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## **The value of Intellectual Property Rights in brand management**

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<p>Abstract</p> <p>The value of intellectual property as a company asset is a crucial part of brand management. The objective of the thesis was to explore the value of intellectual property in brand management. The global level of counterfeited products and piracy is causing massive losses for brands. Together with marketing actions and brand management, intellectual property rights should be seen as an investment in maintaining a company's competitive advantage.</p> <p>The theoretical foundation was built on topical literature and articles on brand management, intellectual property rights and strategic management. The research approach in the thesis was qualitative. The primary data was collected by using semi-structured interviews, and the interviews were analyzed by using content analysis. The interviewees were chosen with the aim to collect insights into the current trends of the industry. They represented expertise from the field of intellectual property rights, especially trademarks and brand management.</p> <p>The findings of the study indicate that managing intellectual property is seen as a necessity for competitive brand management. The high level of competition drives companies to develop, upgrade and protect their brands in order to maintain their competitive advantage. As a conclusion, it can be stated that effective brand management starts with brand protection. Brand protection should be a mandatory part of daily business operations.</p>		
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<p><b>Tiivistelmä</b></p> <p>Tavoitteena opinnäytetyössä oli tutkia immateriaalioikeuksien arvoa brändin hallintaan. Nykypäivänä immateriaalioikeudet nähdään kilpailuetuna sekä arvokkaana työkaluna brändijohtamisessa. Kuitenkin myös väärennöksiä ja piratismi on kasvanut voimakkaasti. Kansainvälinen väärennettyjen tuotteiden ja piratismin taso aiheuttaa brändeille suuret tappiot. Yhdessä markkinoinnin ja brändijohtamisen kanssa immateriaalioikeudet tulisi nähdä investointina, jolla ylläpidetään sekä vahvistetaan brändin kilpailuetua.</p> <p>Työn tietoperusta rakennettiin ajankohtaisista strategisen johtamisen, brändijohtamisen ja immateriaalioikeuksien kirjallisuudesta sekä artikkeleista. Tutkimuksessa käytettiin laadullista lähestymistapaa. Ensisijainen aineisto kerättiin tekemällä puolistrukturoidulla haastattelulla. Haastattelut analysoitiin käyttäen sisällönanalyysia. Haastateltavat edustivat osaamista ja kokemusta immateriaalioikeudessa, erityisesti tavaramerkeissä ja brändijohtamisessa.</p> <p>Tutkimuksen havainnot osoittavat että immateriaalioikeuksien hallinta on välttämätöntä kilpailukykyisessä brändijohtamisessa. Kiristynvä kilpailu ajaa brändit kehittämään ja päivittämään tuotteita ja palveluitaan, sekä suojaamaan ne säilyttääkseen kilpailuedun. Johtopäätöksenä, voidaan todeta että tehokas brändijohtaminen alkaa brändin suojauksella. Brändin suojaaminen tulisi olla pakollinen osa-alue liiketoiminnan päivittäistä toimintaa.</p>		
Avainsanat (asiasanat) Immateriaalioikeudet, tekijänoikeus, brändijohtaminen, strateginen johtaminen.		
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# 1 Introduction

According to the Global Intellectual Property Center, global intellectual property thefts in counterfeit and pirated goods are growing at an alarming speed.

Counterfeits do not anymore only mean selling high-end handbags in every street corner. Counterfeited goods and their sales have created a so called sophisticated black market, an industry where counterfeits are produced and sold in almost all categories of goods. As result of this new industry, even a single counterfeited product can cause great damage to a brand that has been built for years to succeed. (Global Intellectual Property Center, 2016).

We can say that today every business and brand is at risk. In addition, with regard to brand protection, the critical intellectual property assets for businesses, based on which consumers recognize the brand and its product, are trademarks and copyright. It has been estimated that Intellectual property thefts cost domestic companies between 200 and 250 billion dollars a year in lost revenues, and this has resulted in a loss of 750,000 jobs only in the U.S. (Global Intellectual Property Center, 2016). In addition, according to Dr. Jochen M. Shaefer, in the year 2009 the fastest growing counterfeit trade was online. (WIPO Magazine. 2011.)

Unauthorized usage of trademark occurs when a company uses part or even all of another brand's elements. (Zaichowsky, 2006). The most insolent forms of trademark infringements are cases where the counterfeits or copies are made identical with the original brand, without any "tweaking" of the brand elements. (Chaudhry et al. 2005). In 2013, the Finnish designer fabric brand Marimekko announced that their fabric design "Metsänväki - Forest Dwellers" designed in 2007 was a copy of an Ukrainian artist's work published in 1963 with a title "Rat on her Travels". In addition to the fabric design, the same design was used on the fuselages of the Finnish airline, Finnair. (Helsingin Sanomat, 2013) Thus, plagiarism is obviously causing harm for the Marimekko brand.

In order to survive today, a company holding a well-known and valuable brand should assume and be aware that their brand might already have been infringed by counterfeits and piracy. Brands should develop and also systematically implement

anti-counterfeiting strategies and fit these in their regular practices. (Global Intellectual Property Center, 2016).

According to Morrin et al. (2006), trademark infringements can have long-term negative effects on the original brand in many ways. First, the imitator's brand quality becomes easily associated with the original brand, which reduces the quality perception of the original brand. Secondly, the original brand can lose sales when consumers start buying the counterfeited brand. Consumers may also start seeing the counterfeited brand as the original. The third aspect occurs in situations where two trademarks or brands deal in the same product category. This situation might lead to "a negative spillover". Fourthly, when two brands are visually similar, consumers are more likely to create attributes from one brand to another. (Warlop & Alba, 2004). The dilution and consumer confusion due to trademark similarities reduce when consumers have stronger familiarity with the original brand. Higher familiarity with an original trademark protects the trademark from dilution. (Morrin et al. 2006) Another study also defines that consumers who have lower preferences for luxury brands are exposed to counterfeits. (Wilcox et al. 2009.) Moreover, people buy counterfeits because they like the genuine brand but cannot afford it. (Gentry et al. 2009.)

Another aspect, according to Helem Lom, is that brand is their key asset for business value-creation, and today there are still many entrepreneurs who are not convinced about setting branding as a top priority. Lom explains this by asking "What is the use of making major investments into developing quality goods and services if that quality reputation cannot be captured and developed in the form of a brand image?" Brands can be quite specifically defined, but Lom adds that a brand is also composed of its various parts, and the added value comes from the synergy between these parts of the brand. Brand as a concept should work as a reminder that its trademark, designs and other intellectual objectives should be protected, and the intellectual properties work as tools for developing an effective brand image. The key factors of a successful brand, according to Lom, are clear, specific and credible messages, power of differentiation, the quality that the brand symbolizes and its attraction to the target group. Lom highlights the differentiation power as the most important factor including that the brand is recognizable, desirable, credible and properly

communicated. (Lom, 2016).

