Brands rewired

In the brave new world of the global marketplace, it has never been more important to ensure that the branding process is tightly aligned with both creativity and strategic IP considerations

By **Anne Chasser** and **Jennifer Wolfe**

"At the beginning of the decade, Procter & Gamble had 10 billion-dollar brands in its portfolio. Brands that generated more than one billion in sales that year. Today, they have 23 of those billion-dollar brands."
P&G 2009 Annual Report

"Google was formed in 1995 as a start-up company by a group of Stanford students. Less than 10 years later, its brand is reported to be valued at $100 billion."
Millward Brown, Annual Brand Report 2009

Question: how do Procter & Gamble, Google and other companies like them ensure that when they invest in the development of new technology, products and services, the brands built to sell those products will have long-term staying power and produce a greater return on investment?

Answer: they design IP strategy into the creative and innovation process from the beginning, through the use of collaborative, multi-disciplinary teams to rewire the branding process.

So how exactly did we arrive at this answer to the billion-dollar question? In addition to our literature review, we interviewed thought leaders in branding, innovation, consumer insights and intellectual property at some of the world's leading global brands, including Procter & Gamble, General Mills, Harley Davidson, Kodak, Kimberly-Clark, Kraft Foods, Interbrand, Yahoo!, Intel, Scripps Networks Interactive, Warner Brothers, International Paper, LPK and J Walter Thompson. In our interviews and research, we uncovered common trends, challenges and solutions summarised in this article. But to begin our studies, we thought it important to provide historical context of the major events triggering the problems faced today in IP strategy.

For generations, the largest companies in the world were able to dominate the marketplace by their size, capital, power and ability to leverage resources, easily boxing out competitive threats. This facilitated and supported a linear way of developing new ideas, technologies and brands – what we refer to as the "silo approach". This way of doing business lingered from the industrial revolution until the 1990s, and in some companies continues today.

With the flurry of M&A activity in the 1980s, corporate cultures were merged, further reinforcing the silo phenomenon in what were now mega-companies. Then, in the 1980s and 1990s, global marketplaces emerged as competitive threats to the status quo. The previously dominant companies faced competitors that could do the same thing, but with significantly lower overheads and much higher profit margins.

At the same time, technology levelled the playing field by creating easy, less expensive access to resources that did not exist in previous decades. Entrepreneurial companies, often armed with venture capital backing, could now compete head to head with the largest companies in the world, putting increasing demand on the need for fresh, new ideas.

During this time, consumers also became more powerful than ever. For decades, companies and ad agencies dictated what products would be developed and then created ad campaigns to convince consumers that they needed them. Now, consumers were in the driving seat, picking and choosing what they wanted, when they wanted it, and abandoning those companies that failed to heed their demands.

Unsurprisingly, the largest companies in the world recognised in the 1990s that they could no longer function in silos and maintain their market position. Out of necessity, they began to evolve into a more collaborative model. Even more disruptive to the status quo, companies realised that they must work collaboratively – not only internally, but also externally. Most recently, with the economic meltdown of 2008, companies recognised that access to capital would be constrained, transparency of executive activity would be demanded and the need to maximise return on investment on a longer-term basis would become paramount to company survival.

With these many factors putting significant pressure on contemporary companies, the need to innovate, develop and brand in a smarter way has been evolving the old silo approach to management into a new collaborative model – a brand rewired. To succeed in the next generation of branding, our thought leaders know that company leadership must set a vision and create a culture that fosters and embraces collaboration, internally and externally. They know that common goals, collaboration and teamwork must be rewarded through financial and non-financial recognition, and process and knowledge-sharing tools must be put in place. Figure 1.2 illustrates the intersection of all components that will lead to a higher return on investment in branding, driven by consumer insights and executive leadership.

