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Marks and Brands: Conceptual, Operational and Methodological Comparisons

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People tend to use brands and marks interchangeably due to their similarities. However, they are often non-substitutable to each other. This paper systematically examines the similarities and differences of these two terms in conceptual, operational and methodological manners taking account of history and international dimensions. Such clarification is important given the increasing significance of marks and brands for all stakeholders (rather than consumers only). The paper starts with the definitional understanding about the two terms. It then focuses on the history of these two terms to reveal how their evolvement has been. Next, it discusses their similarities and differences, including the concepts, operations and measurements. The paper concludes with the implications of these clarifications for research and education, and for relevant stakeholders, such as managers, policy makers and consumers.

Keywords: Mark, brand, brand management, intellectual property

Definitions of the Mark and Brand: Comparable but Puzzling

The mark and brand tend to have similar definitions. A mark is any sign (e.g. words, letters, numerals, figurative elements and combination of colours) as well as any combination of such signs that can distinguish goods or services of one enterprise from those of others.[1] This definition bears resemblance to that for a brand given by the American Marketing Association in 1960: 'any name, term, sign, symbol, or design, or a combination of them, intended to identify the goods and services of one seller or group of sellers and to differentiate them from those of competition'.[2]

The definitions above provide ground for argument that marks and brands are interchangeable, but also result in confusion. The US Patent and Trademark Office (USPTO) even defines a 'trademark is a brand name'.[3] There is also the use of a combinative name – brandmark – to reflect the comparable nature of these two terms.[4] In consequence, people tend to be

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puzzled as to whether they are different and what exactly the distinctions are. For this reason, the authors in this article demonstrate their understanding that marks and brands have more differences than similarities. Specifically, it is argued that, in reality, these two terms have fundamental differences from historical, conceptual, operational and methodological perspectives. A summary of these differences can be found in the table 1 to guide the subsequent discussions.

Tracing the History of Marks and Brands

Mark usage can be traced back to the 5000 BC, much earlier than the birth of brands. The mark origin was evidenced in the Lascaux Caves of Southern France where ownership marks with symbols were found.[5] At that time, marks, as the symbol on a commodity was simply for transactional purpose to identify the original owner. Although some scholars argue that the history of marks and brands are connected due to the existence of proto-brands (ancestral brands),[6] the authors argue that brands emerged with the birth of mass marketing in the

Table 1—Differences between marks and brands			
Comparators		Marks	Brands
History	Birth	5000 BC	1870s
	Mass marketing	No	Yes
	Personality	No	Yes
Conceptual Differences	Purpose	Legal ownership	Market awareness, reputation & prominence
	Value chain	Upstream	Downstream
	Discipline	IP law, economics mainly	Marketing (product), strategic management (corporate)
	Stakeholder relevance	Government (trademark office), attorney, quality standard agency, and owner	Consumers (customers), competitors, employees, and executives
	Typology	Trademark, service, collective, certification, dimension, colour, audible & smell	o Product, service, corporate o Monolithic, endorsed & independent o Domestic, regional, international & global
	Infinite conditions	o Renew mark every ten years o Maintain quality standard o Obey policy & moral standards	o Quality o Reputation o Market staying power
	Stakeholder perceptions	Objective; detailed legal description	Subjective; feelings and judgement
	Organisational responsibility	In-house lawyers	Marketing manager (product) and top management (corporate brand)
	Practice process	o Legal enforcement based on claims o Managing mark portfolio o Quantified value for mergers & acquisitions or infringement compensation	o Whether consumers are confused o Brand portfolio o Brand compatibility and complementarity for mergers & acquisitions
Measurement	Purpose	Value in figure	Brand health
	Measurements	Over dozen methods, mostly quantitative & three below that are relatively standardised o Cost approach o Market approach o Income approach	Over dozen methods, mainly conceptual & consumer-oriented o Brand personality valuation o ZMET o Brand assets valuator

1870s when packaged products became popular. With marketing being involved, brands have a meaning that marks do not possess. The late 19th century has also marked the era in which both marks and brands were recognised as distinctive goodwill and organisational assets.[7]

