Towards a Modern History of Brand Marketing: Where Are We Now?

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Abstract

Purpose – This paper assembles current research into an outline of the history of brand marketing. It suggests alternative definitions of brand marketing and areas where future research is needed.

Approach – This research consolidates recent research that has been conducted largely independently and also examines a few historical sources to augment the current publications.

Limitations – This is intended primarily as a summary and consolidation of several independent publications each of which makes a distinct contribution to the literature.

Contribution – This paper reports on and consolidates recent research across countries in order to suggest a more holistic view of the modern history of brand marketing.

Keywords: brand marketing, trademarks.

Paper Type: Research Paper

Introduction

Specialization in marketing history is a relatively new development in the larger field of business history. Yet studies of advertising history date back at least to the 19th century (e.g., Sampson 1875). One limitation of the various histories of advertising is lack of focus on whether past advertising is promoting a product or the modern concept of a brand. Fortunately, recent scholarship in marketing history (e.g., Bastos and Levy 2012; Petty 2012, 2011; Schwarzkopf 2010, 2009) and business history (e.g., da Silva Lopes and Duguid 2012; Higgins 2010, 2008; Wilkins 1992) has begun to examine the modern historical development of brand marketing often within the context of the development of trademark law. Indeed Duguid (2009, pp. 3-4) notes: “The history of modern brands is to a significant degree dependent on the history of trademarks.” The history of trademarks is subject to multiple approaches from analysis of trademark registrations (e.g., Duguid et al. 2010) to the study of trademark and related court decisions (e.g., Bently 2008; Bartholomew 2008; McKenna 2007; Stolte 1997). Many of these marketing and trademark studies are focused on particular countries, products or time periods.

This paper attempts to review these disparate works, particularly recent contributions, to determine our current state of knowledge toward establishing a post-industrial revolution history of brand marketing. In order to accomplish this task, this paper first explores conceptual definitions of brand marketing and then presents a brief summary of the history of brands prior to the industrial revolution. The paper then summarizes recent research findings in chronological order from the early 19th century to the end of the 20th century. This chronology is presented in the form of four roughly half century periods that were adopted based on the prior literature, historical developments and inductive reasoning (Hollander et al. 2005). The purpose of this summary is to document the current state of brand marketing historical research and to offer suggestions for future research directions.

Conceptual Definition of Brand Marketing

This paper proposes that any conceptual definition of brand marketing should consist of at least two parts. The first part is the development of source identifiers, e.g., trademarks that are reasonably secure from imitation. Security may be provided by industry self-regulation such as medieval guild regulation (Schechter 1925) or more recently by trademark law. Brand marketing is dependent upon developing a brand identity that cannot readily be imitated by others. Otherwise the imitation of brand identifiers on products of varying quality levels would lead to consumers mistrusting brand identifiers and marketers not wanting to invest in either brand quality or brand promotion for fear that to do so
will help sell the imitative goods of others rather than the brand goods they are seeking to promote and market.

Merely developing brand names, symbols and other brand identifiers that are reasonably secure from unauthorized imitation does not by itself prove that products were marketed using those identifiers. As discussed in the next section, such identifiers may instead have been used to keep track of the source of intermingled goods, assure consumers of quality control (Richardson 2008) or be used to identify the producer if problems with the goods developed after their sale. For this reason, the second part of the conceptual definition of brand marketing is that brand identifiers also must be the primary advertised identity of the goods and the primary means of differentiating them from competing offerings. The signs that are used as brand identifiers thereby become symbols with the specific connotation of identifying the brand (Bastos & Levy 2012, p. 349). This is consistent with the International Trademark Association’s definition of a brand as a trade mark that “has acquired significance over and above its functional use by a company to distinguish its goods or services from those of other traders” (cited in Davis and Maniatis 2010, p. 120).