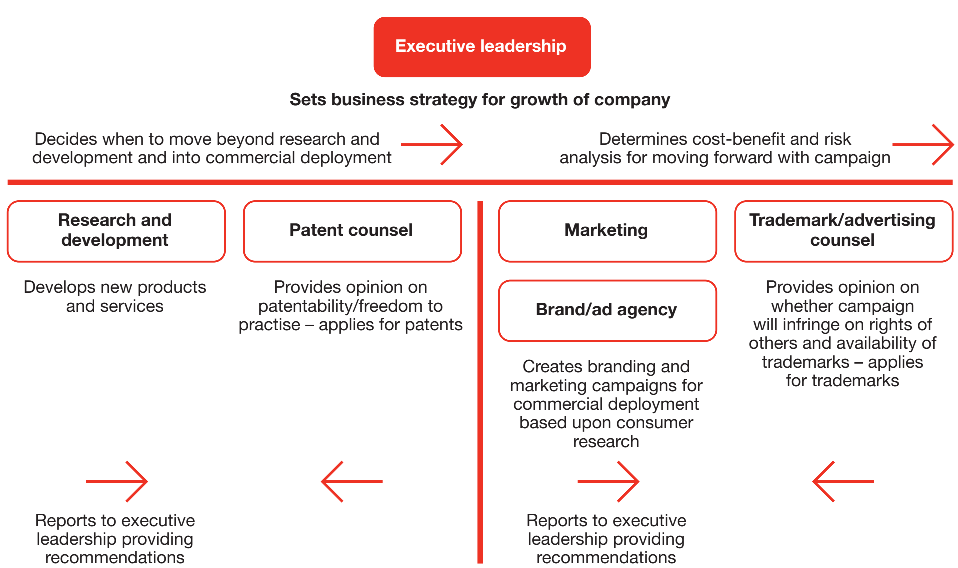
Value is in the eye of the beholder

To understand more about the latest trends in innovation, branding, intellectual property and how they intersect in leading global companies, we decided that it might be a good idea to start with the end game. After all of the hard work, what is the value proposition? What creates a better return on investment for the company? The answer was ultimately very simple: build something that can continue to produce revenue for a long time at the lowest cost. The details behind it are more complex, but we found a few driving trends at the heart of it.

First, companies in emerging markets are seeking to boost their economic power globally by investing in brands. No longer satisfied simply to manufacture others' products, they are now innovating to compete in the global battle of the brands. In the creation of brands, they are focused on how brands are valued in the global marketplace. To compete, established branding companies must also begin to consider how brands are valued and how to increase that value by thinking about their brand as an intellectual asset.

Second, the power of the brand on the company balance sheet can increase a company's borrowing power and availability of capital. When competition for available capital is fierce, those companies with more

Figure 1. Illustrates the traditional silo approach to the evolution of new products and services



powerful brands and intellectual assets on their balance sheet may obtain the necessary capital for continued growth. While traditional accounting standards account for intangible assets only in the event of an acquisition, new and proposed global accounting standards may require annual valuation of all intangible assets on the balance sheet. If the brand loses market value, the company will have reduced borrowing power. In the current economic climate, companies cannot afford to lose brand value.

Finally, strategically considering intellectual property early in the innovation or branding process simply makes good business sense. Otherwise, millions of dollars may be wasted on something with little long-term value or the company may be exposed to costly lawsuits. Thinking about it early costs the company less money and produces better results. Multi-disciplinary teams are needed in the current economic climate to tap fully into the power of the brand on a long-term basis.

Designing in IP

All of our thought leaders agreed that a powerful brand is one that provides a strong identification and connection with the consumer through its name, logo, visual identity, sights, sounds, touch and smell. All too often, hundreds of thousands to millions of dollars are invested before intellectual property is even considered as a factor. We advocate taking a strategic pause in the creative process to consider what will create long-lasting intellectual property for the company – effectively, to design intellectual property into the creative process.