In ancient times, marks were used to designate ownership originally but gradually came to distinguish the manufacturer, and be used as a quality symbol. Stone seals were found in the Middle East in the 3500 BC. The Indus Valley cultural region in the civilisation of India (2250 – 2000 BC) nurtured many stone and bronze craftsmen, thus the use of ancient marks. These craftsmen marked square seals (animals and geometric motifs) before they sold their creations to merchants.[8] The ancient Chinese were also the early users of marks due to the economic boom in the 1300 BC. Like the ancient Indians, craftsmen in China used marks to identify their porcelain work. Likewise, there is also evidence of mark use in ancient Rome, Greece and Egypt.[6,9]

The legal perspective of marks also evolves from focusing on ownership to emphasising quality. In 1266, the English law required all bread bakers mark every loaf of bread with their signature and personal symbol to indicate ownership. Subsequently, goldsmiths and silversmiths followed suit. In 1597, for example, two goldsmiths were found guilty for

using false marks on their products. Since then, counterfeiting, when found, was severely punished.[9] At that time, marks represented a sense of ownership The 1597 court case clearly dealt with an ownership infringement. However, in a 1618 case in England, the issue reached a higher level reflecting the meaning of mark – quality. In this case, an owner manufacturing quality cloth took a rival to court for using the mark in their low-grade fabric.

In ancient times, marks provided information about logistics, origins, and quality, and as images, they also possess the power and value, but only brands have personality.[6,10] For example, in the 1870s, branded products were confined within industries like patented medicines and tobacco. The Europeans pioneered these consumer products and felt the need for promoting consumer choice. They therefore used distinctive labels with portraits to ensure their products were recognisable.[7] This symbolises a distinction between marks and brands from a historical perspective.

The evolvement of marks and brands gradually clarified the distinction between them in the late nineteenth century with the emergence of media support.[9] They may both provide information and image to represent a product, service or corporate identity, but in the modern era, their distinction is reflected in the subjective characteristics of brands - personality. In other words, marks may possess logistics, origin, quality, status, and value like brands, among them, quality, status, and value can also be subjective in the eye of different stakeholders. However, it is the brand personality that demonstrates the clear divide between them. Brand personality, as a set of human characteristics (sincerity, excitement, competence, sophistication, and ruggedness), allows consumers to express themselves through the use of a brand, owners to differentiate themselves and stand out among their rivals through satisfying consumers' needs and wants.[10]

Marks and Brands: Conceptual Comparison

Except for origin, marketing and brand personality, historical evolvement has not created a clear distinction between marks and brands in other ways. This section demonstrates their conceptual differences in terms of purpose and value chain, disciplines, functions, stakeholder relevance, typology, infinite conditions, stakeholder perceptions, and organisational responsibility.

Purpose and Value Chain

A mark represents a legal claim of exclusive ownership right for an entity (e.g. company, organisation, individual, product or service). It tends to be grouped together with intellectual property (IP), and used as an expression by the mark authority (e.g. an IP office, the owner, and mark attorneys). As for a brand, while securing the ownership is the foundation, its emphasis is on the market awareness, reputation, and prominence and their implications for the firm. Scholarly research has confirmed that there is a highly significant positive relationship between brand performance and firm performance.[11]

Given the above, it is clear that marks and brands represent different parts of the value chain. That is, if the value chain is divided into the upper, middle, and down streams of activities, the operation of a mark clearly is located within the upper stream, while that of a brand lies within the downstream activities.

Discipline Focus

Conventionally, a mark is the subject of IP law. It is also broadly perceived as part of economics (e.g. economics of IP). These two areas represent the main stream of studies on marks, although scholarly research has expanded into other fields, such as history, anthropology, political science, and in recent years, business and management.[12]

Unlike the focus of marks, a brand is often perceived as the subject of marketing – a functional management area of business, and should also be treated as part of strategic management. The formation of this perception is due to the historical evolvement of product brands prevailing over corporate brands and mass marketing focus on the former. However, corporate brands are improving their status in the field of business and management because they are more complex to manage, have more multiple stakeholders[13] and hold more social responsibilities than product and service brands.[14] These responsibilities show that brand management has gone far beyond functional managers' realm of duties, and become the charge of top management.