The aim of the study was to explore the value of intellectual property rights in brand management. The theoretical framework for the study was collected from traditional literature and electronic sources about brand management, business strategy and intellectual property rights as a tool in brand management strategy. The research data was collected from three semi-structured interviews.

## 2 Theoretical background

In this study, the purpose was to explore the value of intellectual property rights in brand management. The theoretical background in this focuses on brand management, intellectual property, and more specifically on trademarks.

Brands as a word is old and has developed over the years. The early definitions of a brand are from the Wild West of the United States, where brand was used to mark an ownership, origin and quality. Later it became an important term in marketing, and brand started to be seen as a link between a name and a specific consumer benefit. (Kapferer, 2012, 11).

Interbrand is brand consultancy company specializing in brand strategy, brand analytics, brand valuation and naming. Interbrand's "Four Ages of Branding" is a descriptive process of the development of a brand. First, there is the **Age of Identity**. As we know, branding started as a mark of ownership, trust and quality. Over time, branding evolved into a more sophisticated model after World-War 2, when the market started to fill up from products and services. This caused a need to differentiate from others that were seen as competitors. During the Age of Identity, the purpose of a brand was to serve as a market positioning identifier by setting specific products apart from others with verbal and visual actions. These actions are still in a valid position when creating a brand. Secondly, the **Age of Value** started when Interbrand conducted its first brand valuation in 1988. Companies began to see brands as valuable assets for business. Branding became a part of marketing, and the

term marketing cost switched to investment. The third phase is described as the **Age of Experience**. Today, brands are seen as valuable strategic assets. It is crucial to understand what role a brand plays in the consumers' minds. The increased level of digital technology and mobile device users creates so-called "category killing" brands, such as Google, Facebook and Apple. These brands have reset the customer expectations and raised the bar. A mass of data, or big data is not enough anymore. Instead, brands need to have insights of the consumers' minds. The customers, empowered by the social media of this age, have more control the ever. This has created the world of two-way conversations, advocacy, influence and engagement that can be described as new rules of branding and brand building (Interbrand, 2016). As a final phase, the **Age of You** describes the age in which we live now and what is going to happen in the future. Digital technology is more and more part of every aspect of human lives, and various kinds of user data is captured to servers and hard drives. There is computing everywhere. The data collected from human activities creates new supply chains by connecting businesses to people and people to each other. Brands are serving as enablers of both business and personal value creation. People share pieces of their personal brands through various social media platforms, which has created personalized commerce with purchase history, locations, events and services offered to whoever and whenever. Communication increases. The challenge in the Age of You is that the brands need to separate people from the data by uncovering the insights and then create truly personalized and curated experiences. (Interbrand, 2016).

The main purpose brands has not changed over centuries. Brand is still working as a tool for differentiating and creating competitive advantage. Michael E. Porter in his article "The Competitive Advantage of Nations" (1990), defines the importance of a competitive advantage for companies. The competitiveness of any nation or a demographic unit depends of its industry's ability to innovate and upgrade. According to Porter, the advantage is gained through pressure and challenge created by the markets. (Porter, 1990.) All over the world, there are companies and brands which have achieved the position of a market leader. All of these companies have specified strategies that differ from each other in every aspect. However, these leading companies, who follow their own strategy, still have fundamentally the same



characteristics in use. (op.cit. p. 74). They have achieved their competitive advantage through innovation and by adopting new technology or new ways of doing things. Innovation is a result of an unusual effort, and in a company it means a new basis for competing or finding more effective methods of competing in the old ways. Innovation and competitive advantage will always involve investments in skill and knowledge and actions in other physical assets and a brand as a valuable asset. When a company has achieved its competitive advantage through an innovation, it can be sustained only by continuous improvement. If a company stops improving and innovating, the aggressive competitors will eventually overtake the market. By upgrading, the company can maintain its competitive advantage. The challenge is that innovation also means a time of change in the company, and change and innovation are extremely closely linked. Again, if the company is not ready to change from their old strategy and organizational culture, the innovation will die, and the company will become stagnant, and the competitors will benefit and overtake the market. (op.cit. p.74-75).

Strategic brand management, just like any other management means measuring and managing specific activities and programs. Keller defines the strategic brand management process with four main steps. The first step is identifying and establishing a brand position. In the positioning phase a company needs to determine what the brand is all about, and how the brand should be positioned in relation to its competitors. The strengths and advantages over competitors can be determined as the brand's Points of Difference, and possible disadvantages as the brand's Points of Parity. In brand positioning the core brand associations should be established. The core associations are the best attributes and benefits of the consumer associations that describe the brand's main characteristics. (Keller, 2008, 38-39). The second step is planning and implementing brand marketing programs by choosing the brand elements, such as name, logo, symbols, character, design and slogan. When the brand elements are established, the marketing activities and programs can be implemented. By integrating the brand with a good position and effective brand elements into the company's marketing strategy, there is a possibility to create strong, favorable and unique brand associations in the consumers' minds. (op.cit.p.40) Thirdly, brand performance needs to be managed and interpreted. A

commonly used method for determining or evaluating brand positioning is conducting a brand audit. A brand audit requires understanding of brand equity from both the company's and consumers' perspectives. As in the previous step, the aim is to optimize strong and maintainable brand associations and increase the brand value. The brand value chain as a tool helps to trace the value creation process, which helps to understand the financial impact of the brand marketing costs and investments. (op.cit.p 41). The fourth step is growth and sustaining the brand equity. This step focuses on defining and developing the brand strategy as well as managing brand equity over time and over geographic boundaries, cultures and markets segments. (op.cit.p.41).

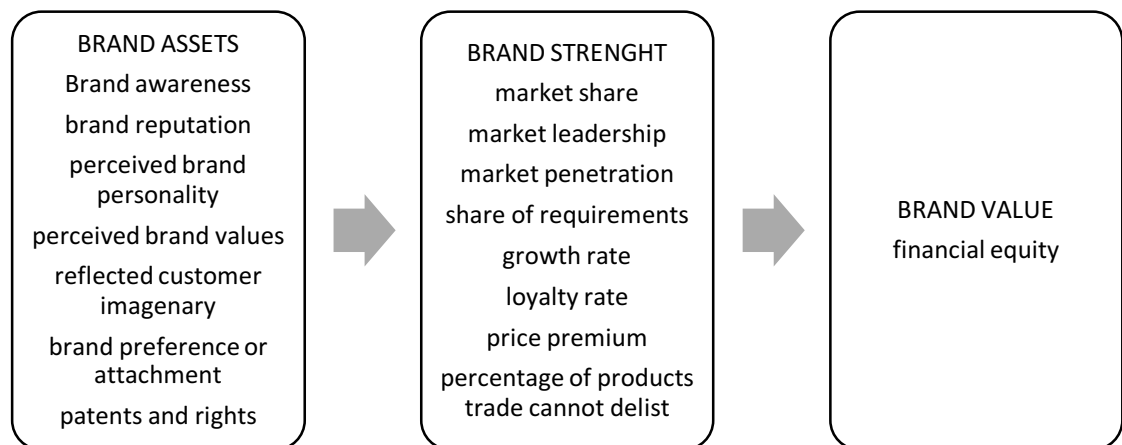
## 2.1 The strategic role of a brand and brand management

In order to understand Brand Management or other elements of branding, it is vital to define what a brand is. According to David A. Aaker, *"A brand is a distinguishing name and/or symbol such as 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."* (Aaker, 1991, 7).

