

THE CURSE OF DEFINING THE CATEGORY: HOW BRAND BAND AID FOUGHT GENERICIDE

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ABSTRACT

Genericide is the combination of two words – generic and suicide. Genericide happens when a court finds that a brand name has lost its source-identifying power and has become just another word in the language, a term identifying not a single producer's products but the product class to which they belong (hence, 'generic'). A finding of genericide results in cancellation of the trademark; hence the IPR implications need to be considered carefully. Trademark owners seek to maximize the popularity of their marks, and may believe that a certain level of genericide demonstrates how well-known and successful a mark has become. However, generic use of a trademark presents an inherent risk to the effective enforcement of trademark rights and may ultimately lead to serious repercussions.

Genericide forms the crux of this research - the questions that need to be addressed and the strategies needed to tackle this conundrum. The methodologies of determining genericide have been studied broadly. The research shown in this paper studies the prominent medicated plaster brand Band Aid, which has become generic and may (someday) be in danger of losing its trademark. It also analyzes arguments that provide evidence to evaluate the various issues discussed in this paper.

KEYWORDS: Brand, Genericide, IPR, Band Aid.

INTRODUCTION

LITERATURE REVIEW

WHAT IS A BRAND?

The word "brand" is derived from the Old Norse word "brandr" which means "to burn" as brands were and still are the means by which owners of livestock mark their animals to identify them. Branding is endowing products and services with the power of a brand. It is all about creating differences. Branding has been around for centuries as a means to distinguish the goods of one producer from those of another. The earliest signs of branding in Europe were the medieval guilds' requirements that craftspeople put trademarks on their products to protect themselves and consumers against inferior quality.

Many years ago, in the Soviet Union, when products were sold under a generic name, the factory manufacturing the product had to mark its identity on the packaging. Customers soon realized that a detergent powder produced in one factory was superior to another in quality. Eventually, housewives would turn the packaging around while purchasing, to identify the origin of the product and make their choices on the basis of its manufacturing location. The serial number of the factory had become a brand as it differentiated from other similar detergents, which, according to the state, were supposed to be identical in formulation and in every other way.

The underlying needs from which branding originated were: to insure honesty, provide quality assurance, identify source or ownership, hold producers responsible, and differentiate as a form of identification to create emotional bonding. People continue to value brands for many of the same reasons today.

According to American Marketing Association “ a brand is a distinguishing name and/or symbol (such as a logo, trademark, or package design) intended to identify the goods or services of either one seller, or a group of sellers, and to differentiate those goods or services from those of competitors”.

A brand is therefore a product, but one that adds other dimensions that differentiate it from other products designed to satisfy the same need. What ultimately distinguishes a brand from its unbranded commodity counterpart (and gives it equity) is the sum of consumers’ perceptions and feelings about the product’s attributes and how they perform, about the brand name and what it symbolizes, and about the company associated with the brand.

In the literature of business and brand strategy, brands are often defined as a form of protection; they protect the consumer from counterfeit goods, and they protect the producer from unfair competition. David Aaker sums this up: “a brand is a distinguished name and/or symbol intended to identify the goods or services and to differentiate those goods or services from those of competitors”. A brand thus signals to the customer the source of the product, and protects both the customer and the producer from competitors who would attempt to provide products that appear to be identical”.

Jean-Noel Kapferer, another leading thinker, focuses more on branding as a strategic effort on the part of the producer: “a brand is not a product. It is the product’s essence, its meaning, and its direction and it defines its identity in time and space. Too often brands are examined through their component parts: the brand name, its logo, design, or packaging, advertising, or sponsorship, or image and name recognition, or very recently, in terms of financial brand evaluation. Real brand management however, begins much earlier, with a strategy and a consistent integrated vision”.