This conceptual definition is difficult to apply in practice. For example, if a product is advertised by the company name, which may be the name of the company founder, is the brand being promoted or merely the company or its founder? Today many personal names or names descriptive of product attributes or geographic origin clearly serve as the focus of brand promotion. However, historically, it may be difficult to tell if a product brand or the reputation of an industrialist is being promoted. For example, McKendrick et al (1982) examine the 18th century marketing efforts of both Josiah Wedgwood (pottery) and George Packwood (shaving strops). Both promoted their wares using their personal names but it is difficult to distinguish personal promotion from branded good promotion. Mercer (2010, p. 17) suggests that brand names must be developed specifically for the product, often as a coined or made-up word or an existing word out of context, rather than the adoption of a company or family name or name that is merely descriptive of the product.

Thus, the most conservative conceptualization of brand marketing would be where brand identifiers are unique to the brand and not descriptive of the company, its founder, or the product itself. Once the use and the promotion of such unique identifiers can be found, it would seem that brand marketing had begun. However, given the modern conceptualization of the brand, it may also be the case that the promotion of personal, company or descriptive names as a means of selling the branded product may qualify as brand marketing. For example, McKendrick et al. (1982, p. 124) notes that Wedgwood writes to his then partner Thomas Bentley in 1773 that it was “absolutely necessary” that they mark their goods and that they “advertise the mark.” If subsequent advertising (and other promotion) focused on the brand identity evidenced by the Wedgwood & Bentley circular mark, this would appear to be brand marketing. In contrast, if advertising focused on the fact that Mr. Wedgwood provided china to the Queen for example, that would appear to be more promotion of the Wedgwood personally rather than a distinct brand for the china his firm markets.

This conservative definition of brand marketing is consistent with early trademark law. Descriptive identifiers such as the manufacturer’s name or a descriptive name of the goods such as New York City flour do not qualify under this definition just as they did not qualify for US trademark protection in the years when technical trademarks were being distinguished from descriptive trade names (Petty 2011, pp. 87-90) nor did they qualify for UK trademark registration (Mercer 2010).

The Ancient History of “Brands”

The definition of brand marketing presented here also may be useful for those studying ancient branding to challenge the view that brand marketing is a post industrial revolution phenomenon. Wengrow (2008) argues that symbolic branding occurred in the 5th and 4th Centuries BC in Mesopotamia through the use of seals and standardized packaging. From about the tenth century forward, the sale of goods differentiated by brand, by names of producers, sellers, product attributes or other symbols (such as the white rabbit brand of sewing needles) became commonplace in China (Hamilton & Lai 1989; Eckhardt & Bengtsson 2009).

Moore and Reid (2008) agree that brands have been around since such ancient times, but recognize that modern brands are more complex. They refer to these ancient brands as “proto-brands” and note that many of them provided logistical information to enable the sorting, storage and transportation of product which is not a modern function of brands (Moore and Reid 2008, p. 421). While it seems clear that symbolic brands did certify the source of a particular product and provide some cultural meaning for the consumption of that product, it is less clear how actively these brand identities served as the
centerpiece for a marketing strategy --did sellers “white rabbit” sewing needles market them by name (and perhaps cultural meaning) in 10th century China? If they did, this would appear to be brand marketing.

Schechter (1925) examines the product marking practices of British medieval guilds in some detail. He notes that the guilds police the use of authorized marks carefully seeking to condemn both counterfeit products and authorized products that were defective or otherwise not of the high level of quality the guild expected. While the guilds discouraged the individual promotion of particular members, they clearly sought to establish and maintain a reputation for high quality goods for the guild itself. Richardson (2008) argues that town/guild names functioned as brand identifiers in medieval Europe and did provide consumers with reputational information about the quality of goods.

Schechter further noted that in the early 1700s, one London cutler ran newspaper ads describing his particular guild mark and urging customers to avoid counterfeits. He argues that guild marks evolved to become marks of individual merchants that evolved into modern day trademarks. He further noted that a court case decided in 1618, known as Southern v. How is generally recognized as the first case to discuss trademarks. The decision actually only mentions in passing an earlier decision involving unauthorized use of a cloth makers mark which Stolte (1997) argues was Sandforth’s Case decided in 1584. Stolte (1997, p. 509) states that this court decision demonstrates that Britain judicially recognized a common law right against trademark infringement at that time. However court decisions during that time were rendered in Latin and not widely reported which explains why this particular was only rediscovered recently.

