



PART THREE

Build the brand

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How to move a brand forward

3.1

Ben Harris at New Brand Vision sets out a framework for bringing all the elements in a marketing campaign together

Your business is established, you're looking to expand at home and abroad, and your attention is turning towards marketing to ensure that you have all your 'ducks in a row'. Agencies offer a bewildering range of services, often shrouded in creative mystery and confused by industry buzzwords. So where do you go and who do you ask to find out about your marketing options?

The following article is designed to help create a framework and checklist of areas that every business should consider – it focuses a little more on service businesses than product businesses but the same principles still largely apply.

Brand strategy

Who needs a brand strategy? In order to undertake any marketing planning or activity, a creative brief is needed that sums up the strategy and direction of a company (or brand if distinctly separate); also, and just as importantly, the foundations on which it competes in the marketplace, and any practical requirements.

In order to write the brief, you might already know what your brand stands for, how it differs for each of your target audiences, information about these customers, how your brand sits in relation to its competitors and how you differentiate yourself from them. If you don't, it's time to look. This is where the agency can offer very practical assistance.

However, in my experience, there are pitfalls to creating a brand strategy at this stage. A brand value, a positioning statement, a mission statement or perhaps even a brand essence, they may all sound right but applying them to design and judging whether a shape, a colour or a font is a good interpretation of them is a tricky and subjective business.

We have found that a good website planning process can lead to much better answers. Clients understand websites more than notional brand strategies and are able (and realize they need) to make very clear decisions about how to categorize and segment their offering, and how it differs from one target audience or location to another.

Once fundamental decisions have been reached about the business using this method, the brand strategy starts to shape itself and a culture, a direction and a competitive stance are easily revealed. Conducting some brand planning at this stage is a very natural next step and provides your marketing adviser with a more advanced understanding of your business to kick off the creative process.

So in short, my recommendation is not to rush into a large brand strategy project without considering what you actually need to achieve from it, and to challenge whether there are better methods to identify the answers. After all, you just need a brief to be able to produce marketing materials that will help you generate a return. And that's what it's for. A strategy document on a shelf getting dusty is no help to anyone.

Name

The next question to ask is... if your brand name is the right one for now, will it be so in the future? You may not have had foreign markets in mind when the business started but it is vital to ensure that the name(s) make sense overseas and of course won't offend anyone. If you're about to grow and thinking of readying your brand, now is the moment to make any necessary adjustments. At this stage it might be sensible to have a trade mark attorney check there are no obvious trade mark infringements, as money spent now may save you very much more in the future.

As a general rule, I think it's always better to work with existing names if you can, because naming is a tough soul-searching exercise. Sometimes marketing resources can simply be better spent creating more productive communications that will lead to increases in revenue.

I am not worried about the possible loss of brand equity with a change in name, though it depends on the circumstances of a business and its relationship with its customers. There are only a few opportunities in a business life cycle when a fanfare is appropriate and possible. Therefore, if your budget allows, a change in name is a real opportunity to celebrate with your existing and prospective clients, suppliers and partners, everything that your business stands for, under the guise of announcing a new name change. It's a moment when you can communicate with them in a number of ways and multiple times by sending them literature and branded materials, and inviting them to events – all without the need for a sales message. So, a change in name could and should strengthen relationships and in turn, boost business – more so than just a new logo or website can do.

Logo

Do you need a new logo? Rebranding (the general term for a new logo) is generally subject to bad press because of the perception of high costs. Businesses therefore tend to be fearful of starting along that road, but it doesn't have to be expensive or be incurred in one go.

The struggle that many businesses have is justifying the need for a new logo because it's something that won't generate a direct return on investment. But a strong modern identity will, in my view, produce a much better chance of doing business.

I always prefer that marketing money is spent on producing materials or delivering a campaign that will lead to an increase in business. So if the logo can be left as it is, it probably should be. What I have found, though, is that when it comes to producing a new brochure or website that may last several years, starting with a slightly dated logo identity can hold it all back. It is possible to refresh a logo subtly to keep it up to date and a good designer will be able to give the impression that it's the same, while sympathetically modernizing it.

So my advice here is: you may not think it needs a refresh but always be open to it while undertaking a major project such as a website or brochure. Let the experts guide you as they bring fresh viewpoints and please don't think that your clients will mind – they won't. Updating a logo doesn't mean that you have to replace every piece of branded collateral – a gradual change can occur – it's normal, and it's better than not doing it at all.

Website

A website is the centrepiece of any marketing effort. The quality of a website in the eyes of a potential customer speaks volumes about an organization. The web is a place they can go to research or validate their views of an enterprise. A great website helps move a potential customer nearer a buying decision, whereas a flaky, old, dated and unloved website can, and probably will, undermine the buying process.