While the fundamental component of most brands remains their names, so many other components of the consumer experience complete them. Most of these, if considered early enough, can be protected. Unique and distinctive sounds can be trademarked. Music can be copyrighted, along with the TV commercial or print ad. Characters can be both trademarked and copyrighted. The retail environment, if not functional and unique, can be protected by trade dress law. Training programmes and internal campaigns can be protected by copyright law, trademark law or trade secret law. We outline just a few of our favourite and most enduring intellectual assets among the world's most beloved brands:

- Nike Swoosh logo.
- Tiffany – blue colour.
- Post It Note – yellow colour.
- Owens Corning Insulation – pink colour.
- Coca-Cola – bottle design.
- NBC – sound of the chimes.
- Intel – sound of the unique tones.
- Yahoo! – sound of the yodel.
- Herman Miller – chair design.
- Hermes – design of the bag.
- Christian Louboutin – red sole of the shoe.
- Yamaha – unique arc of water from its jet ski.
- Ferrari – design of the car.
- Pillsbury Dough Boy – character and sound of the giggle.
- MGM – sound of the lion roar.
- Twentieth Century Fox – sound of the drum roll.

Consider how these aspects of iconic brands will endure. What do you think the return on investment was for the company that took the time to protect these fundamental components of its brand? Consider how these companies would fare if they failed to protect a fundamental part of their brand. They have designed into their brand an important intellectual asset that can endure and produce value for a long time.

The influencers – what is driving branding and intellectual property

In our research, we found our thought leaders centring on a few key trends in business and brand strategy. First, they all agree that today consumers have everything they need. To compete in the global marketplace, companies must innovate by understanding the consumer lifestyle and finding opportunities to provide products and services for consumers – even if they do not yet even know that they want them.

Second, content has become the

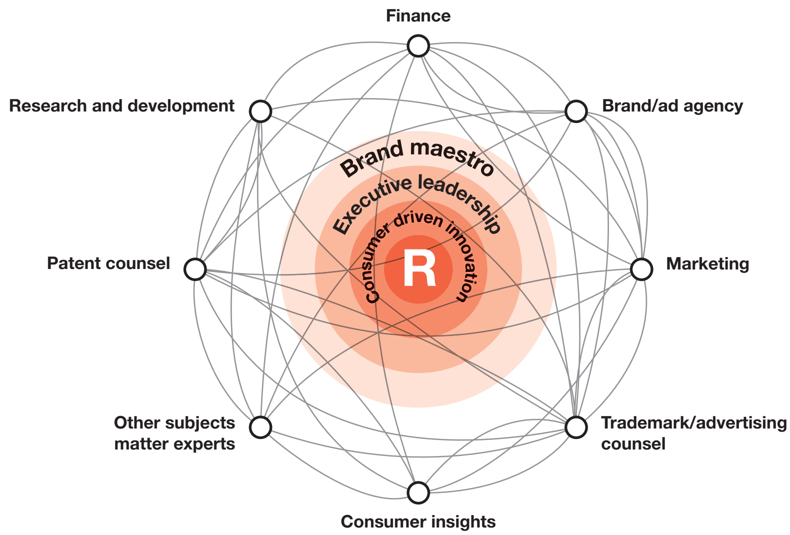


Figure 2. Illustrates the intersection of all components that will lead to a higher return on investment in branding, driven by consumer insights and executive leadership

Action plan

In the rewired world, to maximise brand value and effectiveness strategic IP considerations must be at the forefront of brand owners' thinking:

- Hire or empower a chief IP officer to lead the formation, protection and commercialisation of your company's most valuable property – its intellectual assets.
- Take a strategic pause in the creative branding process to design invaluable intellectual assets to the brand campaign.
- Sounds, colours, designs and even the look and feel of a room can be protected by trademark and trade dress law. Can you add these elements to your product or campaign?
- Create incentives, financial and recognition based, for your leaders to work collaboratively rather than in silos.
- Invest in knowledge sharing and collaboration tools.
- A cultural shift from a silo mentality to a collaborative mentality must come from the top.
- It will cost you less money and produce better results if you design intellectual property into your brand campaign from the outset.

marketing message. Savvy marketers now recognise that they must create content that consumers will seek out and embed their promotional messages within that content. The proliferation of promotional-based content requires a greater understanding of the many IP issues with this emerging form of branding.