Another perspective according to Chernev, are the three common views of a brand: brand as a marketing tool, brand as a mental image, brand as a set of products and services associated with same identity. More precisely, brand as marketing tool means that marketers use brands to create an image with a specific meaning into people's minds through their company's offerings. As a mental image, a brand is seen as a result of mental associations in the consumers' minds between the brand and its offerings. The third view, brand as a set of products and services with same identity, is described so that the brand includes all products and services carrying the same brand name. The brand identifies its offerings. (Chernev, 2015, 22-23). In addition, Chernev states two common views of brand management. The first one is brand management as a process of managing the brand image. This is achieved by managing the important aspects of the brand and the products and services. The aim

is to create a brand image in the consumers' minds. According to Chernev, a brand image is "the network of the brand-specific associations that exist in people's minds". (op. cit. p. 23-24). Secondly comes brand management as a process of managing a company's offerings associated with a given brand. In this view, brand management is an activity that aims to extend the management of the image of the brand in the consumers' minds. This view also includes managing all the aspects in the company strategy and tactics. (op. cit. p. 24).

According to Kapferer (2012, 15), brand equity can be measured by brand assets, strengths and, finally, in the brand value as financial equity.



*Figure 1. Brand value is the profit potential of the brand assets, mediated by market strength. (Kapferer, 2012, 15).*

Figure 1 above visualizes the process and points out that Intellectual Property Rights are one of the brand assets.

Brand assets are the sources of the influence of the brand. These assets are brand awareness, saliency, emotion, image, strength of the relationship with consumers and intellectual property rights, such as patents and trademarks. Brand strength is the specific point in time caused by the assets in a specific market. The strength in this case can be measured based on the behaviour created by the competition.

These indicators are market share, market leadership, loyalty rates and price premium. Brand value is determined by its ability to create profit. In other words, a brand has no financial value until it starts delivering profit to the company. (Kapferer, 2012, 15). This is not directly a problem for the brand, but a major key for the business.

Kapferer states that one important asset for a brand is customers with brand loyalty. Today's high level of competition and clusters of goods in the same category drive the business managers to creating products that have more in them than just the main purpose of usage. Brands add more value to their products with intangible values, that is, by branding the product. (op. cit. p. 16).

In addition, Aaker's five levels of brand loyalty specify the level of attachment to a brand. On the first level are the switchers or price buyers who simply buy the product without any emotional attachment. Secondly, there are the satisfied, or at least not dissatisfied and more habitual buyers, who do not see any reason to look for other brands in the same category. A satisfied buyer sees switching to another, unfamiliar brand as risk to lose time or the already existing values attached to the familiar brand. On the fourth level, the customer has already created a more emotional relationship with the brand. The brand is seen as a symbol of a positive usage experience or quality. On the final level of brand loyalty are the committed buyers who are loyal to the brand. The brand represents the customers on a personal level and they are willing to promote the brand to others in a positive way. (Aaker, 1991, 39-41).

Aaker also states that brand loyalty is a valuable asset in a brand strategy. Brand loyalty affects the brand strategy in four ways: by reducing marketing costs, enhancing trade leverage, attracting new customers and giving leverage to respond to competitive threats. (Aaker, 1991, 48). Brand loyalty as an important tool in the brand strategy should be constantly maintained and enhanced. (op. cit. p. 49-51).

A brand triangle describes a model that clarifies the structure of brand management. On top of the triangle there is the brand concept with the tangible and intangible values of the brand. Secondly, at the bottom there are the brand name and symbols

including the semiotic variants. Thirdly, the triangle shows how the product or service is experienced at contact points. (Kapferer, 2012, 10).

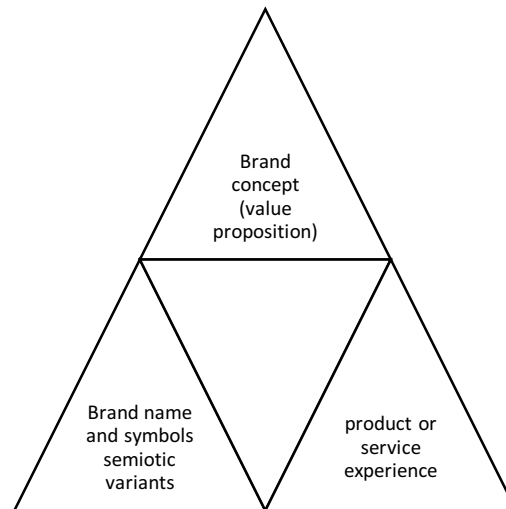


Figure 2. Brand Triangle (Kapferer, 2012).

When the equity of the brand is small, consumers buy the products or services more based on the price or features and do no mind about the brand name. Brand should make the customers buy the brand continuously rather than make them switch to another brand. This type of situation is common when the brand modifies the product pricing or its features. Since a brand's main value is to create profit, brand loyalty is an important issue for the profitability of the business. Brand loyalty can be translated quite directly as long-term sales for the upcoming years. (Aaker, 1991, 39).

Brand commitment is the most visible aspect in strong brands that have more committed customers. According to Aaker (1991, 46), "one key indicator is the amount of interaction and communication that is involved with the product."

Aaker (1991) states that brand loyalty has value in the brand strategy. It can be divided in four main categories: reduced marketing costs, trade leverage, attracting new customers, time to respond to competitive threats. Reduced marketing costs can be explained simply that it is less costly to retain customers than attract new ones. Among the new customers, the issue is the lack of motivation to switch from an earlier preferred brand. Secondly, the trade leverage is important when launching new features for the product, such as size, varieties, variations or extensions. In the

third category, attracting new customers can be done through the satisfied customer base of the brand. Customers who "like the brand can provide assurance to a prospective customer, especially when the purchase is somewhat risky". (Aaker, 1991, 48). "Seeing a product being used by a friend will generate the kind of memory links to the use context and the user that any advertisement would have great difficulty in doing" (op. cit. p. 48)

Brands create goodwill. Over times the vision has changed from the idea that only tangible assets had value for companies. Nowadays, companies agree that the most important assets are in their intangible assests, including intellectual property and the brand. A successfull brand is created by an effective brand strategy backed by innovation. Brands, then, create psychological goodwill for their consumers, distributors and all other channels. Goodwill is also the accountable, monetary value of the psychological goodwill that the brand has created over time with continous marketing investments and product development, such as innovation and Research & Development. (Kapferer 2012, 19-20). In addition, Chasser et. al. (2010, 25) state that goodwill includes all parts of a brand. These are consumers' emotional connection, loyalty, experience and history. We can say that goodwill states the reasons why consumers buy a specific brand's produts.