Fully functioning and effective websites are inherently complex. The process of developing websites for all sizes of companies has evolved and a corporate website that cost £6,000 a few years ago will now cost £25,000 or more to replace. Even the simplest four-page website requires the involvement of at least five different skill sets. The process is more sophisticated and it needs to be; think about it in terms of refitting a high-street shop – after all, a website is a shop window. The more up to date it is, the more value customers place on what is on offer, and the more likely they are to make a purchase. It is essential for any business to have a good website, and getting it right takes architecting, design, construction, and fittings (the software that runs it).

If you're planning an international roll-out this is even more important. A quality website can give a strong sense of credibility and can help businesses enter new markets where a brand name is little known and where the need for validation is even greater.

If there is only one area of marketing to which you would like to direct your efforts and resources, the website must be it. Don't penny-pinch and, above all else, the software you choose to run it on (a website content management system or CMS) is one of the single most important decisions when choosing a provider. CMS is a whole different ballgame and deserves an article of its own.

Search engine optimization (SEO)

So how do you generate warm leads from your website? You may have heard the term ‘search engine optimization’ or ‘SEO’. This is the process of making your website as visible as possible to search engines so that they can list your website when someone searches for a relevant service or product you offer. After all, no one is going to scroll to page 100 to find your site!

The number of top listings can be influenced in the way a website is built and set up, the way text is written, and by running an active link-building campaign. If the website has been intelligently planned it will capture the details of a visitor to the site who may be interested in the services you offer.

SEO does not produce instant results; it requires a medium- to long-term view. Achieving high listings, though, is game-changing so it’s worth the early investment. An SEO campaign is a staple part of the marketing diet and its return on investment when high listings are achieved is considerable.

Pay per click advertising

Pay per click advertising (PPC) works on the same principle as a company bidding against its competitors for their adverts to appear as high as possible on search engine results. The brilliance and simplicity of PPC is that displaying the advert itself is free. Unlike any other form of marketing, it means that when using PPC you can accurately calculate how much it costs to generate a lead or to make a sale.

Advertisers only pay when their adverts are clicked and a visitor is delivered to their site. Using simple tracking methods, it is possible to quantify how many of those users requested information, subscribed or made a purchase having clicked on a PPC advert.

I do hear many people say that they run PPC while they’re waiting for SEO to kick in. But the reality is that if PPC is working, when SEO arrives it just compounds the results, so they stick with it. Having two listings on a search result page dramatically increases conversion rate.

If you plan to spend £50,000 (plus national insurance, overheads etc) on a salesperson to create your leads, just bear in mind that the same money could potentially buy you, say, 25,000 clicks depending on the industry you’re in. This is where the perceived whimsical and creative side of marketing becomes hard commercial reality.

Calculate the percentage of those that will contact you having seen your website, and those that will subsequently convert, then multiply revenue/profit by the number of clients you think will be generated. You’ll then be able to make a reasonable assessment if it’s worth trying or not. A tip though: you also need to factor in the time to actively manage a PPC campaign – a vital ingredient to achieve success.

Social media/online PR

‘Social media’ is certainly the latest buzzword and over the last couple of years we’ve seen corporates truly get stuck into it, having been shy of engaging at its inception. Social media means online PR – spreading your message in different ways, without cost, to audiences that might be interesting in reading about your organization, what you do and what you have to say. The likes of Twitter, Facebook and LinkedIn make it more conversational rather than just a blunt message. I would highly recommend a realistic social media element factored into every business marketing strategy.

Other online marketing

Other online techniques include banner advertising and affiliate marketing. Both include an advert or link from a third-party site back to their own. The former is where a fee is paid for the amount of traffic it generates, the latter where the advertiser pays for a resulting sale rather than a resulting visit – either a fixed fee or a percentage. Both can be useful but less so for service businesses.

Traditional forms of marketing

These in my view are offline advertising, whether it is press, radio, outdoor or TV advertising, and direct mail. They still have a use, but they are mass media so they are expensive, random and frankly one of these elements on its own just isn’t enough to get results. If you’re going to persuade the masses to buy or do something, it will take more than one ad campaign in isolation to achieve it. It requires an integrated strategy of multiple tactics. I think there are many more efficient strategies to try first and only when they are exhausted should these be considered. For example, imagine how many visits to your website you’d get for the amount you’d spend on such activity.

PR

This is not my area of expertise, but I like it nevertheless. For some businesses it can show an excellent return on investment (ROI), though for others, getting consistent coverage is hard. Social media has brought an interesting angle to PR, and sites like Twitter help to build followers and relationships informally outside of a particular campaign – so when you do have a message to tell, there’s a pool of advocates to listen and waiting to spread the word for you.