Schechter notes that a 1742 decision denied injunctive relief for trademark infringement that was in part based on an old and no longer valid law that gave the plaintiff in that case, the exclusive right to use the words “Great Mogul” stamped on his cards. Enjoining the use of the same name on cards by another would have appeared to have supported the repealed law. While later decisions did suggest that selling a product under another’s mark would constitute fraud it wasn’t until an 1824 court decision that an infringer was held liable (Schechter 1925). Thus while marks were used on products throughout this time, there was not much judicial activity in enforcing exclusive rights until modern times.

**Early 19th Century**

For the most part, guild laws continued to protect marks used in particular time periods during this period in the UK. By the 1875 trademark registration act, many marks in guild industries were claiming they had been in use for fifty to over one hundred years prior to that date (Higgins 2012, pp. 266-267). As noted above, British court decisions also began to develop more consistency in protecting the imitation of trademarks. After the 1824 UK decision that found liability for the intentional counterfeiting of marks, an 1839 Chancery court decided that intent to deceive need not be proven to obtain injunctive relief (Bently 2008, pp. 6-7). English marks were quite similar to each other. This suggests they were used administratively to track wares rather than as brand markings for brand marketing. But they did create trademark registration problems once registration started because of their similarity (Higgins 2012, pp. 279-282).

In contrast to the UK, France abolished trade guilds in 1791, but within a decade, a resurgence in counterfeiting caused the government to enact specialty laws to protect jewelry, plates and cutlery from counterfeit marks. France also enacted a general prohibition of counterfeiting manufactured goods or marks in 1802-1803. In 1824, this prohibition was expanded to protect names and places of manufacturers from imitation (Duguid 2009, p. 24).

As the use of trademarks grew on both sides of the Atlantic, US courts also began to find liability for at least the intentional copying of foreign marks on US made goods before 1850 (Petty 2011). Before 1850, some of these court decisions began discussing trademarks by name (Petty 2012, pp. 136-137). Yet even before litigation in the US, merchants attempted to register commercial labels for product origin dates back to colonial times in the US for particular goods such as cotton and dates back even further in Europe.

This was a time when modern trademark law so crucial to brand marketing began. The similarity of many British guild marks to one another suggests that marks were not yet the focus of marketing, but were more administrative in nature. They could be used to identify counterfeiters and the mark owners were seeking and obtaining legal redress in the courts.
Proceedings

The latter half of the 19th Century

US marketing historians seem to agree that after the American Civil War, improvements in transportation, communication and production/packaging technology allowed U.S. marketers to begin to develop national brands (Strasser 1989; Tedlow 1990). This effort is thought to have been led by so called patent medicines that accounted for roughly half of all advertising after the American Civil War and were the largest group of advertisers by 1870 when the first federal trademark registration statute was enacted (Laird 1998; Sivulka 1998; Goodrum & Dalrymple 1990). However, by the end of 1870, 121 marks were registered federally and medicines were only the third most common category: 21 registrations were for tobacco or snuff; 10 for whisky or liquor; 9 for medicines; 6 for soaps and other cleaners; 5 for fertilizers; 4 for brooms, dry and other types of goods, and white lead; 3 for metal and metal tubing, bitters, burning fluids, various foods, and various powders. Even items like steam governors, sewing machines, wagon axles and wheels and watches received trademarks in this first year (Commissioner of Patents 1870, pp. 260-261).

Pettty (2012) documents the multifaceted US approach to protecting brand identity during this period. In addition, to the national trademark registration statute enacted in 1870 and declared unconstitutional in 1879, the US courts developed the judicial distinction between descriptive trade names that received weaker judicial protection from technical trademarks that were more readily protected in courts. Marketers also sought to register their labels as copyrights since the late 1830s, and as design patents from 1855-1870 before the first national trademark registration statute. “Trade Mark Designs” could include a bottle or other unique packaging as well as labels so long as the name was not in “ordinary type.” These federal efforts complemented state anti-counterfeiting label laws and trademark enforcement and later registration laws.