Many define brand as ‘the tangible product plus the intangible values and expectations attached to the product by the consumer or prospect’ (Brandt and Johnson, 1997). A product is made in a factory: a brand is bought by customers. A product can be copied by a competitor: a brand is unique. A product can be quickly outdated: a successful brand is timeless (King, 1973). A brand name is more than the label employed to differentiate among the manufacturers of a product. It is

a complex symbol that represents a variety of ideas and attributes. The net result is a public image, a character or personality that may be more important for the overall status (and sales) of the brand than many technical facts about the product (Gardner and Levy, 1955). So the Bajaj Pulsar focused more on the “definitely male” positioning, and less on the technical excellence.

BRAND GENERICIDE

Though Beverly W. Pattishall and David C. Hilliard used the term “genericide” in 1985, the issue of genericide dates back to 1869 when linoleum invented by Fredrick Walton was ruled as generic after merely 14 years of its invention. The inventor couldn't do anything other than letting competitors use the brand name coined and established by him. Becoming wide-spread and eminent is often suicidal for brands. After linoleum, many companies have battled to protect their trademark:

1. BUTTERSCOTCH

Originally a brand owned by Parkinson's, the Oxford English Dictionary included the word butterscotch in the year 1855. Now every brand of ice-cream has a butterscotch flavor in its portfolio.

2. THERMOS

In 1904 a German company Thermos GmbH commercialized Thermos - the vacuum flask. The company still holds its trademark in some parts of the world, but was termed a case of genericized trademark in U.S. in 1963 (after the brand became a colloquial synonym to the vacuum flask).

3. YO-YO

After the decreased sale during World War II, Duncan came up with new advertising strategies in 1962 for its revolutionary toy brand yo-yo. The sales increased by a huge margin, but this success was short lived. In 1965, the federal court ruled in favor of the Royal Tops Company, declaring the yo-yo as a part of the common language. Duncan no longer had the rights to exclusively use their 33-year old brand name (yo-yo).

4. GOOGLE

This brand has gone to great lengths to save its brand name. The term “Google” is now used as a verb to search for queries on all web browsers. In 2005, Oxford English Dictionary and Merriam Webster Collegiate Dictionary struck a balance between the widespread use of the word as a verb and acknowledged the actual source of the word, by defining Google as a verb meaning "use the Google search engine to obtain information on the Internet".

BAND AID

HISTORY OF THE BRAND

The Band-Aid was invented in 1920 by Earle Dickson, an employee of Johnson & Johnson, for his wife Josephine Dickson, who frequently cut and burned herself while cooking. The prototype product allowed his wife to dress her wounds without assistance. Dickson, a Highland Park, New Jersey resident at the time, passed the idea on to his employer who then went on to produce and market the product as the Band-Aid. Dickson had a successful career at Johnson & Johnson, eventually becoming a Vice President at the company before his retirement in 1957.

The first bandages produced were hand-made and not very popular. By 1924, Johnson & Johnson introduced the first machine that produced sterilized Band-Aids. In World War II, millions of Band-Aid bandages were shipped overseas, most of which went to the medical team. Other bandages were shipped to hospitals for people in urgent care. The original cost of Band-Aids was 2 cents for a pack of 15. In 1951, the first decorative Band-Aids were introduced to the market. They continue to be a commercial success today with decorative themes such as Superman, Spider-Man, Hello Kitty, Rocket Power, Rugrats, smiley faces, Barbie, Dora the Explorer, and Batman.

Johnson & Johnson makes a variety of different products under the Band-Aid brand. These include Band-Aid liquid bandages and Scar Healing bandages. Their newest products include Active Flex bandages, which come in a variety of shapes, forming a fluid-filled barrier to help wounds heal faster. They also include waterproof Tough Strips, which have a strong adhesive, allowing for longer wear. In addition to wound treatment bandages, the company produces Burn-Aid, a burn gel which is applied as a prepackaged bandage. In order to protect the name as a registered trademark, the product is always referred to as "Band-Aid brand" and not just Band-Aid.

