors. Among the other countries discussed to varying extents are France, Portugal, and the United States, and one chapter (Hansen's) analyses, in detail, the national brand of Denmark in order to make a broader point about how and why nations create brands. And besides consumer goods, individual chapters discuss service marks and high-tech brands.

Part I raises many of the key issues of the volume, defining concepts and providing historical and contemporary accounts of the contribution of brands and trademarks to economic growth. Chapter 1 opens the discussion with a historical view of the subject. Paul Duguid, Teresa da Silva Lopes, and John Mercer examine a century of national rates of trademark registration. This long-term perspective allows them to contrast the evolution of marking and of business in three major trade marking countries: France, the United Kingdom, and the United States. The results are