## 2.2 Strategic tools for brand management

According to Chernev the strategic purpose of a brand is to create market value. The tactical process is branding. Branding aims to define value of the company's offerings, and create extention of benefits above and beyond the benefits created by the products and services. (Chernev, 2015, 25). Since the key of a brand is to create market value with identified company offerings and differentiating from its competitors, companies need to highlight their brand strategy and tactics in order to have effective value creation. (op.cit.p. 27-28). The brand strategy is defining the brands target markets and also determines the brands value-proposition. Value-propositions are defining the benefits that brand aims to create for its markets in a big picture. The markets of a brand management can be divided in three main categories; target customers, the company, company collaborators. (op.cit.p.29). Brand management aims to optimize these three aspects of value as target customer

value, collaborator value and company value. In target customer value the aim is to identify the products and services offered and develop an unique brand identity wich is extended over the product or service, in order to reach potential buyers. (op.cit. p. 29). Company collaborator value includes suppliers, distributors and marketing partners. This value aims to emphasize the benefits what brand offers and increase the customer demand. As final the the company value is created from the previous by influencing customer's and collaborator's behaviour in a way that it creates revenues and a separeble company asset. (op. cit. p.29-30)

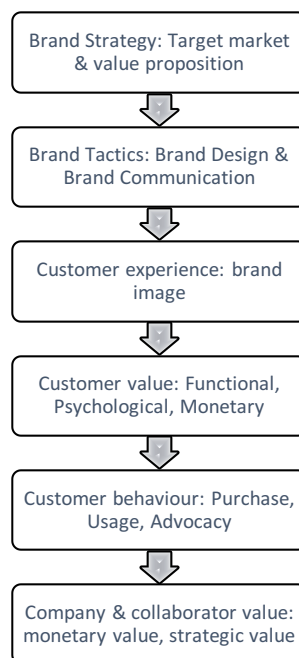


Figure 3. The framework of Brand Management (Chernev, 2015, 25).

Chernev (2015, 32) states that brands impact on customers in three different aspects. Brand image, brand value and brand-driven behaviour. Brand image is the customers perception of the brand. It includes all associations towards a specific brand, such as brand name or its other elements. These can be a logo, motto, character, soundmark, design and packaging. Brand image is built on the customers

understanding of the brand. Different associations are based on the customers personal set of values, beliefs and experiences.

Chernev states that brand values are based on the customers evaluation of the attractiveness of a specific brand. Since customers value systems, beliefs and experiences their perception of the brand value varies. Three types of customer values by Chernev are functional, monetary and psychological values. Functional values allow the customer to identify specific offerings of the brand. Monetary values increase the resale value of the product, such as luxury high-end fashion products. Psychological values can be seen as the most important value since a brand can create value by appealing to its target customers on emotional stage, and allows the customer express their own identity. (Chernev, 2015, 33-34.)

Previously stated brand image and brand valuations influences the customer in many ways in their market behaviour. Positive brand valuations increase the likelihood of purchase of specific brand, rather than ending up buying a brand with negative valuations. Positive customer brand experiences tend to spread. Satisfied customer may become brand evangelists sharing the positive personal promotion of the brand. (Chernev, 2015, 34-35).

Aaker defines Brand Equity as "a set of brand assets and liabilities linked to a brand, its name and symbol, that add to or subtract from the value provided by a product or a service to a firm and/or to that firm's customers." The assets and liabilities in which brand equity is based are categorized in following five main topics: Brand Loyalty, name awareness, perceived quality, brand associations and brand assets. (Aaker, 1991, 15).

Another perspective from Keller is that brand equity is a tool to interpret the potential effect of different brand strategies. Brand equity emphasizes the importance of branding as one part of companys marketing strategy. However, there are no generally known the one and only way of conceptualizing or measuring brand equity. (Keller, 2008, 37).

The aim of branding is to create differences. Different brand have different outcomes in their added value for the brand. Added value can be described as the result of the past marketing activity for a brand. Brand value can be created in many different



ways and brand equity points out the aspects what are valuable for the brand. (op.cit.p.38).

“Brand awareness is the ability of a potential buyer to recognize or recall that a brand is a member of a certain product category” (Aaker, 1991, 61). Brand awareness the creates value for the brand in following four ways; anchor to which other associations can be attached, familiarity which leading to liking, signal of substance or commitment, and brand to be considered. (Aaker, 1991, 62)

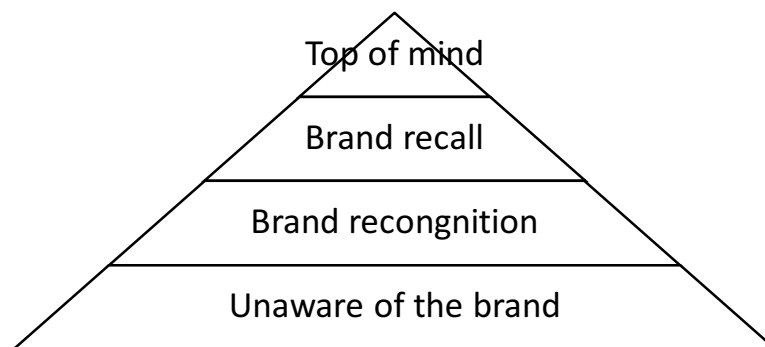


Figure 4. Brand Awareness Pyramid. (Aaker, 1991, 62)

### 2.3 The role of Intellectual Property Rights in Brand Management

*If you want to be another Donald Trump, you need to learn how to appraise real estate, because you need to know what drives value. If you want to be a leader in any global industry, you need to understand how intellectual assets are valued. Ninety percent of the value of many companies is driven by intellectual assets. (Gordon Smith, Franklin Pierce Law Center, and Chair, AUS, Inc.)*

Intellectual Property refers to creations of the mind, such as inventions; *“literary and artistic works; designs; and symbols, names and images used in commerce.”* (WIPO 2016). Intellectual Property Rights can be roughly divided in main categories; copyright, Patents, Trademarks, Industrial Rights, Geographical Indications. Copyright

as a legal term covers the rights for creators of literary and artistic works. According to WIPO "works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings. (WIPO, 2016).

According to Michael A. Gollin, Intellectual property is defined in various ways, depending what is the way of approach. Intellectual property is also described as "essentially as something intangible, created by the use of mental ability, to which legal rights attach." From that aspect of management Gollin describes Intellectual property: "Business people consider Intellectual property to be a management tool for converting human capital into value by defining and capturing new knowledge." (Gollin, 2008, 22).