BAND AID IN INDIA

BAND-AID has been covering cuts and wounds for over 80 years the world over and 40 years in India. In India, Band-Aid was launched in the year 1978. Today, BAND-AID is an undisputed market leader in the market for adhesive bandages in India, in terms of volume and value, with 59% share in terms of volume and 61% in terms of value (Source: ORG 2002). A study conducted by Usage & Attitude (U&A) in 1999 shows that 94% of consumers have used Band-Aid at least once. Its universal appeal is evidenced in the fact that most people have used BAND-AID sometime or the other. Indeed, it is one of those classic cases of a new product category becoming the generic brand name. There are products whose initial achievements are a matter of overcoming a certain set of beliefs, and this is one of them! Although an established global brand before it was launched in India, BAND-AID had to fight for its rightful place here, where people believed in leaving wounds open, at best applying some liquids or tying it with any piece of cloth. J&J achieved a breakthrough by responding to the Indian fascination with "lal dawa", the red medicine. This was actually tincture iodine that was always at hand in most homes. BAND-

AID became popular in India as the "lal dawa wali patti", which turned out to be its USP, making it a household name. Band-Aid also tried to educate mothers about the possible problems in keeping the wounds open because of dust infections caused by it. This also boosted the brand acceptability. One of the major factors that aided the success of this brand was the distribution strength of J&J. Band-Aid was a mass market product and hence it has to be there at every shop in the market.

The introduction of BAND-AID Wash Proof in the 1980s was a landmark in delivering superior product performance. It was the first time a plastic backing adhesive bandage was introduced in the country, which resulted in delivering a significant consumer benefit of "staying on even in water". It was an instant success. Band-AID's current communication talks about providing continuous care for the wound as its medicated pad remains on the wound throughout unlike an antiseptic cream or liquid; thus helping the wound heal faster.

Band-Aid was a brand that changed with time and it keenly watched the consumers and tried to identify their needs. The company had valuable consumer insights that created the first water proof band-aid in India. The main weakness for bandages was that it used to come off easily when wet. This prevented the category usage to certain extent. The waterproof band aid made the brand usable in any condition. This innovation catapulted the brand popularity to newer heights. Band Aid focused on the area of application and was clever enough to come out with various size and shapes. This comes from the insight that different wounds in different parts of the body need different shapes. For example, a small cut in the forehead needs a round band-aid. These insights made the brand a market leader in the category with a market share of over 60%. Johnson& Johnson also saw an opportunity for the brand in the traditional cure for cuts. In India, turmeric is used as a medicine for cuts and blemishes. Band-Aid launched a turmeric variant of the plaster much to the delight of the Indian consumers.

The brand was also promoted heavily. Band-Aid was the first in the category to advertise in electronic media. According to Superbrands.org, Band-Aid was the first product endorsement of Sachin Tendulkar. Initially positioned as a wound care brand, Band-Aid was repositioned as a product that encourages kids to be active. Kids have the innate desire to be active and Band-Aid makes sure that cuts and bruises will not hinder that desire. The brand also roped in Virender Sehwag as its ambassador during the cricket season. Band-Aid has been lying low in the media for a while. The brand has already become generic to the category. Being generic has its share of problems also. When the customer uses the brand as a generic name for the category, the retailer can offer him any brand in the category. There are many local players in the market who gain by a brand major becoming generic. Competition is also from players like Handyplast and Dettol. The brand equity of Band-Aid still going strong is an entry barrier for anyone looking to enter this category.

The brand is currently being positioned on "Continuous Care". The positioning is pitting this brand against the ointments and other external applications. The concept is to educate the customers that use of plasters will heal wounds better than the use of ointments. Band-Aid is available in three variants: fabric (also called regular), washproof and turmeric. The key

differentiating factor in the case of the first two is the material of the dressing. Band-Aid fabric constitutes the bulk of the total sales. The turmeric-medicated pad provides the unique properties of turmeric to heal wounds and is priced at par with the fabric variant. The two major selling variants also come in different shapes like spots and patches to suit different wound positions, sizes and shapes.