I hope you found the above elements useful. There are other strategies to consider but these ones are central to effective marketing and certainly the best tools in the box. So explore and consider what will be the best way forward for your business.

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Creating desirable brands

3.2

Nick Graham, managing director and founder of Clear US, has six principles for creating brands that stand out from the competition

In a world where brands interact with consumers across a huge number of touchpoints (web, mobile as well as traditional), there is no longer any space for brands that follow. Clear's annual survey of consumers shows that, in most categories, the majority of brands follow category norms. These brands are less likely to create desire among consumers and, as a result, growth for the brand. Take a look at your brand and ask yourself if you stand out from your competitors. Our six guiding principles can help create desire – and therefore growth – for your brand.

In the past two years, we have spoken to nearly 40,000 people around the world to identify the world's most desirable brands – those that really deliver against this ambition – and more importantly, to understand what they do differently to create that desire.

Our studies have shown that the businesses that own the world's most desirable brands outperformed the Standard & Poor's 500 index over the past five years, delivering higher share value growth and greater share price stability.

We have also determined six behaviours common to desirable brands. These guiding principles remain true, irrespective of category or country; the more brands adopt them, the more desirable they will become. They represent a simple but powerful framework for assessing how to create greater desire for any brand. Challenger brands should pay close attention to these principles, as they offer guidance on how to continue to grow and to challenge established brands, within and even beyond their current category.

The six guiding principles are:

- 1 Think bigger than your category.
- 2 Focus on the future.
- 3 Have clarity of purpose.
- 4 Inspire connections.
- 5 Create experiences.
- 6 Constantly innovate.

1 Think bigger than your category

Seventy-five per cent of consumers have a preference for a certain ‘type’ of brand, regardless of the category to which it belongs. For example, we are hardwired to desire brands that we believe help us be ourselves or become the person we aspire to be. If that type of brand is available to us in a category, we will choose it; for example, consumers purchase the Method brand to signify that they’re environmentally conscious. If it isn’t available, we will compromise – begrudgingly.

It’s clear from our data that desirable brands do not adhere to the rules of their ‘category’. They actively look for a bigger role, a role in people’s lives, not just a role as a solution for a narrow problem. This enables them to challenge the status quo, to pioneer new ideas, and to develop a range of propositions that transcends their origin.

Many of the most desirable brands we uncovered have done precisely this. They are chomping at the bit to bring their ethos to new categories:

- **Google** is so much more than a search engine. The year 2011 saw the launch of Google Wallet, a bold foray into the world of contactless payment. Using near field communication (NFC), it allows people to pay for items through an app on their smart phone. It will be capable of storing thousands of payment cards, loyalty cards, gift cards, receipts, boarding passes and tickets and, in time, even your keys may be synced to your Google Wallet. Google profits were \$9.7 billion in 2011, up from \$8.3 billion in 2010.
- **Amazon** is so much more than a retailer. Amazon broke its mould by producing the Kindle and is changing the book market. In addition to doing away with the printed book through the Kindle, Amazon is cutting out publishing companies as middle men by having its own in-house publishing unit and gaining the rights to directly publish some big titles. Net sales increased 41% to \$48.08 billion in 2011.
- **Seventh Generation** believes in creating products that make a difference for the consumer, the community and the environment. Having a clear mission that is about far more than their products has enabled the company to stretch beyond cleaning into baby care and personal care. Sales have increased at around 11% year on year in a category that has traditionally experienced little growth.

Marketers and brand owners tend to set themselves boundaries; brand users do not. We all have the opportunity to challenge these boundaries to create more desirable brands. The learnings for challenger and new-to-market brands are consistent; however, the opportunity for challenger brands is in many ways larger, as they can embrace a vision and mission that redefines a category.

2 Focus on the future

While it’s important that brands transcend their category, this should be done with direction. Desirable brands understand where the opportunity is in the near future, but also anticipate where the long-term opportunities for growth exist. This isn’t just

about commercial or technological opportunities; it's about the chance to create a future that meets people's rapidly changing needs and behaviours. Just look at financial services; mobile banking is changing the market, with traditional banks facing a new set of competitors in the form of Google, Movenbank and potentially Apple. Brands that invest in shaping and improving the world around us reap the reward. This means having a vision while giving the organization the space, resource and licence to make it happen.

Microsoft recognized that the future of gaming is 'you as the controller'. The X-box Kinect has become the fastest-selling consumer electronics device of all time. The release of software development kits is opening further uses beyond pure gaming, such as video surveillance and medical imaging. As a result, Microsoft as a masterbrand has enjoyed an uptick in desirability from 2011.

Kodak did not recognize that the future would be digital. Although one of its engineers invented the first digital camera in 1975, it was too slow to exploit the technology, investing in film instead. We all know how that story ends.

