If We Know the Difference What’s the Harm? the Effects of Brand Equity Misappropriation and Dilution

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EXTENDED ABSTRACT

Recently, the United States Supreme Court ruled in favor of a small store against a world-famous lingerie manufacturer and retailer. The owners of the little shop, which sells lingerie and other “adult novelty” items, named their store “Victor’s Secret.” Shortly after opening, they were sued by Victoria’s Secret, claiming protection of its brand name under the Federal Trademark Dilution Act of 1995. Trademark dilution refers to a decrease in brand equity (in the senior brand) that is created by the unauthorized use of the brand by a third party (the junior brand). Trademark dilution differs from the more familiar concept of trademark infringement in that it occurs in the absence of consumer confusion about the relationship between the senior and junior brands.

A key issue before the Court was the legal standard for proof in trademark dilution cases. The Court provided only broad boundaries within which the acceptable level of proof of dilution will ultimately be defined, ruling that evidence of mere association between the brands is insufficient, while evidence of lost sales or profits is not required.

In three experiments, we examine the use of brand knowledge accessibility measures and brand choice probabilities to demonstrate dilution and to examine moderators of its effects (cf. Morrin and Jacoby 2000). Dilution occurs when a senior brand name or its distinctive associations become less accessible in memory. These changes are in brand knowledge accessibility; specifically, reductions in brand name accessibility or aspect accessibility. In practical terms, consumers are then less likely to consider the brand (because the brand name is less likely to come to mind or to be quickly recognized on the shelf) and less likely to choose the brand (because it is less likely to be seen as possessing its distinctive aspects). Hence, changes in brand knowledge accessibility are followed by changes in brand choice probabilities.

We also use brand knowledge accessibility measures to examine reinforcement effects than can accrue to the senior brand and “leveraging” and “backfire” effects that can accrue to the junior brand. Reinforcement occurs when consumers’ knowledge of the senior brand is reinforced rather than diluted by the presence of a junior brand. Leveraging occurs when the junior brand benefits by gaining some of the senior brand’s associations (Swann and Davis 1994), while backfiring occurs when the junior brand is hindered in its attempt to create unique associations. Reinforcement effects are of special importance because they signal that the senior brand has become implicitly associated with consumers’ minds with the junior brand. Even though reinforcement does not itself constitute dilution, it is a signal that the junior brand has gained the power to dilute the senior brand via any undesirable future actions (Swann and Davis 1994).

Following the pioneering efforts of Peterson, Smith, and Zerrillo (1999) and Morrin and Jacoby (2000), we derive our predictions from associative network theory (Anderson 1983). Dilution occurs when a junior brand and its associations compete with existing associations in the senior brand network and thereby reduce the accessibility of the senior brand name and its distinctive aspects. Therefore, we expect that dilution is most likely when the junior brand belongs to a dissimilar product category or has dissimilar attribute associations. On the other hand, we expect that senior brand name accessibility and aspect accessibility increase when the junior brand belongs to a similar product category or has similar attribute associations, thereby reinforcing the senior brand’s associations rather than diluting them.

Following the same logic, we expect that leveraging of a senior brand’s equity by a junior brand (i.e., enhanced brand name and aspect accessibility) is likely when the junior brand’s distinctive associations are similar to those of the senior brand, and that backfire effects (i.e., reduced brand name accessibility and aspect accessibility for the junior brand) is likely when the junior brand’s distinctive associations are dissimilar to those of the senior brand.

Results of our three computer-administrated experiments generally support our conceptualization. In Experiment 1, we examine the effects of category similarity. The senior and junior brands are moderately similar in terms of attributes (one similar and one dissimilar attribute), but vary in terms of category similarity. As expected, senior brand associations are reinforced when category similarity is high; that is, brand name accessibility and attribute accessibility both increase. Also as expected, some senior brand associations are diluted when category similarity is low. Specifically, brand name accessibility decreases, although aspect accessibility is unaffected. Leveraging and backfire effects are also consistent with expectation. Specifically, junior brand name accessibility and aspect accessibility (for aspects that are similar to the senior brand) are increased with high category similarity and reduced with low category similarity.

In Experiment 2, we examine the moderating effects of attribute similarity, and find that junior brands with attributes that are dissimilar to those of the senior brand (i.e., two dissimilar attributes rather than one similar attribute and one dissimilar attribute as in Experiment 1) dilute the senior brand regardless of category similarity. Further, both brand name accessibility and aspect accessibility are affected. Hence, the extent of dilution effects depends upon the degree and type of dissimilarity between the junior and senior brands. The relative importance of category vs. attribute similarity deserves further systematic investigation.

Finally, in Experiment 3, we examine whether the dilution of brand knowledge observed in Experiments 1 and 2 is strong enough to carry over to choice. We examine how three highly familiar senior brands are affected by highly dissimilar (i.e., dissimilar category and attributes) junior brands. For example, we examine dilution effects for Big Red chewing gum (which is cinnamon flavored) when subjects are exposed to the junior brand Big Red snack bars with strawberry flavor. As expected, exposure to the junior brand significantly decreases choice of the senior brand.

Our work demonstrates measures of dilution that go beyond mere association between the junior and senior brands, which the Supreme Court has ruled as inadequate evidence of dilution. Instead, we show that the senior brand is less likely to be recalled or quickly recognized and that it is also less likely to be chosen. How might one use these measures in the marketplace? Dilution is demonstrated by showing weakened brand name and aspect accessibility (or their close correlates) or decreased choice that is attributable to the emergence of the junior brand. While we must rely on
correlational evidence, some patterns are strongly suggestive of dilution. For example, the relevant accessibilities and choice probabilities may be depressed only in geographical areas in which the junior brand has a presence. As another example, accessibilities and choice probabilities may be lowest among those who subsequently report awareness of the junior brand (to avoid the possibility of self-generated validity) (Feldman and Lynch 1988).

References