Given the above analysis, although both marks and brands belong to highly differentiated subject matter, they have become transformed from a clear-cut subject matter to an interdisciplinary field due to their development trends. From a business perspective, the authors feel that both marks and brands have become strategically important and should have the attention of top management. Such argument is grounded on

the reality that top managers should be aware of the strategic choice of mark and brand strategies available to the firm and take strategic decisions as to which strategy can help the firm manage their marks and related brands effectively to enhance firm performance.

Stakeholder Relevance

Stakeholders are different for marks and brands although distinction in quality and features is important for both. A mark especially concerns a relevant trademark office, attorney, quality standard agency and owners striving for recognition of the legal ownership for a particular product or service. That is, marks focus on how government authorities and companies can differentiate and assess the quality of products and services from different providers. A brand, on the other hand, focuses on relevant consumers, competitors and executives. The quality standard agency uses a mark as an identifier to gauge the quality relevance of a particular product or service. A brand executive assesses the past, present and future of a brand in association with consumers or customers, and competitors, and measures the contribution of this brand to firm performance and shareholder value.

Typology

Both marks and brands have a complex typology in spite of the similarities in product and service categorisation (i.e. trademark and service mark *vs* product brand and service brand). Marks conventionally include trademarks (for products) and service marks (for services provided). However, its typology has expanded to include unconventional marks, including collective marks (membership marks), certification marks (marks that follow stipulated standards and can be used by any entity), dimensional, audible, colour, and smell marks.[15]

Like marks, brands can be typified into corporate brands as opposed to product and service brands, but the typology has also become more complex than before based on different categorising terms. One widely used typology includes monolithic, endorsed and independent brands to assess corporate and product/service brand relationships.[16] Here monolithic brands mean that corporate and product brands use the same mark (e.g. Coca Cola); endorsed brands are different product/service brands that are all endorsed by the company brand on its packaging (e.g. Kit Kat by Nestlé). Independent brands are

product/service brands detached from corporate brands (e.g. P&G and all product brands). Although such categorisation has been fiercely criticized as being too simplistic,[17] there has not been a better replacement of this categorisation, and it seems very helpful to assess corporate and product brand relationship.

In addition to the above brand relationship categorisation, it is worth noting a new dimension based on the geographic scope given the increasing importance of international business, cross-border brand positioning, and mergers and acquisitions (M&A). That is, brands are categorised into domestic, regional, multi-regional and global brands.[18] On the basis of geo-coverage, domestic brands are those that have only operations within a country (mostly the home country). For example, Crispy Crème, despite its consideration to expand into other countries, is a highly recognised national brand in the US. Regional brands are those sold in multiple countries within one continent.[19] For instance, the Chinese search engine Baidu, as an arch rival for Google within China, is a typical regional brand, as it has its main market niche in China and some operations in Japan. Multi-regional brands (or international brands) serve multiple countries in two continents with sales over 20 per cent in each. MacDonald's is a good example, as it has sales all over the world, but its revenues exceed 20 per cent only in North America and Europe.[20] Global brands are very rare and spread over multiple countries in three major continents (Asia, Europe & North America) with global operations and revenue creation at least 20 per cent in each region (e.g. Coca Cola).[20]

Infinite Conditions

Both marks and brands can be infinite, but on three conditions. As far as a mark is concerned, the infinity lies in renewal, public policy alignment and quality sustainability. When there is a compromise in any of these three conditions, the mark may be revoked. Specifically, owners need to have the mark renewed on a regular basis. For example, in most countries, the interval of renewal is ten years. Owners also need to ensure that their marks align with the moral standards and public interest. For example, when French Connections, UK launched its fragrance in the US following its tremendous success in the UK, the advertisement that showed an intimate image of a boy and girl under the slogan 'scent to bed', aroused negative public reactions.[12] The advertising agency in

the US received over 500 complaints from concerned parents within a short space of time that the advertisement sexualised teenagers and jeopardised family value. As a result, the company failed to launch this product in the US despite spending millions.