Over the years, the challenge for communication has been to shift from passive protection to active healing. Band-Aid needed to signal efficacy, demonstrate its 'medicinal side' and shift its discourse without losing its core values. The Band-Aid Goldfish campaign, launched in 2000, was a real clutter-breaking advertisement, which elevated the awareness of washproof to new heights. Since early 2003, the brand, with its new campaign of 'Continuous Care', has tried to reposition itself among the target audience. The simple theme is that unlike antiseptic liquids and creams, which wear off after the initial effect, Band-Aid works on the wound non-stop. Therefore, the core value of the brand – ceaseless supervision – is emphatically stated in the baseline "Iska asar lagatar". The Kids Snapshot film is based on this thought. The battle over consumers' minds is still not over. Although Band-Aid has established and strengthened its reputation, there is a subliminal belief that all adhesive strips are the same in terms of final effect on the wound. Locally made low-priced products, pushed by traders, pose a major challenge. While tactical responses to such developments will be one of the preferred options, Band-Aid, like ever before, will take the time-tested strategic route of constantly innovating and upgrading the product range besides launching new variants. This is the route that has always differentiated its products from the rest and helped maintain its market leadership.

OBJECTIVES OF THE STUDY

1. To discover the extent to which Band Aid has become generic in the consumer's mind.
2. To identify the reasons for Band Aid becoming generic.
3. To study the strategies the company has adopted for tackling the genericide trap.
4. To conduct a retailer survey for analyzing the trade perspective.
5. To recommend suitable strategies, based on the findings of the surveys.

CONSUMER SURVEY METHODOLOGY

Consumer Survey (through personal in-depth interview) was the modus used for primary research through a questionnaire administered to respondents in suburban Mumbai. Secondary data was gathered from books, journals, newspapers, magazines, internet etc.

The consumer survey focused on finding if people realize Band Aid is one brand in the medicated plaster space, or if it is synonymous with the category. Brand loyalty of the consumer was also analyzed, to gauge his response. What is his response to retailer substituting Band Aid with some other brand?

SAMPLING PLAN

Sampling Unit: Males and females (age group 21-60 years) from middle and upper middle class strata

Sample Area: Bandra to Andheri in metropolitan Mumbai

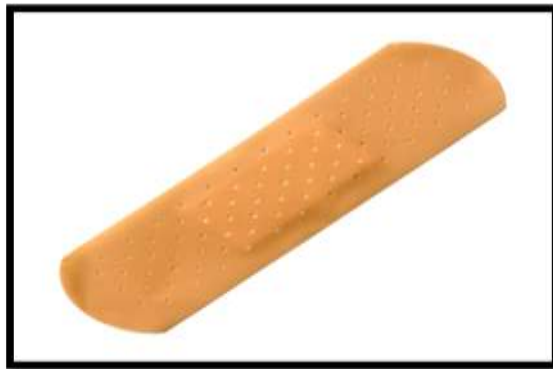
Sample Size: 150

LIMITATIONS

1. Respondent comprehension could have been a problem in some cases.
2. Time constraint led to a limited sample size restricted to a few areas.
3. The sample may not be completely representative in terms of size, area etc. since the survey was restricted.