A key for strong brand is a successful business model. However, brand protection is equally important. (Chernev, 2015, 181). Brand-owners need to understand the value of their intellectual assets, in order to manage the brand better with more strategic and cost-effective decisions. (Chasser et al. p.21).

Another perspective according to Anne H. Chasser is that brand leadership and brands intellectual property should maintain the intellectual property strategy in company's creativity and innovation process in order the brand can grow. (Brand Rewired, 2010). In branding process, everything that can be determined as intellectual asset are considered as intellectual property. (Brand Rewired, 2010, 14) The traditional assets such as logo or slogan, design, distinct colors, web content are brand intellectual property and therefore can be protected. Intellectual property should be considered in very beginning of the creative process of innovative action in order to have something with longer and more sustainable value. In other words, intellectual property strategy is in high importance as an active organ of the company's brand strategy. A brand strategy, added with effective intellectual property strategy will create better results in financial value brand value. (Brand Rewired, 2010, 21).

In addition, according to Kapferer, innovations are "brands oxygen". Innovation re-create brands leadership by focusing on the value, instead of focusing on price.

Innovation sets a goal for the organization, by pointing out that the brand is about progress once they enter the market. (Kapferer, 2012, 202).

Intellectual capital is defined as "The value created by individuals ideas or the overall expertise of a company's workforce. An intangible asset that can be protected by patent or trademark." (Financial Times, 2016). According to Bollen, Laury et. al, intellectual property can be linked to company performance and Intellectual Capital for following reasons; Firstly, intellectual property can be regarded as a more tangible and more easily valued part of intellectual capital since it consists of patents, copyrights & trademarks. Secondly, it explains the link between intellectual property and other organization capitals such as human capital, structural capital and relationship capital. By doing so, intellectual property strategies become more visibly included in the company strategy and decision-making. It is common that companies treat their intellectual capital and intellectual property as a same subject. When failing to separate the "strategically crucial intangibles from other assets and failing to understand the links between these strategic intangibles and its future intellectual property. Thirdly intellectual property is a relevant part of the company intellectual capital. intellectual property management gives company a opportunity to leverage intellect and "lead to the company to increased overall performance." (Bollen, Laury; Vergauwen, Philip; Schnieders, Stephanie 2005).

Brands are often associated to the term trademark. However, brand is a lot wider topic; *"Brand is often understood simply as a synonym to trademark, but nowadays a brand is seen as the sum of all of customer experiences of the company or product in question."* (TrademarkNow, 2016). Together with other intellectual property rights, trademark still represents the legal aspect of a brand. The interviews conducted with the participants for this study highlighted the role of trademarks. This is also why this research is more focused to trademarks and their important role in company's brand performance.

## **Trademark**

*"A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by Intellectual Property rights."* (WIPO 2016).

In an article "Five Trademark Law Strategies for managing Brands" (2012), Timothy A. Lemper defines brand name as "a valuable piece of IP that lawyers call a trademark." More simply put, brand names are marks and term trademark is used when brand is about products, service mark then is used for services and trade names used in the name of a company. However, these all earlier mentioned are often placed under the term trademark. (Lemper, 2012).

A registered trademark gives it holder an exclusive "right to use the trademark and right to prevent other from using confusingly similar marks." Trademark is sign, more detailed for example a word, figure, personal name, shape, color or a melody. Trademark protection is applied with a written application with a national authority and its granted for period of ten 10 years, which can be renewed. (Papula-Nevinpat, 2016).

According to Lemper, the brand managers are facing increasing pressure to be aware about the legal issues related to brand names as trademarks. This is vital since brand names are becoming more valuable as marketing tools in highly competitive markets. (Lemper, 2012).

### **Trademark Strategies**

Timothy Lemper in his Five Trademark Law Strategies for managing Brands (2012), defines the five steps of implementing an effective Trademark strategy in his article "Five Trademark Law Strategies for managing Brands" as following; The brand name should be created to be as "fanciful" or "arbitrary" in order to differentiate and create long-term benefits as more distinctive brands. Secondly the brand should conduct trademark monitoring in order to be aware of other potential similar trademarks in same markets and also avoid to infringe upon or dilute other trademarks. Thirdly, it is relevant to conduct trademark audits in order to make sure that the trademark will fit together with the brand and the product or service. As fourth step, according to Lemper the management should "document consumer complaints". In addition to general feedback collection about the brand product or

service, the complaints can "serve as a powerful tool for collecting such evidence, recording individual complaints that when aggregated can be used to detect potential trademark problems and identify the source of those problems" (Lemper, 2012). As final step, the brand should adopt a trademark management system. The main use for these trademark management systems is to maintain that all relevant stages to protect the company's trademarks. The actual use is generally collecting evidence of the usage of trademarks, maintaining registrations of trademarks and opposing attempts of other to infringe or dilute your trademark. (Lemper, 2012).

In addition, according to Global Intellectual Property Center the intellectual property right holders should monitor their retail space and identify potential infringements. Brands should develop their market intelligence by using for example mystery shopping techniques in order to collect random samples of their products for inspection, authentication and monitor their marketplace environment. Brands should also be able to monitor products under the brand name in internet sites, such as auctions. Today, there various ways of applying simple and low-cost solutions for brands that can help to identify the authentic product from counterfeits. By applying new technology that offers new features such as bar codes, RFID tags, holograms, watermarks and anti-counterfeiting ink technology. (Global Intellectual Property Center, 2016).

Other intellectual property rights are copyright, patents, industrial rights, design rights. According to WIPO copyright or authors right "is legal term used to describe the rights that creators have over their literary and artistic and artistic works." Including books, music, paintings, sculpture, and films. Also computer programs, databases, advertisements, maps, and technical drawings are protected by copyright. However, copyright do not protect ideas, procedures, methods of operation or mathematical concepts. Titles, slogans, and logos are protected by copyright if they have legit authorship. Copyright is consisting from two main types, economic rights and moral rights. Economic rights including the rights which allows the owner of the copyright to receive financial rewards from other user of his or her works. Moral rights are designed to protect non-economic interests of the owner author of the copyright.

Patent defined by WIPO "is an exclusive rights granted for an invention, which is a product or a process that provides, in general, a new way of doing something or offers a new technical solution to a problem." To get a patent, technical information about the invention must be disclosed to the public in a patent application. Patents are applied by its territory in country or region. The patent is under the legislation of the country where it has been granted and filed. Patent is granted for a limited period, usually for 20 years from the filing date. (WIPO, 2016).

Industrial designs are following; in legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an article. It can also include three dimensional features such as shape. In two dimensional feature it can be the line, pattern or color of an article. The owner of registered industrial design or design patent is rightful to inhibit any other third parties from making, selling or importing the protected design, especially when it is done for commercial purposes. (WIPO, 2016).