The infinity of a mark depends on quality sustainability. Often a government or a non-profit body (i.e. a quality standard agency) judges the quality standard. They identify quality variations among competitors in the same industry relating to a mark on the packaging. Such authoritative judgment has direct impact on the consumption. For example, the Consumers Union in the US publishes the 'Consumer Report' with nearly eight million subscribers. The rating based on independent quality test of products or services directly impacts on the consumption volume and corporate reactions. The 2010 report claimed the 2010 Lexus GX 460 SUV to be unsafe based on the independent emergency safety tests. The owner Toyota took a proactive approach by suspending the sales, conducting its own independent examination, acknowledging the issue, recalling all sold cars, and corrected all potential safety hazards.[21] Its positive approach led to its passing in re-tests. The stakeholders mentioned above are interconnected and share interests in the future existence of a mark. The quality standard agency judgment may directly impact on consumers' consumption of a particular marked product, which in turn affects sales. Meanwhile, the attitude and action in handling the issue by the owner will also further influence consumers' attitude and action. Whether the mark will continue to be registered or the brand marketed depends on the consumption demand. The commonality between brands and marks in this context is therefore the quality sustainability.

As far as brands are concerned, the conditions for infinity are slightly different. First, there is no legal stipulation of required renewal. This means that the existence of a brand relies on how long it can stay in a market. Its reputation lies in its quality, its image long established within consumers and corporate efforts to enhance the brand reputation. Brand reputation holds the key to corporate success. This is why the CEO of Coca Cola Company confidently states that he could start in the beverage business with nothing, as long as he can have the Coca-Cola brand. When brand images deteriorate in the market, product sales or service slows down and such products get gradually phased out from the market.

Stakeholder Perception

One striking difference between marks and brands is the objective *vs* subjective stakeholder perception. The mark requires a detailed description, images, and protective claims to be registered. This means that relevant stakeholders perceive a mark objectively when it is mentioned. Such an objective existence is contrary to the subjective matter associated with a brand. In addition to the imagery associated with a brand, stakeholders (e.g. consumers) assess their brand awareness, evaluate their experience, form their judgement and forge a relationship with the brand. One example is stakeholder-based brand equity.[22] If consumers, employees and managers judge the brand differently (e.g. in terms of quality and reputation), the gaps will provide top managers with crucial information as to the direction for brand improvement.

Organisational Responsibility

In a business context, the relevant responsibilities of a mark and brand are clearly divided. A mark tends to be the responsibility of an in-house lawyer, particularly regarding securing legal ownership (e.g. registration, renewal) regardless of the type of marks. As for a brand, it may well depend on what its type. If it is a product brand, the responsible executive tends to be the marketing manager, whose team integrates promotion approaches to enhance brand awareness. However, when a corporate brand is involved, the responsibility is not restricted to functional managers. Instead, it should be the top management's responsibility so that all functional managers can be coordinated to deal with the complexity of corporate ID. Thus, the corporate brand is a strategic management matter rather than a functional responsibility. For example, many long established and successful companies, are aware of the differentiation between product and corporate brands, and appoint a vice president or a brand director to dedicate their full effort to deal with brands.

Marks and Brands: Operational Comparison

Despite the similarities in that both need protection, marks and brands have operated differently in practice. There are three activities related to marks. Firstly, after a mark is registered, legal enforcement forms a significant part of mark practice to ensure that the mark is protected exclusively. Therefore, the focus is on the legal claims of the mark and whether infringers violate such protective scope. Secondly,

managing the mark portfolio effectively is the foundation to ensure successful utilisation of a mark. In other words, managers need to be clear what marks the company possesses, what need to be renewed, and what can be franchised. Finally, marks, as part of infringement compensation or M&A, can make a significant difference to the corporate value, as they are highly regarded by firms. Therefore, their value has to be quantified using a combination of approaches.

Brand practice has various activities that are different from mark practice, though on face value these undertakings look similar. Firstly, brand protection places emphasis on whether consumers are confused by brand violations. Secondly, unlike mark portfolio management, brand portfolio strategy directs effort toward market dynamics. For example, firms identify the brands that generate income, brands that are sluggish and need to be revitalized, and brands that have not generated any income and need to be phased out of the market. Thirdly, when it comes to M&A, in addition to the contribution to the corporate value (present and future), brands are also assessed in terms of their compatibility with the potential merging firms' brand portfolio. For example, would the merged firms have complementary brands, competing brands, or brands that do not fit in?