Being continually desirable means always looking beyond the present and being clear about what your role is in crafting a better future – and having a point of view about what that future should look like.

3 Have clarity of purpose

Desirable brands have an ambition that goes beyond delivering commercial targets. They have a clearly articulated purpose that inspires internally and externally – a bigger ambition at their heart that people truly buy into, and that shapes and guides all brand-building activity. And they have a distinct and compelling personality that builds and supports that purpose. The whole story is brought to life in what the brand does as much as what it says:

- **Nivea** is a brand with increasing desirability. Its purpose is to help people feel closer. Through all their products and recent innovations, Nivea is true to its higher purpose of nurturing the emotional bond between people that comes through physical contact, helping them stand out in a crowded (and often unemotional) market.
- **Horizon's** purpose is to 'support health families and a healthy planet'. As the seventh most desired brand in the United States, this shows the power of a mission to create connections with consumers. Horizon is a profit-making business, but one founded on a purpose that is evident in every part of the brand, from innovation to communications.

All of these brand purposes work at a deeply human level. They are simple, recognizable and appealing. We can all see how they make our lives better. For smaller businesses, look at your brand's purpose and compare it to that of your competitors: do you deliver something different?

4 Inspire connections

Desirable brands inspire people to think, feel and act differently. The most desirable brands can make us love them, respect them, talk about them and use them. Each one of these can provide an area of brand-building focus to strengthen overall desirability.

The most desirable brand in the world, **Apple**, does a great job on all these measures. There is much we can learn from how it connects with our hearts and heads, but what sets it apart is how it always seems top of mind and part of our conversations. Through strong positioning, inspiring and clear messaging, and a consistent, engaging product and service experience, Apple has ingrained itself into the fabric of our culture in just 30 years. There are few brands that possess such 'badge' value as 'I'm part of the Community' Apple.

Adidas is growing in strength. Recently, it has built on its strong emotional and functional heritage and, compared to last year, has significantly improved how people act in reaction to the brand. Compared to last year, more people want to hear about Adidas, more people want to talk about Adidas, and more people want to use Adidas in the future. Oh – and its sales are up 14 per cent.

Dove is a brand that has always had a strong functional story about moisturizing and care but, in recent years, it has impacted how people feel about beauty. It has significantly increased its emotional connection with consumers in the areas of pride, attraction and meaning through the 'Real Beauty' campaign. This has been done while maintaining its strong rational appeal as a product that works.

USAA is one of the very few financial services brands in the Brand Desire survey that made it in to the top 100. Its position at number 15 in the survey indicates that consumers are looking for a different type of banking relationship, one that is about connections and compassion. Built on a foundation of caring and providing for current and former military personnel, exemplified through its emotional message of 'let us serve you' and impeccable hands-on service, this is a brand that challenges the way that the banking industry operates.

To be a brand that makes a truly meaningful difference in people's lives, it's essential to have an idea people feel connected to, a product they believe in and a story they want to talk about.

5 Create experiences

Desirable brands are so much more than a product or service. They create an experience coordinated across every touchpoint to bring the brand to life. They create an experience that influences the head, the heart and the hand that adds up to a truly compelling and distinctive brand.

Audi's growth in desirability continues. It offers its customers technologically advanced products that are particularly noted for their sophistication and reliability; beyond that, Audi strives to delight its customers with the best brand experience available, consistently delivering 'sophisticated', 'progressive' and 'sporty' at every point of contact. The communication, the car, the showroom, the

sponsorship, the service bays and even the new UK headquarters on the A4 consistently deliver this experience.

Nike is so much more than sports equipment. The brand uses a range of touchpoints to create an experience true to its purpose of helping bring out the athlete in all of us. Nike is pioneering the digital experience through Nike plus, with a range of propositions to help coach, motivate and share consumers' fitness experiences.

Disney has always believed in magical childhood entertainment. It embraces and utilizes new touchpoints to ensure that the brand's purpose is delivered at every encounter. Disney created a Cars 2 app that allows kids to interact with the iPad as if it were a play mat. Kids hold a toy car on the screen and complete races and missions, bringing the brand to life in a different format.

It doesn't matter whether your brand was born in a factory or in the digital world; all brands now need to consider themselves a series of evolving touchpoints to genuinely connect with people. This is increasingly important as the number of consumer touchpoints continues to grow; for example, look to the incredibly fast-paced growth of m-commerce. What experience does your mobile site create?

6 Constantly innovate

Desirable brands constantly engage us in an evolving and interesting story. They innovate, not just in the area of product, but across everything they do: service, people and process. They provide an ongoing supply of new things we can watch, read about, talk about, play with, buy and enjoy. In this way, their role in our lives is ongoing.