### **Organisations supporting Intellectual Property Rights**

Intellectual property is managed by many organizations that are supporting its functions. World Trade Organization, WTO manages the global rules of trade between nations. The aim of the organization is to make sure that global trade works as smoothly, predictably and freely as possible. WTO as one of the youngest organizations was established in January 1st 1995. In past 50 years, world trade has grown rapidly, for example merchandise product exports has grown 6 percent annually. Together with General Agreement on Tariff and Trade (GATT), it create a strong international trading system. WTO has 162 member countries. Every action and function in WTO are negotiated with member countries governments. WTO member are operating in non-discriminatory trading system that allows each country a guarantee that their exports are treated fairly and consistently in international markets. (WTO, 2016) WTO's fields of work are goods, services, intellectual property, Dispute settlement, and Trade Policy Review. Its functions are administrating trade agreements, acting as a forum for trade negotiations, settling trade disputes, reviewing national policies, assisting developing countries in trade policy issues, and cooperating with other international organizations. (WTO, 2016).

Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is created to enforce intellectual property rights and develop the issues related to international trade in counterfeit goods. It has been recognized that there is a lack in multilateral frame of principles, rules and disciplines in the field of counterfeit issues. TRIPS, in short, is working in the basis of the General Agreement on Tariffs and Trade, GATT, 1947. (WTO, 2016). The agreement can be divided in three main parts, based on their different purpose of action. First part is about the general provisions and basic principles of the agreement. The second part is the most vital to understand since it determines each Intellectual Property Rights in succession. In copyright each party of TRIPS are required to agree with the "substantive provisions of the Berne Convention for the protection of literary and artistic works." These provisions are from the latest version in Paris 1971. From the Trademark aspect the agreement defines what types of "signs must be eligible for protection as a trademark of service mark". It also covers the aspect of minimum rights that belong to the owner. Industrial designs in the agreement are determined the protection for a period of 10 years. Patents in this agreement are required according to the "substantive provisions of the Paris Convention 1967." Agreement also includes the requirement of the patent protection for 20 years. The patent protection is available for "all inventions, whether of products and processes, in almost all fields of technology". In addition, TRIPS includes the protection against breach of confidence on trade secrets and know-how which have commercial value. Third part of the agreement "sets out the obligations of member government to provide procedures and remedies under their domestic law to ensure that intellectual property rights can be effectively enforced, by foreign right holders as well as by their own nationals. (WTO, 2016).

Madrid System is providing a "one stop solution for registering and managing marks worldwide" (WIPO, 2016). It has 97 member countries. Madrid System requires only one written application to file, and when business or evolves the same system can be used to enlarge the protection of the mark to new markets. (WIPO, 2016)

### **3 Methodology**

The data for the study was collected by semi-structured interviews. According to Saunders, Lewis, Thornhill the qualitative research the aim was to study the

phenomena and make sense of it by interviewing the professionals from the field of the topic. Generally, the author has to be able to work on natural environment by establishing trust, participation, access to meanings and in-depth understanding (Sanders et. al. 162).

*“Research methods may be understood as all those methods/techniques that are used to for conduction of research. Research methods or techniques, thus refer to methods the researchers use in performing research operations”.* Simply explained all the actions that are done during the period of time used to study the research are considered as research methods. (Kothari, 2004, 7)

It is also important to notify that research method and methodology is not a same term. Methodology is the scientific approach to the research process and it studies the research problem and it’s solving from more systematic point of view. (Kothari, 2004, 8)

### 3.1 Research problem and research question

According to Malhotra (2012, 183)” Qualitative research is often used to generate hypotheses and identity. In this thesis the aim is to identify a phenomena and gain deeper knowledge about the topic. Qualitative is considered as action research an it is used especially in product, communications, and brand design” (op. cit. p. 183). According to Malhotra, qualitative research has more flexibility and offers the participants express their views and enables the author to observe their behaviour.” (op. cit. p. 183-188).

The aim of this study was to explore the value of Intellectual Property Rights in Branding. Authors objective was to explore current challenges and trends around the topic studied. With the purpose of achieving this goal, two research question were established:

1. What is the value of intellectual property rights in brand management?



## 2. How intellectual property rights can be used as a tool in brand management?

Because this type of research question studying phenomena cannot be answered precisely, a qualitative research method was chosen. Paul Ten Have states that always when studying a phenomena with effect on social life of human, the form of study is social research. (Ten Have, 2004, 1). He describes social research as following; all kinds of knowledge production that involve inspection of empirical evidence. (op. cit. p. 1). According to Malhotra, qualitative research can be also described as "action research" due to its effective usage in product, communication and brand design. (Malhotra, 2012, 183). Malhotra also states that qualitative research method is more flexible and therefore through various methods it allows its participants to get involved, express their views and even observe behaviours. (op.cit. p. 188).

In addition, Paul Ten Have states there three types of social research that are differing from each other by their nature, general goals and research strategy. These three are qualitative, comparative and quantitative. According to Ten Have, Qualitative research method is used to study commonalities. Qualitative research is focusing smaller number of cases but many aspects are studied more closely through theoretical concepts. (Ten Have, 2004, 3-4). Many qualitative research are based on conceptual and interpretative approach. More clarified, different events, actions or expressions cannot be assumed as direct solution without doing some type of contextual interpretation. (op. cit. p. 4). It is common that qualitative research tend to have more holistic approach with more relaxed style of language. Qualitative research can often be preferred to be more open and exploratory by its strategy. (op. cit. p. 4).

By choosing the semi-structured interview as research method, the author had to decide to stay open-minded for upcoming findings and discussion as a result of the interviews conducted.

### 3.2 Interview as a data-collection method

Semi-structured interview was chosen as data collection method since the purpose of the research aims to explore and explain themes related to the topic. According to Saunders A, Lewis M, Thornhill P. (2012), different interview environment affect the nature of the research interview of the way of interaction. The interviews can be conducted face-to-face or by telephone or in other electronic communication platform via internet. (op.cit. p. 375). The key is to recognize that the data collection method meets the research question and research objectives. (op.cit. p. 376). By choosing semi-structured interview in required that the interview structure including questions asked had to be designed beforehand.

By interviewing the author has a possibility to use probe questions where the interviewee is asked to explain and build on their responses. According to Saunders et al. (2012, 376), semi-structured interview also may lead the discussion to unknown but afterwards significant topics that support the research. When interviewing, the interviewer has to be aware of the interaction with interviewee and how the questions asked will effect on the research data. Especially people in higher leader positions are generally more willing to be interviewed rather than completing a questionnaire. The interview is easy way for both sides to express their thoughts about the topic, and gives an opportunity to receive feedback from the interviewee and personal assurance. (op.cit. p. 378).