Third, while the complexity of marketing and branding is increasing, the costs of litigation, risk and uncertainty are also increasing. As new technologies rapidly evolve, new forms of lawsuit emerge. With the costs of the average lawsuit in the hundreds of thousands to millions of dollars, risk assessment must be integrated in a proactive manner to the brand campaign development process. Further, the dilution dilemma continues to plague popular brands throughout the world, as counterfeits and knock-offs can destroy their value. Likewise, if companies fail to invest in the continued marketing and maintenance of their brand, they may find that retailers no longer shelve their products prominently, losing further market share and diminishing the value of the brand. Branding companies must carefully police and protect their brands throughout the world to ensure that they do not lose their ability to enforce their rights, while also continuing to market and promote their brands as a continual investment in consumer loyalty. Finally, limited budgets have also damaged the ability of companies to invest in their brands the way they once did. They must make smarter decisions about the use of resources. All of these trends require new ways of thinking as multi-disciplinary teams to bring creative thinking and ideas to new market opportunities while reinforcing and building the power of their brand.

The black box

In our research, we found many problems plaguing large organisations. Rather than telling many stories, we wove together common problems into a fictional case study.

Second-generation plastic bottling company Emerson Jones is plagued with the social conscience of realising that it is contributing to the erosion of the environment. Determined to turn things around, the chief executive officer charges the company leadership with identifying a new product line and brand made from recycled plastics. The team sets out in a silo approach to solving the problem. The idea developed by the team is to convert plastic bottles into green insulation – Green Again Insulation. By operating in silos, however, the team misses critical opportunities and the results are catastrophic. Let's take a look at just a few of the things that go wrong:

- The cost globally to apply for, protect and maintain the patents far outweighs any potential for return on the rapidly changing technology.
- The aspects of the technology that could have been protected by trade secrets are shared with other companies without the appropriate agreements in place.
- Patents are applied for before important licence agreements have been signed with a key partner and the company is later sued for infringement.
- Other insulation companies begin to make their insulation green. Although this was Emerson Jones' idea, because it was not trademarked (the trademark attorney did not know that the insulation would be green), the company cannot easily stop others from copying this.
- Its catchy jingle is not protected or copyrighted early in the process. Other companies looking to tap into consumers' emotional connection to doing what is right for the environment take key elements of that jingle and incorporate them into their own, further diluting the power of the campaign.
- The Green Tree character created for the campaign is quickly replicated by other companies looking to demonstrate they are environmentally friendly.
- The celebrity sound-alike voice used to save money in the ad campaign sounds so much like the celebrity that the celebrity sues the company for infringement. The company settles and reproduces every single ad. To overcome the public relations problem that follow, the company hires a new celebrity legitimately and spends significantly more than anticipated to relaunch the campaign with the new celebrity voice as the Green Tree.
- The ad campaign incorrectly cites statistics about other insulation companies, resulting in a Federal Trade Commission investigation and fine.
- The website offering free games to kids featuring the Green Tree fails to follow the ever-changing guidelines of the Children's Online Protection Act. The company spends even more money to rebuild consumer trust in the Green Again brand.
- Other companies wanting to build on the vast investment in consumer awareness made by Emerson Jones begin to name their product packages Green Again. With a limited scope of

trademark protection in the insulation product category, Emerson Jones is unable to stop the complete dilution of its brand into a household name for "made from recycled plastics". Although the goal was for it to be a household name, it is now a household name that everyone is using and that has no unique connection to Emerson Jones.

At the end of our case study, each department has performed brilliantly. But because they failed to communicate with one another at critical times, the result is a series of costly lawsuits, reinvestment to redo much of the ad campaign that infringed on other rights, dilution of critical components of the branding campaign and the ultimate realisation that the product itself is not meeting the social goal of the company. Working as a team, sharing ideas and communicating throughout the process would have eliminated these problems. At a minimum, it would have reduced costs, eliminated the wasted resources and increased the likelihood of success.