Google never rests in improving the whole brand experience. Whether in search enhancements like Google instant, playful logo innovation or bigger innovations like contactless payment, their offerings are always at the forefront of technology and consumer behaviour.

H&M uses collaboration as a source of ongoing innovation. Limited edition clothing lines with Jimmy Choo, Sonia Rykiel, Roberto Cavalli and Vivienne Westwood, with plans to collaborate with Versace in the future, keep the brand fresh.

The common theme across all these desirable brands is that they innovate to make our lives better. Smaller businesses often assume that they cannot innovate in the same way as large corporations; however, this is often the reverse. Smaller businesses are nimble enough to change and adapt; large companies aren't. Start with your brand purpose and then look at what innovations, big or small, you could launch to build and strengthen it.

So there we are: six simple principles that offer a route to creating desirable brands that genuinely make a difference to people's lives. Truly desirable brands deliver on all six. As brand owners or brand advisers, we should be asking whether our brands are behaving in this way. If not, we have some work to do.

Nick Graham founded the US business of the global brand consultancy Clear (www.clear-ideas.com). In the space of three years, he has grown the office from 2 people in a tiny office to a team of over 25. Before joining Clear, Nick held a number of senior roles in brand and innovation consultancy. He brings brand and innovation strategy together with expertise in qualitative and quantitative insight to deliver powerful solutions that build brands. Over the past 12 years, he has worked with many of the world's leading brands to launch new products and brands. To learn more about Brand Desire, have a look at the website: www.brand-desire.com or for Clear's latest thinking on how to build desirable brands, see www.clear-ideas.com

Digital rules for brands

3.3

Social media? Nicholas Gill, Planning Director at Doner, picks out 10 lessons for brand strategy

“The internet is the dominant platform for life in the 21st century... it is the central platform for business, culture and personal relationships.

BEN HAMMERSLEY, SEPTEMBER 2011

It is. Not soon, not in a few years, but now. But in business, we're slow to catch up. Some of us are not sure why this is happening and what needs to change internally and externally.

We are in the information age. But we act as if we're in the industrial age. Factory mentality rules. Process this, refine that, get a repeatable outcome every single time. No exceptions. Except in our economy, that doesn't happen. We don't live in a 9–5 economy. Example: Facebook traffic peaks at weekends and evenings. How many brand managers are actively looking after their brand beyond Monday to Friday 9–5? We live in lumpy times. Not repeatable. Our workload is up and down. So we compensate for lumpiness with meetings. Because downtime is a sin. But where some detest this, others embrace it. Google allows developers 20 per cent of their working week to develop projects. This is where Gmail, Google Plus and other game-changing technologies have come from, not sat in endless meetings or churning through a gazillion poor uses of e-mail that are a time sink.

We fear change, because change means different. It's hard. And the change needed is immense because it spans the entire organization, not just adding Facebook and ticking the social media box in the comms list. We need to change across the enterprise – change from jealously guarding our knowledge stocks and eking out ever-decreasing profits from them, to becoming more open, collaborative and sharing.

The silo model organization inhibits growth. Of course, you can't break down all the barriers, but you need to become more porous. Demilitarize the silos. Share the data reserves, but harness them and mine them for actionable insights, not just pretty charts. And it can work.

It's a similar story for marketing to people – the external environment. TV has been with us since the 1950s. It's now a process – honed and toned, familiar, trusted, and yes, still effective. But with recent developments, it can be bigger, better, more effective.

And then technology came along and we hid away because we fear change. But even old things that we thought were dying have been given a new lease of life. Take outdoor. Eyeballs were the thing. But nobody looks up any more. We're praying to the BlackBerry. But give people a reason to look up.

We carefully trap our consumers in our stream of high-impact TV, grapple them with press and outdoor, and opt them into an e-mail programme that will bludgeon them to death with messages until they finally buy our product. And now they're in our box, we'll maintain our customer relationship management (CRM) programme to keep them loyal. Process – we love that stuff in the marketing world.

Here's the thing though: technology changes, people don't. They like to disrupt, to change, to do new things. And new things don't have a history of past performance, so we don't know what will happen.

We fear change. This is why brands have been slow to embrace technology. All the while our consumers are doing interesting things without us. They love mixing the streams, messing with things. Our precious brand being messed with is hard to take. But it can be brilliant.

Which is why brands are behind the curve on mobile. It's perhaps the most exciting thing to happen in marketing, yet it's being largely ignored. Mobile devices were predicted to outsell PC shipments in 2015. This already happened in the last quarter of 2011.

The opportunity for brands in simultaneous viewing is huge. It becomes more communal, enriching, and adds excitement. Just hop on Twitter or Facebook on a Saturday night when *The X Factor* or *Strictly Come Dancing* is on.