Recent scholarship adds a global perspective on the historical development of brand marketing and trademark law. Duguid (2009, pp.11-13) argues that court decisions in the 1850s were reported upon and followed internationally. For example, in Britain, firms also tried to register labels as designs or register them for copyright protection (Bently 2008, p. 6). As in the US, eventually trademark law and registration became the primary means to protect brand identity.

Countries differed regarding what types of words and devices could be protected as trademarks (Higgins 2012; pp. 271-274). In Britain, the 1862 Merchandise Mark Act defined trade mark to include words and names but only provided for criminal sanctions for intentional use of another’s mark to defraud (Bently 2008, pp. 9-10). The 1875 trademark act was the first in Britain to provide for registration of trademarks, but permitted registration of individual or firm names only if they were presented in a distinctive manner, such as an individual’s signature. This act reversed the broad definition in the 1862 act, by excluding mere words even if they were invented or fanciful in the industry context or were otherwise non-descriptive of the products they identified. Like US courts, British courts struggled to determine which words in the context of a specific industry were too descriptive to merit protecting them as a trademark belonging to only one firm (Bently 2008, pp. 22-23, 27).

In contrast, in 1824 France expanded its law to protect names and places of manufacturers from imitation (Duguid et al 2010, p. 24). Similarly, the Germanic countries of Germany, Austria and the Netherlands excluded words commonly used in an industry as well as marks consisting or mere letters, words, or numbers or the arms of states or countries (Bently 2008, p. 26). Britain also struggled with geographic marks that indicated the place of manufacture since its guild history was based on geography (Bently 2008, pp. 30-31). Eventually the 1888 Act allowed registration of “invented words” that did not describe the character, quality or geographic origin of the goods. Soon after Denmark, Switzerland, the Netherlands, Germany, Sweden and Japan all allowed word trademarks that were not descriptive. Switzerland set up separate protection for geographic indicators (Bently 2008, p. 40). In 1905, Britain also allowed geographic indicators to be registered as certification marks (Higgins 2008, p. 60).

Not only did countries develop similar concepts of trademarks during this time, but they also developed national trademark registration systems. France initially started judicial registration in 1803 as a precursor to an enforcement action, but it didn’t develop a centralized registration system until 1857. By that time Spain had started its program in 1850 (Duguid 2009, p. 24; Saiz and Perez 2012). The Spanish system recognized trademarks as property rights but would only grant them to companies, domestic or foreign, with a location in Spain. While some portion of these trademarks were registered only to protect against imitation, Saiz and Perez (2012, 256-257), assert that other marks were
registered in order to enable brand marketing in distant cities, department stores, international exhibitions and to facilitate magazine advertising.

France followed Spain’s lead when it enacted an effective system of national registration of trademarks to create property rights in 1857. Registration would be available also to foreign firms with an establishment in France or foreign firms whose home country provided reciprocal protection for trademarks of French firms. At the time, the only country with which France enjoyed such a bilateral trade agreement was Russia. But within the next ten years, a dozen countries including the UK signed similar agreements with France and the US followed suit in 1869 (Duguid 2009).

Portugal started trademark registration in 1883 but within the first two years nearly two thirds of the registrations were from foreign firms. This figure dropped to 13% by 1905 (Duguid et al. 2010, 26). Ultimately, global firms found their relatively famous trademarks were frequently imitated by local firms in any given country (e.g., Higgins 2008, p. 46; Petty 2012, p. 136). Indeed, some countries such as Japan and some in Latin America set up registration systems on a first to file system so that local firms could control famous foreign trademarks if they registered before the foreign firm (da Silva Lopes and Casson 2012, pp. 300, 304-305).

To address the usurpation of internationally known trademark, firms first encouraged their home counties to sign bilateral agreements with their largest foreign markets. These bilateral agreements led to the Paris Convention for the Protection of Industrial Property of 1883 that established the general principle of reciprocity of intellectual property rights so that foreign firms from signatory countries are treated the same as domestic firms in signatory countries. They could register their trademarks in foreign countries just like domestic firms in those countries (Higgins 2012, 273-274). The 1891 Treaty of Madrid established “one stop” registration for signatory countries allowing firms to register in their home country and include an international registration that was then forwarded to designated other signatory countries (da Silva Lopes and Casson 2012, p. 295).