In addition, Graham states that in semi-structured interview similar questions are asked of all persons interviewed. The form of questions go through a process of development to ensure their topic focus; to ensure equivalent coverage of interviewees are prompted by supplementary questions if they have not dealt spontaneously with one if the sub areas of interest. Approximately equivalent interview time is allowed in each interview. (Graham, 2005, 70). Semi-structured interview has its strength in its "flexibility balanced by structure, and the quality of the data so obtained." However, semi-structured interview includes higher level of workload due to the preparation phase. Also the interview analysis, implementation and presentation is needed. (op.cit. p.70). In the interview preparation phase it is

important to keep in mind that the research is about discovery, not to demonstrate what is expected from the case studied. (op.cit. p.72).

In this thesis the research method is qualitative research and theme interview. In design research, the "theme interview can be used at those stages where understanding of a phenomenon or situations is required." (Kananen, 2013, 110) Those situations are; defining problem, evaluation of effectiveness and evaluation of results. (Kananen, 2013, 110). Theme interview is conducted as individual interview. Theme interview is also possible to conduct as group interview, but in this thesis an individual interview is giving more accurate and credible information about the topic (Kananen, 2013, 111). It also gives better frames for the workload of the interview process, since in group interview the of the interviewer grows in "linear manner" (Kananen, 2004, 111).

The estimated amount of interviewed persons is four. Persons interviewed are selected so that the phenomenon, or the topic of the research is associated with them. (Kananen,2013, 111) Interviews are aimed to arrange as face-to-face meetings, but there is also a possibility of distance interview. In this type of situation where the key person to interview is not available for meeting person, the interview will be arranged otherwise. According to Graham, (2005) it is "better to have key data of limited amount and quality than none at all."

The interview theme is chosen with an aim that it covers the whole phenomenon in best possible way. This will affect in the selection of questions conducted during the interview. The idea of the theme interview could be exemplified with a discussion with an unseen person. (Kananen, 2013, 112) In theme interview the interviewer must be able to conduct the interview by opening the different layers of the topic during the discussion. It is also vital to be flexible and be prepared that the interview will go through unexpected path. (Kananen, 2013, 113).

### 3.3 Interview design

Three participants were chosen to be interviewed from the field of Intellectual Property Rights, specialized in Trademarks and brand owner, in order to have

professional viewpoint of current situations around the topic. These persons interviewed could be able to determine current trends and give their own opinions and possible suggestions of improvement and development. Persons were chosen from companies that are working globally and the person interviewed professionalized in the field of IP for the validity of the interview results. The persons interviewed were Mr. Mikael Kolehmainen, CEO of **TrademarkNow**, Mr. Jussi Mikkola, European Trademark Attorney **Papula-Nevinpat**, Petteri Ahonen, **ZeroPoint Finland Oy**.

The interview framework is based on following guidelines; the interview included seven question, from which six includes content. The interview started with general background question as more focused on the person interviewed. In the beginning of the interview there was easier questions and ended with more difficult, complicated, abstract or sensitive questions. The ending question was designed to be "anything to add", in order to confirm if the participant had something to add to the interview. (Koskinen, 2005)

### 3.4 Data analysis

The data received from semi-structured interviews was qualitative. Therefore, the analysis method had to be chosen to support the data collected. Since qualitative data by its nature is complex and unique from its content gathered from interviews, different analysis method had to be taken into consideration. Once the data collections had started from interviews, it was also important to prepare the data for analysis. (Saunders et. al. p. 549). The research was conducted as deductive approach since author was not experienced enough to create own theory from the data gathered. Already existing theoretical framework was used. (op. cit. p. 549) Interview themes and questions were delivered to the participants beforehand in order to gain credibility and make sure the participants had proper information about the interview. (op. cit. p. 385).

Research interviews were audio-recorded and subsequently transcribed in written form for further actions. (op. cit. p. 550). The interviews were transcribed quickly after they were conducted. In this phase author had to be certain that the data

transcribed was accurate and avoid errors. When data is transcribed it can be started to use. In the very beginning of processing the research data, author numbered the questions asked in order find them easily from the data. Also use of colors to highlight important themes and categories seemed useful. (op.cit. p. 551-552).

Transcripts were summarized in more "readable" form, including the key points. Self-memos were used during the interviews and through the whole research process. It helped the author to keep on track of important issues of the research process. (op. cit. p. 554-555).

After transcription the data collected from interviews was categorized. By categorizing the data in smaller chunks of text with proper descriptive topics the data had better access for analysis and easier to rearrange into analytical categories. Data can be categorized in concept driven or data driven categories. Author decided to use concept driven categorize with the data based existing theory and literature. (Saunders et al. p.557-558). By categorizing the data, author was able to engage with data which helped in the analysis process. By understanding the data, it was easier to rearrange the data, gain new insights and even suggest new ones. (op.cit. p. 560)

Content analysis was chosen as the analysis method for this thesis. According to Tuomi & Sarajärvi (2004) content analysis is a scientific method that aims to conclusions especially from verbal, symbolic and communicative research data. It aims to analyze documents both systematically and objectively. Documents analyzed can for example interviews so it is relevant method in this research. However, the documents has be transcribed in written form. (Tuomi & Sarajärvi, 2004).

Kyngäs & Vanhanen defines the aim of content analysis to seek different meanings of the research data. Content analysis can be divided in two methods; analysing content and content breakdown. Analyzing means that the results are described verbally. Content breakdown then aims to describe the content in quantitative form (Kyngäs & Vanhanen, 1999) In this research the Analyzing method is more favorable since research was conducted in two interviews.

The goal of analysis is to establish a verbal and distinct description of the phenomena. Simply put, it is about organizing the data in compact and distinct form.

The unit of analysis can for example a word, combination of words or big picture depending on the research. (Tuomi & Sarajärvi, 2004).

Content analysis contains following actions; material reduction, clustering and abstraction. In material clustering the original material is analyzed in detail in order to find similarities and differences from the data. Similar concepts are classified and combined as one named class. Abstracting is about separating the relevant data from the research material. By creating common concepts the researcher establishes a description of the research and compares the theory and conclusions to the original material when creating new theory. (Tuomi & Sarajärvi, 2004)

## 4 Findings

Similar answers were categorized under subheadings which represented a similar content received from the interviews. By categorizing the author aimed to clarify the research results and highlight the topics discussed in the interviews. In qualitative research, the researcher has to explore, analyze, synthesize and transform the data so that it is in accordance with the research objectives and answers to the research question. (Saunders et. al. 546.)