Mobile represents as big a shift as TV did, because you always have it with you. Thirty-five per cent of women under 30 check their Facebook news feed BEFORE they get up.

It's exciting because we know your location, the context (contextual ads based on mobile search terms have six times greater impact than banner ads on the web), and it is real time. And if you can combine the data you have unleashed from silos, imagine how powerful that is.

Contrary to popular belief, TV is not dead. It's evolving. We spend more time watching TV than anything else. Still. We do it in different ways. Technology has improved our telly entertainment. But it also means we need to be smarter. Run of network advertising will get fast-forwarded – some 70 per cent of ads are fast-forwarded on personal video recorders (PVRs), which is no surprise when we're time- and place-shifting our viewing. Appointment-to-view TV gets saturated and expensive. You need to think and behave differently to light the fires that a great TV ad can start.

So how do you stop fearing change and embrace digital technology? Here are some starters for 10:

- 1 *We should really stop calling it social media and start calling it social business.* 'Social media' suggests that Facebooky thing, when really the big change is about how digital technology can help the entire organization. From active listening to understanding usage of your products to helping foster new

product development to resolving customer issues in real time on Twitter, it's not just marketing that needs social media. You also don't need a social media strategy. You need a brand strategy that leverages social media. Creating a completely separate strategy is defunct and pointless. What is your goal and how can you best leverage social media to help you achieve that?

- 2** *Focus on metrics that matter.* The number of Likes and followers is vanity. If you just want high reach, then just spend more on your above-the-line (ATL) media. What's important to CEOs and leaders is metrics that have a tangible benefit to the business. Prove that your Twitter team have reduced churn through identifying dissatisfied customers and the business case becomes interesting.
- 3** *Start small.* The nature of social media and mobile is that you don't need to invest large sums to get going. Start small, see what works and what doesn't. Do more of what works and stop doing what doesn't. And ramp up your investment as you go. A small slice of your ATL investment can go a long way in mobile.
- 4** *It's not your platform.* While nearly a billion people will be on Facebook soon, you don't own those people or that platform. Facebook has made a habit of changing its design and user experience repeatedly over the past few years, requiring brands to relearn the platform and re-engineer designed landing pages and applications to fit the new guidelines. This will continue. You have no choice and must be adaptable in terms of both change readiness and budget contingency. It's also the reason why you would be foolhardy to exit your own web presence totally, because that is where you have total control of the user journey and how you wish your brand to be portrayed. An effective digital strategy leverages the best of both.
- 5** *It's a grown-up medium, which requires grown-up ownership.* You wouldn't let an intern loose running your warehouse operations or indeed your financial control. So why anyone would imagine that a young person with no experience can run your most publicly exposed outlet is beyond me. It requires someone who truly understands your brand and can be both lucid and interesting in creating, sharing and interacting on content but also quick, accurate and helpful when answering comments or questions.
- 6** *Have something to say.* Your brand has a voice. Agencies have long sought to create a tone for brands that is often simplified to a number of words in a book that sits on the shelf. But the wrong voice in a social medium can spell disaster. Be true to your brand. Be true to your voice.
- 7** *Preparation is everything.* You could get going in social media in the time it takes you to read this bullet point. But without ensuring that your organization is ready, it's pointless. You need to ensure that your legal and HR teams are on the bus with you, and that you have a social media guidance or policy that employees can understand and adhere to. You need to ensure that each part of the organization is geared up for when someone asks you a question. You need to ensure that your PR crisis plans are in place and practised. If you have skeletons in the closet, you need to open it and be

prepared before anyone else breaks open the cupboard door for you. Even brands like Nestlé have been repeatedly burnt and shamed in public for this. Ensure that people know their roles and expectations. This applies to setting out your guidelines on community usage, including abuse and profanity.

- 8** *Integration is key.* Social media is not a silo. It needs to live with other communications channels and also, crucially, be connected to the business operations – because people will tweet you about their late delivery. If you're not connected to your back-end order systems, how can you help?
- 9** *Near-time mentality.* Nobody expects you to respond immediately around the clock. But digital technology is now so pervasive that we do expect responses in good time. We use the phrase near-time to express the mentality. There is no time for a two-week legal approval turnaround. You need to respond quickly, especially if there are issues. In a medium that values 'engagement', no response – or deleting comments – is highly likely to burn you.
- 10** *Common sense.* Because technology, digital and social are constantly evolving, things will change. And situations will arise that you've not encountered before. Take a step back. Breathe. And use common sense. You don't need social media gurus to help you with that.