Integrating a brand rewired

We then tell a do-over for Emerson Jones, but this time tapping into the power of a multi-disciplinary team. Utilising a chief IP officer (CIPO), or brand maestro, and innovation process, the company taps into the insights of all critical groups – such as research and development, finance, marketing, consumer insights, legal, IP strategy, public relations and human resources – at the right time to expedite the process, deliver better results, reduce costs and increase long-term return on investment.

The lessons learned from our thought leaders and illustrated in this fictional case study are clear:

- Leadership must set a clear and shared vision of collaboration.
- Leadership must provide clear financial and recognition-based incentives to collaborate based on clearly defined metrics of success.
- Leadership must invest in process and knowledge-sharing tools to facilitate collaboration.

By using this approach, Emerson Jones follows a different path. The team determines that a line of clothing might produce a better return on investment. It names the product line Rebottled, with a distinctive logo and blue colour to distinguish it as the world's leader in providing fashionable, affordable clothing made from recycled plastics. It launches unique campaigns for musicians around the globe to compete for a consumer-generated, consumer-chosen theme song, which becomes an integral part of its brand identity and a cultural phenomenon. It quickly enters into licence agreements with other clothing companies to share its technology for converting recycled plastics into clothing and becomes a supplier to other clothing companies. Its approach of partnering rather than suing other companies succeeds. At the end of the day, by working as a team and thinking about how to protect every aspect of what the company is doing to achieve its business and social goal, the turnaround time is faster, it costs less and the likelihood of success is far greater.

The CIPO

Designing intellectual property into the innovation and branding process is a cultural shift for most organisations. A clear commitment to this way of thinking from leadership is essential to ensure buy-in from all stakeholders. The CIPO is an executive within the company who possesses a unique skill set centred on facilitation of multi-disciplinary teams with a deep understanding of culture management and group decision making.

This executive will have expertise in IP strategy and a broad base of knowledge in the areas that impact on the development of new ideas. A central function of the CIPO is to build and continuously manage an IP strategy for the company. This will include a careful plan of how the company will develop, exploit, protect and maximise return on investment of its intellectual assets in the long term.

Rather than a cost centre, the CIPO is a revenue-generating role. With 80% to 90% of the value of most companies deriving from their intellectual assets and the long-lasting power of brands, companies with a CIPO will produce better long-term results than those without a CIPO. *iam*

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They are the co-authors of *Brand Rewired: Connecting Intellectual Property, Branding and Creativity Strategy.*
www.brandrewired.com

Timeline

1900 – 1980
US corporations dominate the global marketplace in an old-school research and development linear model with limited competition, and the economies of scale to hire the best people, believing deeply in the "if it's not invented here it's not a good idea" philosophy.

1980s
A flurry of M&A activity results in mini-monopolies within product categories. As cultures merge in the perfect storm of activity, silos and fiefdoms emerge to protect turf and reinforce a linear approach to innovation and development, regardless of how costly it might be to the company.

1990s
The world becomes flat with the arrival of the Internet and ability to collaborate with anyone anywhere in the world. Coupled with changing worldwide economic conditions, US companies no longer dominate the global marketplace and begin to face competition from companies that can do the same thing, but with fewer overhead and higher margins.

1990s
With the access to resources afforded by technology, entrepreneurial companies can compete with the corporate giants in the marketplace of ideas. Venture capital companies form to pump capital into these start-ups. The sleeping giants awake and realise they, too, must tap into ideas from the outside to survive.

2000s
Consumers take charge, no longer at the mercy of an ad campaign to convince them they need something. With the proliferation of consumer-generated media and in-demand services, companies now must heed the call of their customers. Yahoo!, Google, YouTube, Facebook, Twitter and blogs emerge giving consumers all the power. Companies realise they must listen to their customers or they won't have any.

2008
The world financial markets meltdown results in bail-outs from the US government of the largest financial institutions in the world. Access to capital becomes limited and constrained, with no signs of improvement in the foreseeable future. To access the limited available capital in an ever-increasing global competitive landscape, companies must ensure that they maintain strong balance sheets and predictable cash flow. Companies can no longer afford a linear, old-school research and development process, but must innovate and connect to their customers in a more meaningful way that results in economic value.