As countries developed registration systems and similar conceptions of trademarks, they also found that trading firms were using trademarks for the same types of goods. As noted above, US trademark registrations in this period covered not just pharmaceuticals and tobacco but also liquors, food, textiles and many other products including durables like metal goods (Higgins 2012, p. 266). As with the US, UK tobacco firms were some of the first to use abstract brand names starting in 1860s (Mercer 2010, p. 19). Duguid et al. (2010) compared trademark registrations by industry in France, the US and UK. For example, in 1890, France registered about 65% trademarks for nondurable consumer products compared with 55% for the US and 43% for the UK. In 1870 and 1880, tobacco captured about 20% of registrations in the US, plummeting to 3% in 1890. In the UK, tobacco accounted for only about 5-7% of registrations during the same period with even smaller proportion of registrations in France. Medicine accounted for about 15 % of US registrations in 1870-1900. France was at the same proportion in 1900 but prior to that and in the UK for the entire period medicine registrations the range was 3-8%. Beverages were the leading category of French registrations ranging from 15%-28% but only accounted for 6% -12% of registrations in the UK and US during the same time periods. In Spain, one area, Catalonia, had almost half the trademark registrations led by textile companies and then the chemical industry and food, beverages and tobacco. The (cigarette) paper making industry also was an early leader in trademark registrations (Saiz and Perez 2012).

The latter half of the 19th century is generally recognized as the period when brand marketing began enabled by the development of trademark law. While certain industries such as medicines, tobacco and alcohol took the lead in brand marketing, by the turn of the century, the practice appears widespread. One unexplored question is the number of marketers using abstract brand identifiers known in US law as technical trademarks versus the number of marketers using more descriptive trade names of the company, its founder or location. As noted in the earlier conceptual definition discussion, it is not clear whether firms using descriptive trade names were focusing their advertising on product brands or just including identifying attributes in their advertising of particular products.

Early 20th Century
If the later 1900s saw the popularization of brand marketing, the early 1900s saw it’s formalization. The US 1905 trademark statute recognized the judicially developed distinction between descriptive trade names (protected by unfair competition law) and associative, imaginative or artificial technical trademarks that could now be registered if used in interstate commerce for more than ten years. This distinction between strong national technical trademark registration and protection from weaker protection for trade name passing off was important for the history of brand marketing because it
encouraged businesses to switch from the traditional practice of identifying products solely by company or personal names and instead to adopt suggestive, fanciful or artificial names as well as logos, symbols and even characters (Petty 2011). The development and use of technical trademarks satisfies the more conservative definition of brand marketing—the development of abstract rather than descriptive brand identifiers.

Similarly, in the UK, the concepts of “fancy words” and later “invented words” had been considered in trademark law in the latter 1800s, but precise definition eluded the legal system until the 1905 act clarified that only words making direct reference to the quality or character of the goods could not be registered (Mercer 2010, p. 25). That would appear to allow suggestive brand names as well as fanciful names (e.g., Apple computer) and fabricated words that have no meaning beyond brand identification.

As Petty (2011) notes, marketers and others recognized the additional value of technical trademarks over descriptive trade names during this period of trademark law and brand marketing development. Acheson (1917, p. 9) asserted “There is no more valuable and permanent property—if insured by continued publicity—than the trade mark of a staple commodity which has been well standardized by years of consistent advertising.” Royal brand baking powder’s goodwill in 1905 was valued at $5 million—a million dollars per letter (Pope 1983, p. 69). In less than a decade Coca-Cola and Nabisco for its Uneeda brand were claiming similar valuations for their trademarks (Strasser 1989, p. 47). Thus the concept of what today would be called brand equity became recognized during this period.

This excitement about technical trademarks led to the first known discussions of brand marketing using the term “trademark advertising.” Perhaps the earliest discussion appears in a 1903 booklet entitled “The Value of Advertised Trademarks” by Ben B. Hampton Co., Advertising Agents that appears to be a reprint of material run in the trade journal, Printers’ Ink. This work quotes from a graduation speech given by famous industrialist Andrew Carnegie: “If you can sell a hat for one dollar you can sell it for two dollars if you stamp it with your name and make the public feel that your name stands for something” (Hampton Co. 1903, p. 6). While Carnegie clearly understands the modern concept of brand marketing, it is not clear whether he is thinking of “your name” as a personal name or whether it is the name you select for brand name for your product.

