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Protecting a brand's precious assets

Leveraging 'ownable
language' to create a
competitive advantage

CONRAN DESIGN GROUP



**TAKING A PROACTIVE POSTURE TOWARDS
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We live in a world where identity theft, home intrusion, computer hackers, or credit card fraud is common place and people are taking proactive measures to safeguard their assets.

In a similar vein, today's marketers need to ask: should we treat our brands any differently?

Like our home, or even our personal finances, we spend years building equity and value into our brands so that they are safe and appreciate in value over time. Unfortunately, accrued equity or brand value can be seriously eroded or infringed upon if the right intellectual property (IP) safeguards are not put in place. To this end, taking a proactive posture towards the protection of a brand, especially in today's hyper-competitive marketplace, has never been more necessary, or attainable.

Clearly, the use of patents and trademarks have been employed for decades to provide inventors and businesses with certain protections as to the ownership of their IP assets. Brands (products or services) rely on trademarks to bolster differentiation in the market, and create competitive advantages.

But today, more and more companies are going a step further, proactively building protective barriers around their brands in the form of 'ownable language' – extending trademarks past the product name and into the ecosystem of assets that surrounds the brand, are uniquely associated with it, and can be made truly proprietary.

For instance, if a product is created by a specific process or by using a unique technology, or made with certain parts, or even in a rare location, then there exists opportunities to identify and develop proprietary rights, including trademark and copyright protections around those unique associations. Often, very real opportunities to build a perimeter of ‘ownable language’ exist in short phrases, slogans, descriptive names or even vocabulary that are commonly used by a category leader in an industry. The practice of protecting all, or any, of these language elements is known as building ‘secondary meaning’ into a brand and can even extend into the visual elements commonly associated with the brand, beyond the logo, known as ‘trade dress.’

Protected language opportunities

A number of opportunities exist for establishing a protective barrier around brand assets that are not trademarked.



Proactivity aside, the competition may already be well down the pathway of owning ‘prime language real estate.’ As Jim Rosini, head of the Trademark Practice Group at renowned global law firm Hunton Andrews Kurth notes, “It is important that clients register their important and distinctive vocabulary, short phrases, trademarks, slogans and trade dress associated with their products and services in order to protect the entire genre related to their brand because their competitors are out there now doing exactly that.”

"IT IS IMPORTANT THAT CLIENTS REGISTER THEIR IMPORTANT AND DISTINCTIVE VOCABULARY, SHORT PHRASES, TRADEMARKS, SLOGANS AND TRADE DRESS ASSOCIATED WITH THEIR PRODUCTS AND SERVICES IN ORDER TO PROTECT THE ENTIRE GENRE RELATED TO THEIR BRAND BECAUSE THEIR COMPETITORS ARE OUT THERE NOW DOING EXACTLY THAT."

JIM ROSINI, HUNTON ANDREWS KURTH

To this point, identifying new opportunities for creating 'ownable language' within a brand portfolio begins with a thorough communications audit and deep exploration of a brand's primary and secondary verbal and visual touchpoints. With this in hand, the next challenge is to prioritize which brand assets qualify for the needed investment in order to achieve greater 'protection,' differentiation, and ultimately, competitive advantage.

Conclusion

In the end, while our global and digital marketplace has created seemingly infinite opportunities for new commercial trade, it has also created many more competitive threats to a brand's foundation, with intellectual property being a target area for competitive opportunism. Thus, the savvy marketer must constantly evaluate their brand(s) holistically, across the entire ecosystem of verbal and visual assets, and put in place 'protective' strategies for safeguarding them now, and well into the future. ■



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David is responsible for building and growing the branding and design offer in North America.

A brand consulting veteran with more than two decades of experience at firms such as Landor and Siegel+Gale, David also worked in client-side marketing at Unilever and Time Warner. He brings a deep understanding of branding in multiple industries across research, strategy, naming, identity design and packaging.

Key brand work:

Unilever, Alcon, National Association of REALTORS®, Roche, Essilor, AstraZeneca, Merck, Teva, Walgreens, Zoetis, Nestlé, Acelity, Sanofi, Citi, Comcast, Coca-Cola, Verizon, Deutsche Bank, Novartis

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ABOUT US

Conran Design Group is a global design agency with a 60-year heritage, specialising in branding and corporate communications.

We believe in the power of design to drive strategic and commercial advantage. We use design to inform, inspire and engage people, shaping the interactions that challenge and influence beliefs and behaviour.

This is what we call Designing Advantage.

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