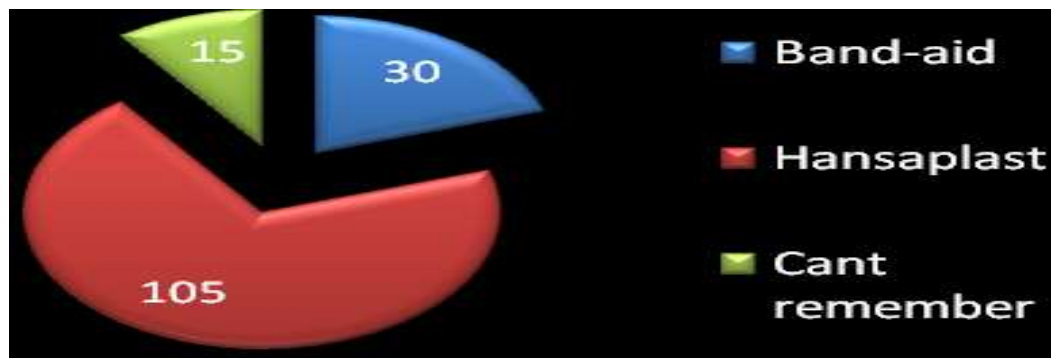
FINDINGS OF THE SURVEY

1. Identify the image shown below (1):



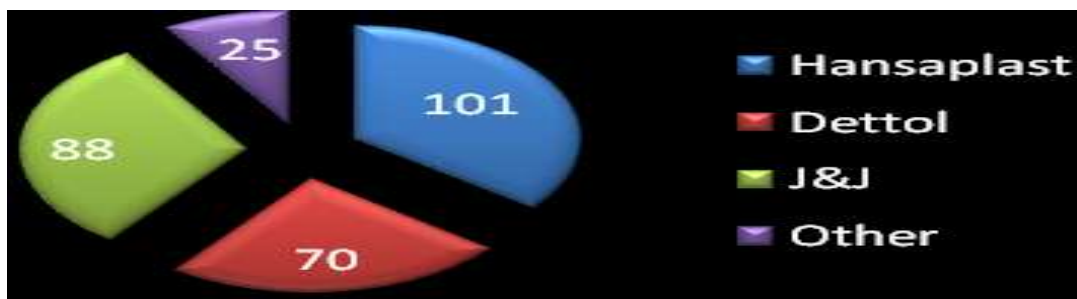
127 (84%) of the respondents mentioned Band Aid

2. Identify the image shown below (2).



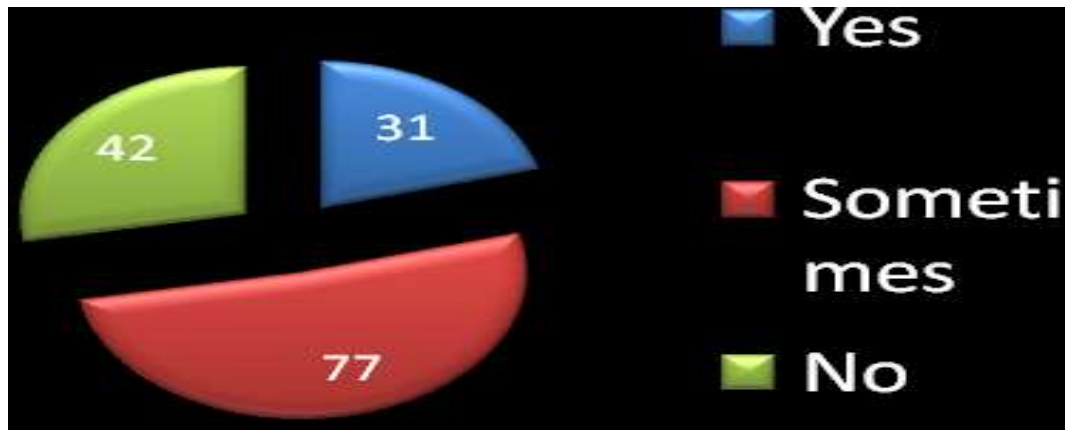
When aided with the logo, majority of people can recall Hansaplast, but many (20%) still call it Band Aid