Nicholas Gill is Planning Director at Doner, leading the strategic development of integrated marketing experiences to improve business performance. He has over 15 years' experience as a strategic lead and client partner working with brands including Fiat Group, Ford, Unilever, Shell and Activision for leading agencies including Ogilvy, Digitas, Wunderman and TMW. He is a contributor to the European IAB Interact Congress blog, *Technology Digital* magazine and regular speaker and thought leader in digital industry events and publications. Websites: <http://about.me/nicholasgill>; <http://www.doner.co.uk/>

Brand rights

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Name? Logo? Domain? Maggie Ramage, outgoing President of the Institute of Trade Mark Attorneys (ITMA), discusses how to make sure you have secured the rights in your brand

New businesses are the core of economic regeneration at a time when growth has stagnated; unemployment constantly rising; bank rates hovering at a consistently low level and recession the buzzword of the final years of the first decade of the twenty-first century. If we are to avoid recession being the keyword of the second decade, we need to look at ways in which new businesses can thrive and how they can grow. Trade mark protection is an essential factor in the success of businesses.

In this chapter I suggest that one of the building blocks for success is developing and maintaining a good trade mark strategy and avoiding some of the common pitfalls that hit new businesses all too frequently; I offer guidance on how business can take their products and services to a wider audience with a little help from their professional friends.

I will not name names, but much of this article derives from experiences gained from speaking to start-ups and new businesses that seek advice through the various free business advice events in which my Institute, ITMA – the Institute of Trade Mark Attorneys – is an active partner.

Business people attend these exhibitions and seminars because they need to know more about running their businesses. Many attend because they need to know about VAT, employment issues and health and safety, but they are often surprised that there are a whole range of issues that affect them, but of which they are unaware. Trade marks fall into this category.

Most people start new businesses because they believe they have a product or service that they think is going to make them money. Some may start new businesses because they believe they are contributing to the greater good of mankind. But what they all must do is to be business minded and, if they are to survive and prosper, they must follow sound business practice, and this includes making sure that they get things right in the way of trade marks. If trade mark protection is overlooked, this can be very expensive for a business.

The most common misconception from new business people is that they think that once they have set up a company and registered it with Companies House, they can merrily go off into the marketplace and trade under that name. This is a huge mistake and can put a new company out of business before it has even started trading. This may sound dramatic but it happens all too frequently. However, it can be avoided with relative ease and is the first point I wish to address.

There are certain legal requirements as to why new businesses need to register their company names at Companies House. However, this does not necessarily prevent others from using that name in the marketplace, nor does it guarantee that they are free to use that name if others already own or use the name, which may not even be the registered company name. The key register to check to see if a business can use a particular name for its goods or services is the Trade Marks Register. In fact, while many company names may appear on the Trade Marks Register, the most important marks on the Register belong to individual products or services deriving from that company.

So, let's start with some basic facts. The prime purpose of a trade mark is to distinguish the goods or services of one business from the goods or services of others in the marketplace. It is a badge not only of origin, but also of quality of goods or services. To do this, the trade mark needs to be different from any other mark used in respect of the same or similar goods or services. It can take a variety of forms, including a word (for example VIRGIN), a slogan (Just Do It), a logo (Esso's tiger), a jingle (*Air on a G String* to advertise Hamlet cigars), a colour (the purple colour of Cadbury's chocolate packs), a shape (Dimple Whisky bottles), letters (BP, MTV), a number (No 5 for perfume), or a personal name (Walkers).

To avoid any conflict, searches should be conducted to determine what marks are already on the Trade Marks Register and whether or not your proposed mark is safe to adopt and use within the marketplace without fear of infringing existing marks. Failure to carry out these searches could result in having to rethink your entire marketing strategy, redesigning all your promotional literature and packaging materials and starting again from scratch – not the most auspicious way to start a new venture and certainly not a cost-effective way to begin! It could even lead to your having to pay damages to the owner of the earlier trade mark you may have unwittingly infringed.

It is possible to conduct identical searches yourself by examining the UK Register and the Community Register online via the websites www.ipo.gov.uk and www.oami.eu.int. However, those online searches are limited. They do not search for phonetically similar marks, nor do they search for what may be deemed confusingly similar marks. They do not guarantee that the mark is free to use or whether it can be registered. That is a skilled undertaking and is really best undertaken by professionals.

This is where ITMA comes in. ITMA members are taught and examined on all the necessary skills. They maintain their professional knowledge through a thorough programme of continuing professional development, and constantly update their professional skills and knowledge of trade mark practice and procedures.

Although it is possible to apply to register trade marks without using the services of a trade mark attorney, trade mark attorneys can undertake the whole process for you. This involves completing forms from the Trade Marks Registry, part of the IPO (the Intellectual Property Office, formerly known as the Patent Office), which give details of the applicant together with a representation of the mark and defining the class or classes for which the trade mark is to be registered.

