



Brands and the interaction between competition law and trade mark law

John Noble
2nd December 2011

The voice for brands



Introductory observations

- The consumer interest lies at the heart of competition law and trade mark law
- Consumers are integral to brands
- Trade marks enable branding by allowing companies to differentiate their offer and invest in reputation
- Competition law deals primarily with market abuse
- Trade mark registrations and competition law operate at different lifecycle stages
- (Competition law not to be confused with unfair competition)

The voice for brands



What are brands?

- Discussion depends on meaning of “brands”
- No single, authoritative definition
- A brand involves the individual consumer / customer

The voice for brands



The voice for brands



Conference introduction

- Branding is crucial to smaller companies
Innocent, Green & Black, Gū, Fevertree, Tyrells, Ty Nant, Reggae Reggae Sauce
- Some brand truths
 - Brands can have 'low price' positioning
Lidl, Ryanair, Primark, Dell, Ikea, Argos, TRESemmé
 - Brands strengthen competition
 - Brands are a springboard for market entry
Apple (Walkman), Dyson (*Hoover*), Digital photography (Kodak; Agfa), Branston beans (Heinz); Walkers (Smiths)
 - Brands (and trade marks) spur innovation

The voice for brands



The voice for brands



Brands, IP law and competition law

- Limited interaction between brands (a consumer construct) and IP and competition law that regulates business
- Branding is heavily regulated – consumer regulations, marketing regulations; sector regulations
- Greater knowledge on brands is required
 - Contribution to innovation, growth and competitiveness
 - Drawing the right line between fair and unfair practices
 - Dynamic between branded and retailer 'own brand' products
- Important to take account of brands' positive contribution to consumers, society and the economy

The voice for brands



British Brands Group
100 Victoria Embankment, London EC4Y 0DH
jn@britishbrandsgroup.org.uk
www.britishbrandsgroup.org.uk

The voice for brands