The above discussions show that, although marks and brands are dissimilar in terms of protection, portfolio and M&A, there is often a very thin line between them. This further demonstrates the argument about the strategic importance of managing marks and brands. That is, marks and brands can be managed across different functions, but they need to be coordinated centrally to ensure cross-functional collaboration. Firstly, when a mark is infringed, or consumers are confused with two identical or similar brands, firms need to centrally decide what corporate anti-counterfeiting strategies are required to protect their mark from being infringed or to be compensated for damage. Scholarly studies do confirm that corporate anti-counterfeiting strategies are more effective than external strategies (e.g. supports from the government, retailers, and consumers).[23] Secondly, in terms of portfolio analysis, mark and brand managers, though opting for different strategies to generate value for the firm, as described earlier, will have to coordinate to decide which brand should be phased out or unregistered for mark protection, and which mark needs to have its classification expanded depending on

the brand performance. Thirdly, merging firms also need to assess the value, conduct matching exercises and decide which mark needs to be modified, which mark needs to be unregistered, and which mark remains exactly as it is to boost brand future.

Marks and Brands: Methodological Comparison

Firms adopt different measuring methods to assess the value for different purposes. The valuation of marks is to defend against infringement, resolve a dispute, or for mergers and acquisition. Therefore, tangible figures are required to help with the compensation, dispute resolution and integration deals. It is estimated that there are over dozen different methods to measure marks. However, there are only three internationally highly recognised methods: cost, market and income approaches. The cost approach is to record or estimate all costs involved for a mark, from design, search, brainstorming, consumer survey, to registration. This approach helps the owner to decide the minimum value of a mark. Second, the market approach is based on the market capitalisation minus net assets to come up with an estimate. This approach can be helpful when M & A take place so that the top management can have an idea of the firm's overall worth. Finally, the income approach becomes the primary approach for many firms due to its consideration of profit and risks. In other words, firms discount the risk factor (e.g. IP infringement, economic instability), and use the current net income from a marked product or corporate ID to calculate the future value.

On the contrary, the primary purpose of brand measurement is to find out how healthy a brand is, though when it comes to M & A, the above three approaches are also integrated. Comparatively, brand measurements are more versatile than mark measurements, but more conceptual, less standardised and more highly concentrated on consumers. Two influential methods are noteworthy. Zaltman metaphor elicitation technique (ZMET) is a relatively new approach to detect what consumers' subconscious motives are when purchasing a brand.[24] Created by Gerald Zaltman, a former Harvard Business School professor, ZMET is based on the belief that consumers do not know what they know, and explores the inner self within consumers. Basically, a group of participants are asked to select 12 images from any of their resources that they believe, represent their understanding on a topic.

Then, they have one-to-one discussions about the images with the researcher, who eventually will be able to identify the hidden knowledge of the participants and integrate relevant images into one picture representing the topic. Using this method, the Febreze brand was able to generate profit far more than planned when it launched its product.[25]

The other influential method is Young & Rubicam's Brand Asset Valuator (BAV), based on the largest database of consumer-derived information on brands available in the world.[26] Basically, this method uses five factors to measure brands: esteem (brand respect) and knowledge (i.e. consumers familiarity with the brand) assimilate and indicate the low or high of a firm's brand stature. Meanwhile, relevance (i.e. breadth of a brand's appeal), energy (i.e. how the brand meets consumer needs and wants) and differentiation (i.e. the extent of difference from other brands) assimilate and indicate the low or high of firm's brand strength. When they are put on a power grid, a firm's brand health can be explicit, and the company can be positioned, as a brand leader (e.g. Coca Cola), brand grower (e.g. Mini Cooper), brand newcomer (e.g. Bratz), and brand eroder (e.g. 7-Eleven). Unlike most brand measurements, the BAV links consumer views with corporate positioning relative to competitors. As a result, firms are able to formulate strategies accordingly.

Overall, marks and brands are divergent in measurements and different valuation methods appear to serve different purposes. It seems clear that both mark and brand measurements have not emphasised sufficiently the linkages between their value and impact on firm performance. Moreover, standardisation is the direction for development so that comparison can be conducted among groups of marks, or groups of brands. Finally, for marks, it has become a common practice to use a combinative method to assess it so that a convincing value can be concluded. This practical approach should probably be adopted in brand measurements as well.