There are 45 different classes in the UK and it may be necessary to file for more than one class depending on the goods or services in question. The number of classes will determine the fees to be paid to the Registry, currently £200 for the first class and

£50 for each additional class. In addition there are, of course, the fees to be paid to your trade mark attorney. Trade mark attorney charges vary, which is why you will need to talk to individual firms for more detail.

The Registry then examines the application to ensure that it meets the requirements of the Trade Marks Act. Once the Registry is satisfied that the application can proceed, the Registry publishes the application in a weekly *Trade Marks Journal* so that interested parties may learn of the application and may, if they so wish, lodge an opposition. They have two months in which to do this, which may be extended by one month only.

If no oppositions are received, the Registry will enter the mark on the Trade Marks Register and will issue you with a certificate. If there are oppositions, your trade mark attorney will endeavour to resolve them and will represent you at Hearings conducted by officials of the Registry.

Assuming all goes well and you receive your registration certificate, your mark will remain validly on the Register provided it is in use and the renewal fees have been paid. The mark remains on the Register indefinitely subject to these requirements. The renewal fees are due for payment every 10 years. Indeed, Trade Mark No 1, the Bass Triangle Label for beer, is still alive, dating back to 1876.

The major benefit of registering trade marks is that if anyone uses a mark which is similar to yours, it is relatively easy to take action since you will have a registration certificate that shows you as the owner of the registered trade mark. Without registration, businesses have to rely on common law rights which are far more costly to enforce since they entail demonstrating a) a reputation in the mark in question, b) that the infringing mark has damaged that reputation and c) quantifying that damage. Although, of course, every case would be determined on its merits, the reality is that to develop a reputation the business would likely have to have been in operation for some time, perhaps several years, or to have acquired reputation from massive advertising which may, in itself, have attracted an infringement action.

As trade marks are territorial, most new businesses will initially consider applying for a UK trade mark, the application process for which is outlined above. If a company wants to move into Europe, or even if the company sees itself in Europe in the first few years of existence, it may be appropriate to apply for a Community Trade Mark (CTM) which gives trade mark protection in all 27 member states and which automatically extends to new members as and when they join the EU. The CTM application process is broadly similar to UK application but the relevant office (OHIM) is located in Alicante, Spain.

Again a trade mark attorney (and most UK trade mark attorneys are qualified to act before OHIM) can handle the whole process and, should the business expand to other territories, trade mark attorneys can apply for trade mark protection in overseas territories through an international registration system called the Madrid Protocol, which is run by the World Intellectual Property Organization (WIPO) based in Switzerland. They can also secure registrations in other countries which have not signed up to the Madrid Protocol through international colleagues, some of whom are members of ITMA. Most UK attorneys have a strong network of colleagues all around the world.

So with trade mark protection in place at home and abroad, what else should new and growing businesses consider? Staying on the subject of trade marks, the main consideration has to be on the subject of domain names.

Domain names create a unique address which allows a computer to distinguish one address from millions of others connected to the internet. No two organizations can have the same domain name. Internet users have the right to expect that a domain name which consists of a trade mark in use commercially is associated with the owner of the trade mark. There have been some court cases because, as domain names are sold on a first come first served basis, it is often the case that someone who does not have the legal right to own that domain acquires it, perhaps with the hopeful view that they can sell it back to the rightful owner of the trade mark. Trade mark attorneys can advise on such disputes.

There are a couple of other points to note. Firstly, trade mark registration would normally be paramount over domain registrations, so if a company owns a particular trade mark, that is normally the starting base for recovery of a similar domain name. Secondly, it is important that domain names are renewed automatically because if a domain name is inadvertently allowed to lapse it cannot be restored to record, unlike a trade mark registration.

One of the other services that trade mark attorneys can offer is a watching service. This may cover trade marks alone but can extend to a domain name watch. This can prove invaluable to see who else is out there, perhaps active with the same or similar elements. It also enables trade mark attorneys to start speedy proceedings for recovery of trade marks or domain names which have been registered in contravention of clients' rights.

It is essential to protect your trade mark and domain names, and to ignore this as an important business advantage can be a very expensive business mistake.

Maggie Ramage is the immediate past president of ITMA finishing her term in April 2012. She is a UK trade mark attorney and a European trade mark attorney. She is also a member of INTA, ECTA and MARQUES. Maggie has worked for the California-based Raychem Corporation and was seconded to San Francisco in 1987. She then worked for what was Beecham Group (now part of GlaxoSmithKline), before moving to British Telecommunications. Maggie became a partner in Surrey-based Alexander Ramage Associates in 1991.

A full UK listing of trade mark attorneys in the UK is on ITMA's website www.itma.org.uk and the front page includes a box 'Find a Local Trade Mark Expert'.