Another candidate for the earliest discussion of “trademark advertising” is the J. Walter Thompson (JWT) advertisement published sometime in the mid 1900s. This advertisement explains the value of “trademark advertising”—if a firm advertises its technical trademark directly to consumers, they will request the brand by name from retailers. The advertiser will no longer be dependent on jobbers or retailers for brand promotion (Schwarzkopf 2010, p. 174; Petty 2011, p. 91). Direct-to-consumer advertising was not a new concept, but by tying advertising to the trademark, JWT was promoting brand marketing where the brand, rather than the marketer, developed a direct relationship with its consumers. The English advertising agency of Spottiswoode, Dixon & Hunting, Ltd published a similar ad in the June 1907 issue of The Strand Magazine touting the antiquity of the trade mark idea and its value in modern trade when it is advertised. In 1908, one advertising man estimated that “[a]t least fifty percent of advertising being done today is for the purpose of creating property in trademarks” (Pope 1983, p. 69).

Petty (2011, pp. 91-93) identifies several articles, pamphlets and books that discuss the value of trademark advertising during the early 1900s. Stern (2006, p. 217) claims brand entered marketing use in 1922 as part of the compound “brand name” but Bastos and Levy (2012, p. 353) suggest that at least by 1920, the term brand had come into common usage. They provide an example of a quote from P. T. Cherington (1920, p. 150): “the appeal to the buy . . . by brand has become so general as to be in many lines of merchandise the characteristic rather than the exception method of sale.” Later in the same chapter entitled “Sales under Brand,” Cherington (1920, p. 153) notes “The most common device for accomplishing this [appeal to the large mass of final consumers] is the use of a trade-mark or other means of identification.”

The evolution from “trademark advertising” to “brand marketing” can be illustrated by looking at Cherington’s earlier books. In Advertising as a Business Force, Cherington (1913, p. 331) does not yet offer a chapter on “Sales under Brand” but instead in a chapter entitled “Trade-Mark Problems that begins: “The trade-mark has become one of the elements of almost every successful appeal to the consumer.” He goes on to describe the trademark as a “commercial signature for its exploiter.” In a nod to the notion of trademark advertising, he notes that the trademark has no intrinsic value but only produces business value if it is consistently advertising:
The trade-mark, however, is only an emblem. It actually produces no business nor has it in itself any creative power. The value lies wholly in the action it inspires, its ability to suggest by continued appearance . . . Powerful, persistent publicity tends to invest an article with more value in the purchaser’s mind who unconsciously associates it with merit and becomes predisposed in its favor (Cherington 1913, p. 332).

Thus, in this 1913 book, Cherington recognized the importance of the trademark advertising concept. In his second book *The Advertising Book 1916*, he offers a chapter entitled “Trademarks and Brands” and presents numerous examples of the benefits of trademark advertising. He summarizes these arguments by quoting from a trade journal series of advertisements that concludes: “Trademarks and national advertising are the two greatest public servants in business to-day. Their whole tendency is to raise qualities and standardize them, while reducing prices and stabilizing them” (Cherington 1916, p. 496). Thus, he still emphasizes trademark advertising but now ties it to brands and broadens the benefits from just sales to other consumer benefits.

Petty (2011, p. 92) notes that the literature continued during this period with general advertising books, including one published in the UK that may have been the first to use the work brand:

> The manufacturer advertises his brand direct to the public and thus liberates himself from entire dependence on the wholesaler’s and retailer’s goodwill . . . [T]hese intermediaries can no longer afford not to stock what the ultimate consumer is asking by name as a consequence of the manufacture’s advertising. Important features in the successful marketing of a proprietary article are a distinguishing name and mark, and, if practicable, a distinctive package or wrapping, so that substitution is difficult (Goodall 1914, pp. 5, 48).

