

## **Brand Abuse - Brand as a New Personal Interest under the Polish Civil Law against an EU and US Backdrop**

A brand identifies a good, service or entrepreneur, distinguishing a specific good or entity from its competitors in the relevant market. In addition to its distinguishing function, a brand plays the crucial role of building an economic advantage over the competition, which translates into financial benefits for its owner. Although it takes time to create a brand, it can be taken over or abused in a relatively short time. Thus, a question arises about the scope of legal protection of a brand. That this status is uncertain may become less surprising once it is realized that there is no formal legal definition of a brand. In addition to a logotype or name, a brand consists of communicational, behavioral and visual elements that prompt the consumer to purchase a specific good. It does so by addressing the purchaser's functional, identity and emotional needs, which are addressed by the brand image through product features, brand social values and symbolism, respectively.

What, then, truly constitutes intellectual identity and, apart from well-recognized intellectual property goods (in particular, works of authorship, inventions, utility patterns, industrial designs, and trademarks), is there anything else that coaxes the machine of success and sales into motion, and that, most particularly, can be subject to legal protection against brand abuse? According to social and economic studies on how to evoke *emotions*, methods of customer acquisition and how to create a special brand-consumer bond is part of an entrepreneur's specialist knowledge. The image of the product, the history of the creator, belonging to a group, the consumer's feelings about having this particular product and not another - all these elements contribute to the emotions that creators learn to express in design schools. This brand building can include storytelling, sometimes involving a personification of the brand in advertising.

The research will present the idea of a brand from economic, marketing, social and legal perspectives, providing a definition of the term, and identifying both a brand's significance and the areas in which brand abuse may occur. Both the legal and economic approaches to the idea of a brand will be compared and contrasted in order to establish which significant aspects of brand as understood by economics do and do not enjoy legal protection. Any economically significant aspect of a brand that can be shown to fall outside legal protection may be vulnerable to brand abuse and misappropriation.

A turning point in legal acknowledgement of brand, though one which still took place without any definition of the term being offered, may be the recent Polish case law which recognized the independent and separable personal interest of a brand. This deserves attention, especially since each separately listed personal interest (such as: good fame, reputation or prestige) is considered independently and each has its own clear and established definition. The project provides for analysis of the existing and planned legal regulations in Polish law relative to the European (Poland, Germany, France and EU generally) and US legal systems. This analysis is important for the development, stimulation or recognition of a business entity's personal interests. There is an ongoing debate as to whether personal interests should be protected to the full extent under civil law or only in relation to recognized intellectual property goods. The work will lead to the preparation of a series of English-language publications, published in reputable, possibly open-access, international scientific journals.

Of the various features and characteristics of an entrepreneur (individual or corporate), it is important to understand which qualify as personal interests under civil law and therefore benefit from an appropriate protection regime, because this protection conveys advantages that improve market position. Of these personal interests, brand is especially interesting for this study.