3. Which brands of Band Aid are you aware of?



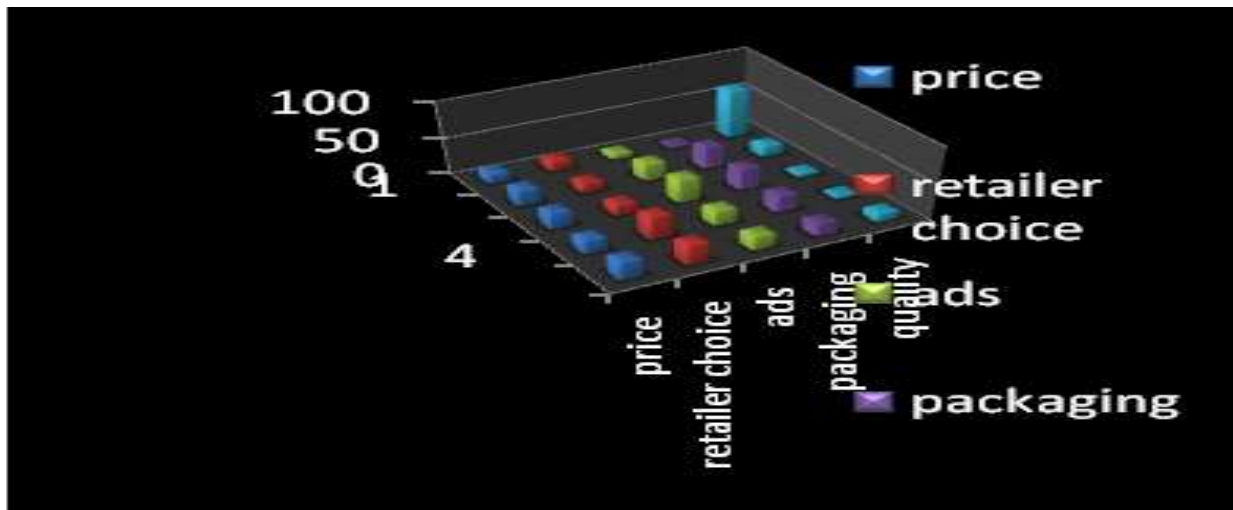
67% respondents said Hansaplast is the top “band aid”

4. Do you emphasize on any particular brand?



80% are not particular for a brand in this segment

5. Which factors affect your choice of plaster?



Quality emerged as the top factor affecting the purchase decision in this case

SUGGESTIONS FOR TACKLING GENERICIDE

Some suggested strategies to help brand Band Aid fight genericide include:

USE A GENERIC DESCRIPTOR

By pairing the trademarked name with a descriptive phrase, one can prevent it from becoming a generic noun. J&J adopted this strategy in 2007 when they changed the lyrics to their ad jingle from “I am stuck on Band-Aid, 'cause a Band-Aid's stuck on me!” to “I am stuck on Band-Aid brand, 'cause a Band-Aid's stuck on me!”

LINE/BRAND EXTENSION

The more different types of products a brand represents, the less likely it is to become a generic term. Band-Aid did this by expanding its product family to include foot care products and antiseptic washes. Now the brand name Band-Aid represents more than just adhesive bandages. But this strategy was not adopted by J&J in India. A few more products that J&J can launch under the Band-aid brand name are as follows:

1. HURT-FREE[®] ANTISEPTIC WASH

This product from J&J is an example of brand extension wherein it can be used to wash wounds prior to the application of Band-aid Brand adhesive bandage.

2. SINGLE STEP[™] LIQUID BANDAGE

This particular product, if launched in India would be the first of its kind, in the ‘liquid bandage’ segment.

DIFFERENTIATED MARKETING STRATEGY SEGMENTED BY PRODUCT BENEFIT

Involves marketing in a number of segments, but developing separate marketing strategies for each:

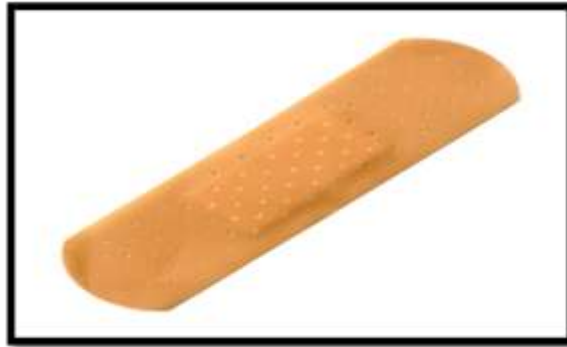
- Natural Healing: holistic, eco-conscious, mothers.
- Faster healing: sports, industrial blue-collar, mothers.
- Advanced technology: early adopters, trend setters.
- Chemical free: holistic, eco-conscious

Variants for kids, with colorful cartoon graphics on them

ANNEXURE 2 (BAND AID QUESTIONNAIRES)

FOR CONSUMER

a. Identify the images shown below (1):



b. Identify the images shown below (2):



3. Which brands of Band Aid are you aware of?

4. Do you emphasize on any particular brand?

5. Which factors affect your choice of plaster?

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