Three years later another US book, *Marketing Methods*, by Ralph Starr Butler (1917; pp. 140-156) also used the term brand repeatedly in Chapter X “The Retailer and National Advertising” although the term was not deemed sufficiently important to be included in the chapter title. Thus, it would seem that by the mid 1910s, the concept of trademark advertising, itself only about ten years old, was being refined toward brand marketing and by the 1920s, trademarks were recognized as enabling brand marketing so that the brand became the important marketing concept rather than the trademark.

Petty (2011, p. 93) notes that behavioral research conducted during this time period also helped establish the intrinsic value of well known brands. In addition, advertising agencies like J. Walter Thompson JWT were conducting research on why consumers bought particular brands and how they used them so that they could recommend both advertising copy and brand line extensions to reinforce and expand consumer behavior. Their advertising copy moved trademarks from decoration alone to brands with social meanings for consumers and personalities that lived in advertising and the minds of consumers. Thus advertising agencies such as N. W. Ayer and during this time period included registering new trademarks and promoting the brand identity (Schwarzkopf 2010, pp. 170-176).

The US during this period experienced a love-hate relationship with brand marketing. Trademark law expanded to cover descriptive names that had acquired secondary meaning and trademark law shifted from unfair competition and passing off to the protection of property rights of brand owners (Petty 2011). Because of their widespread use and growing trademark law enforcement, the period of 1915-1929 has been called the “Golden Age” of manufacturer brands on consumer products. It was also the period where marketers began to develop the concept of brand managers (Low and Fullerton 1994, p. 177). Inger Stole (2006, p. 20) notes: “By the 1920s, advertising had gone from being a peripheral business activity to a dominant force in U.S. life.” This was predominantly brand advertising.

So brand marketers argued that the legal system needed to protect their efforts to invest in these trademarks through advertising expenditures that created brand meaning. Indeed advertisers at least in the US sought to have advertising expenditures treated as capital expenditures rather than short term business expenses for accounting and tax purposes. In addition, US courts looked beyond the amount of time a trademark had been in use to explicitly examine advertising expenditures to determine whether a descriptive mark had developed secondary meaning (Bartholomew 2008). In addition, Frank Schechter (1927), in a still famous *Harvard Law Review* article, argued that the old legal concept of a trademark as a mere identification of source was obsolete. Rather he argued that while the use of the same mark would indicate products from the same source, consumers may not know and...
may not even care the specific identity of the source. They may only know they like the brand. He further stated:

... today the trademark is not merely the symbol of good will but often the most effective agent for the creation of good will ... The mark actually sells the goods. And, self-evidently, the more distinctive the mark, the more effective is its selling power (Schechter 1927, p. 819, emphasis in the original).

Schechter (1927, p. 825) argued that in cases of trademark use on non-competing products, while there is no trade diversion from the trademark owner, there would be “a gradual whittling away or dispersion of the identity and hold upon the public mind of the mark.” He argued that protection against such trademark dilution should be provided for truly unique (arbitrary, coined or fanciful) marks, but not for descriptive marks. Trademark dilution as a method of brand protection would not become popular until the 21st century (Petty 2011, p. 96).

During the 1930s, JWT continued using market research to develop branding strategies for Lever Brothers and Kraft (Mercer 2010, p. 33). It went beyond brand identification and promotion to include research to understand a brand’s existing “personality” and to use research to track attempts to change that personality. This focus development on emotional connections between consumers and brands enabled JWT to successfully rejuvenate the Lux brand during this time and would set the stage for much greater emphasis on brand personality in the 1950s (Schwarzkopf 2010, pp. 180-188). Similarly, the London firm of William Crawford was talking about “product personality” and the “advertising idea.” The firm applied Dale Carnegies’ concept of “winning friends and influencing people” to advertised brands (Schwarzkopf 2009).

Thus it seems clear that the practice of modern brand marketing became popular in the latter 1800s, but the literature discussing the concept of brand marketing started in the early 1900s. Indeed by the 1930s, the concept of brand marketing was being further developed by Schechter (1927) but also criticizing both by consumer groups and economists (Petty 2011, p. 96).