Distinction of Marks and Brands: Implications for Research and Practice

Summary of Findings

This paper clarifies the distinctions between marks and brands from the perspective of historical evolvement, conceptual delineation, operational process and methodological measurement. The two terms are often used interchangeably in society and this is probably because they are defined in an identical manner. However, these two terms have more differences than similarities. From historical perspective, marks can be traced back to Southern France in the 5000 BC for logistics purpose. The meaning of marks has been enriched over time from an indication of logistics, origin and quality to power and value.[6] Brands, despite possessing all these traits, differentiate themselves from marks due to having personality as well.[10] Although the two terms were institutionalised much later in history, evidently, marks appear much earlier than brands, which only emerged in the 1870s with the growth of mass marketing.

The distinction between the two terms becomes obvious in conceptual, operational and measuring terms. From a conceptual perspective, the distinction between these two terms is multi-faceted (Table 1). They serve different purpose, subject disciplines, have distinct stakeholder relevance and typology; they also have dissimilar conditions for infinity, stakeholder perceptions, and organisational responsibility. From an operational perspective, marks emphasise legal enforcement, mark portfolio management, and quantified value in contrast to brands focusing on consumer views, brand portfolio and brand compatibility or complementarity. Finally, in terms of measurements, marks serve the purpose of evaluating a mark for compensation or for merger integration while brands intend to examine how healthy a brand is from consumers' perspective. Accordingly, their methods of measuring the value are distinctive with marks using cost, market and income approaches, and brands using a variety of non-standard approaches.

Contributions and Implications for Research and Education

This paper contributes to knowledge by systematically clarifying the differences between marks and brands; those differences that have been ignored, unnoticed, or denied. However, such clarification is necessary to understand their subject leanings. One important argument in this paper is to emphasise the importance of treating both marks and brands as a matter of strategic management. Relevant to the two terms, marks are also perceived as a legal matter while brands are considered a marketing subject. While the functional importance of these two terms is not denied, their strategic importance has been both scholarly and empirically important. Therefore, treating them as strategic management is an important research and educational direction to follow.

Moreover, despite the authors' arguments about the differences between the two terms, how stakeholders view these differences has not been tested in reality. Therefore, interviews or survey with relevant stakeholders (e.g. executives, owners, consumers) will allow further verifications of these delineations. Such studies will help to conclude how stakeholders perceive marks and brands in a convergent and divergent manner. Finally, this paper has also pointed out the lack of linkages between marks and brands, and firm performance. Future research could be conducted to compare and contrast the relationship so that theoretical evidence can be established as to using marks and brands to aid firm performance.

Implications for Practice

The emphasis on the distinction of marks and brands in this paper implies that firms should undertake at least two important tasks. Firstly, clarify the responsibility of functional managers for marks and brands. The discussions above indicate that there are overlapping, grey and distinctive areas of functional responsibility for marks and brands. In terms of overlapping responsibility, both marks and brands need to emphasise the crucial importance of quality, which is the ultimate foundation for the existence of marks and brands. How mark and brand managers should clarify their responsibility is indeed a matter that requires communication between them. As for the grey area, a good example is portfolio management (mark and brand portfolios). Although these two sets of portfolios orient differently with marks focusing on legality (e.g. renewal and franchising), and brands emphasising marketability, quite often, mark and brand managers may have to collaborate to ensure, for example, that a franchised mark generates value for the firm.

Secondly, given the increasing importance of strategic management for marks and brands, effective coordination across departments becomes the responsibility of top management. In other words, as marks and brands become increasingly strategic, it is important to appoint top management in charge of marks and brands, so that cross-departmental coordination can take place effectively to ensure contribution to firm success. Having top management (e.g. CEO, vice president, or brand director) overlooking mark and brand matters is practised in some well-known brand firms (e.g. Coca Cola). However, most firms still treat marks and brands as a functional responsibility. Given the significance of

strategic management of marks and brands, firms should take their marks and brands to a higher level to serve strategic goals.

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