**Later half of the 20th Century**

By the end of the 4th quarter 2012, the US maintained about 1.8 million nationally registered trademarks. In comparison in 1946 when the current trademark statute was enacted, some 300,000 trademarks had been nationally registered. Among other things, the 1946 statute boosted brand marketing by permitting trademark licensing to other firms that would make products related to those of the trademark holder (Petty 2011, p. 96). The statute also expanded the sorts of marketing devices that could be used as trademarks by first explicitly including service marks with later trademark office and judicial interpretations allowing registration of sensory marks such as sounds, then slogans and nonfunctional product colors and designs. Given this expansion of trademark law and use, it is not surprising that the brand manager form of organization became popular during this period (Low and Fullerton 1994, p. 181).

This liberalization of US trademark law also ultimately coincided with the dramatic increase in the brand marketing literature. Moor (2007, p. 3) suggests that the modern brand literature started with Aaker and Keller’s (1990) seminal article on brand extensions. Not only does Moor (2007) neglect the early trademark advertising literature of the beginning of the century, but she also overlooks important mid-century works. In 1942, Wolfe published the first Journal of Marketing article to explicitly discuss brands. This was followed by Gardner and Levy’s (1955) classic article discussing the difference between the product and the brand in the Harvard Business Review. Schwarzkopf (2010, p. 188) asserts this article was the inspiration for adman David Ogilvy’s emphasis on brand image and brand personality, but Ogilvy also was influenced by Claude Hopkins 1923 book, Scientific Advertising (Schwarzkopf 2009).

Conclusion

The traditional US-centric brand marketing story couples innovation in products and production processes with the development of national distribution by railroad and national advertising in newspapers and magazines to spur the modern development of brand marketing. The desire for brand marketing led to demands to protect unique product names, insignia, packaging and labels from imitation and to the development of the modern concept of trademarks as protectable identifiers of product source. Manufacturers developed brands to wrestle control of distribution away from wholesalers and distributors. However, this story ignores other roots of the development of brand marketing. Duguid’s (2003) study of the alcohol industry suggests that branding in that industry developed not by large mass distributed products but rather from a contest by small firms in the value chain to determine which firm could earn the largest share of profit. The registration of labels with local US courts for copyright protection also suggests that small local firms were seeking brand identity protection in the 1800s.

This research summary attempts to paint a broader picture of the development of brand marketing. While evidence of small relatively inconspicuous trade or guild marks date back to ancient times, it seems unlikely such modest marks served as the focus of marketing for those products. However, we can’t rule out the possibility that Chinese sewing needles sold under the “white rabbit” name may have been promoted under that name as having a particular cultural meaning. If that turns out to be true then brand marketing may pre-date modern times. The literature does suggest that ancient and medieval buyers often came to understand and appreciate the small trade and guild marks as they sought out high quality goods. By the 1700s, firms were promoting their marks to buyers as a way of avoiding being deceived by counterfeit goods.

During the 19th century, trademark law developed extensively to support the development of brand marketing. However, legal enforcement was not the only tactic used by early brand marketers to limit unauthorized imitation. Often they also would try to develop good local relationships to provide business intelligence and settle disputes about imitation rather than rely on expensive formal litigation (da Silva Lopes and Casson 2012). An alternative for small entrepreneurial firms that would struggle to afford litigation might be acquisition by large firms that can professionally manage the brands (da Silva Lopes and Casson 2007).

The crucial concept of developing a unique brand identity with advertising promoting the brand to develop brand personality and connect with consumers seems to have emerged in the 1800s. Without further research, we can’t tell whether the registration of product labels as copyrighted prints in the early 1800s was simply another technique to avoid imitation or at some point the label identity became the focus of brand advertising. While additional research on labels and advertising in the first half of the 1800s would seem to be warranted, the period of the early 1900s seems reasonably well established as a time where brand marketing became the dominant marketing practice complete with its own literature and the development of the brand manager system of management.

References

Acheson, A. (1917), Trade-mark Advertising as an Investment, Evening Post, New York, N.Y.
Butler, R. S. (1917), Marketing Methods, Alexander Hamilton Institute, New York.


Hopkins, C.C. (1923), Scientific Advertising, Lord and Thomas, New York, NY.


Towards a Modern History of Brand Marketing: Where Are We Now?