The participants in the research interview were Mikael Kolehmainen, Jussi Mikkola and Petteri Ahonen. Kolehmainen is the CEO of TrademarkNow with experience as a trademark and IP attorney for eight years. Now he is active in the field of trademarks and branding. Kolehmainen provides trademark services for international brands. "TrademarkNow provides an intelligent web-based trademark management platform that is used by enterprise companies, law firms and branding agencies for instant trademark search and watch results." (TrademarkNow, 2016)

Jussi Mikkola is a European trademark attorney at Papula-Nevinpat and also a partner in the company. Mikkola's career in the field of IP started in the year 2002 by enforcing companies' trademark patents and domain names. During year 2003-

2004 Mikkola worked in the Office for Harmonization in the Internal Market (OHIM). In the years 2004-2007, Mikkola worked as trademark attorney in a Finnish patent agency. In 2007, Mikkola rejoined Papula-Nevinpat and is currently responsible for preliminary examinations, including trademark strategies, domestic and foreign trademark registrations, international trademarks, USA registrations, agreements, disputes, oppositions, appeals, infringement cases, protection and defense. (Papula-Nevinpat, 2016)

Petter Ahonen, the founder and former CEO of ZeroPoint Finland Oy. ZeroPoint has been working with high-quality sports compression products since 2009 and created a strong position in Finland. The next step for ZeroPoint is attracting international markets.

#### 4.1 Trademarks

According to Kolehmainen, entering new markets is always a challenge. The possibility that a certain trademark is already registered in the new region has increased. As an example he uses China which is the most attractive market with potential customers, and brands love it. However, in China the trademarks are often already registered, and the only way out is by means of negotiations and payments. Mikkola suggests that when entering new markets with a trademark, it is recommendable to find the similar trademarks before acting on the market in order to secure that there are no conflicting cases. Mikkola summarizes the challenge in a sentence "When in Rome, do as the Romans do". This means that one needs to remember that in every market there is a possibility that someone else will have a similar trademark, and the brand and trademark owner needs be ready to take proper actions.

Kolehmainen also states that the increased number of trademark applications has created a very challenging environment for finding a risk-free trademark name that does not infringe other, already existing trademarks. Trademarks need to pass likelihood of confusion analysis, what monitors similar marks in visual, conceptual

and product level. This leads to a situation in which it is more challenging to have a trademark application filed. It is also difficult to make one's voice heard from the massive cluster of trademarks. Mikkola adds that a "catchy" name is a good starting point for establishing a strong protected brand.

#### 4.2 Brands intellectual property management

Today's trends show that brand and trademark owners are more responsible for taking care of their trademark. Trademark offices, then, offer monitoring services that actively look for potential infringements and upcoming cases where the trademark owner should avoid infringing others or take action if someone is infringing their rights. Both Mikkola and Kolehmainen agree that it is important that there is someone monitoring a brand's intellectual property rights. Of course, the major elements of the intellectual property depend on the field of business and the business strategy.

Kolehmainen and Mikkola agree that intellectual property is a company investment just like marketing. According to Mikkola, a brand's intellectual property should be an ongoing process as the brand grows and develops. The financial expenses can be allocated to several years. Kolehmainen sees that intellectual property should be included in the brand management strategy just like marketing in order to create goodwill for the brand. Like marketing actions, a brand's intellectual property should be included in the brand strategy. According to Kolehmainen, a protected trademark will create more goodwill and value for the brand, compared to, for example, a brand logo or slogan.

Mikkola states that the major issues with a brand's intellectual property are the trademark and patent application filing dates and registrations. Brand owners want everything to be done as quickly as possible, but the reality is that it takes a long period of time, even a year. Another issue that Mikkola sees is that brands tend to "lock" their trademarks at too early a stage, before there is actual research done on other possible similar trademarks with the risk of the likelihood of confusion.



### 4.3 The value of research and development (R&D) in brand management

In a b2c environment, both Mikkola and Kolehmainen agree that a trademark is often seen as the actual end-product. An example Kolehmainen uses Apple's iPhone.

iPhone can be seen as an extension of the brand that the consumer will buy no matter what Apple does. Mikkola sees that since the actual product can be a brand, an effective R&D process can increase brand equity. He also sees that especially in the Finnish companies R&D and marketing are separate from each other. A closer cooperation between the brand designers and R&D can create better brand equity and strengthen the brand image. According to Mikkola, R&D should be tied to the brand message.

Kolehmainen states that R&D offers a possibility for a brand to create a product or service that meets the customer needs more efficiently. R&D can also be seen as an extension of a brand since it aims to create goodwill for the product or service, and in b2c, as mentioned earlier, a good product creates goodwill for the brand.

In b2c, Kolehmainen sees a challenge in today's industry. Often the b2b businesses services are more common than products. Brands then might create such a superior product that is not in line with the customer needs and demands or the brand image answering to the question "what the brand is about".

### 4.3 Counterfeits and piracy

Counterfeits are very common in today's massive industry of various products and services. Mikkola states that the fact is that if a company has an attractive brand and product, others will definitely copy it. According to Mikkola, a good a unique trademark name is a foundation for starting on the right track with a successful intellectual property protection for a brand. He also adds that cooperation with customs counterfeit surveillance is possible, and that today there are various technological ways which brand-owners can use to protect their product. This can be

done by adding a feature, such as a watermark or hologram that confirms the authenticity of the product.

Kolehmainen highlights the importance of trademark monitoring as a tool for avoiding the possible infringements of other similar trademarks. Effective trademark monitoring also helps a brand to find similar trademarks and counterfeits in the market which can be seen infringing the brand's intellectual property rights.

Kolehmainen suggests superior service as a possible solution for minimizing counterfeits. By creating such a superior product, the markets and customers will not accept any type of counterfeits of the brand. However, this concept can be challenging in today's highly competitive and content industry.

#### 4.5 China as an example market

According to Kolehmainen China as a market is "a huge black box", where brand do not always know what to do and how. China as a market still is large and full of potential customers and Kolehmainen describes; "brands love it." The challenge in China is that before you have even entered the market with your brand, it has been already registered by someone else. As a brand owner, you find yourself in a position where your trademark has been already taken. In these cases the only way out negotiating and payments.

Mikkola states that China is a very important market since many companies have their production located in Asia. Whether like it or not, the percentage of getting infringed in China is higher than in other regions. This highlights the importance of protecting your trademark, otherwise you cannot operate with your brand. In addition, another challenge in China is the local language and finding legit databases of local registered trademarks. However, according to Mikkola China has developed more effective law system and the court system is working better today.

During the interview Mikkola informed that he will publish a blog post about the Chinese Intellectual Property Rights with a topic "The best time to plant a tree was twenty years ago. The second best is now", with a different point of view that has been written earlier. He recommended to include the blog post as a part of the interview material. Mikkola refers to a case Minna Parikka, where Finnish designers

brand and trademark was "hijacked" in China. According to Mikkola it is common knowledge that Chinese are copying western brands, and the possibility of infringements is more frequent. Mikkola asks that how such valuable brands have not considered their intellectual property protection and "got caught with their pants down?" In many companies the reason behind the unprotected brand saving in costs. Mikkola states that the common attitude seems to be that there is no use to protect a brand in a country where the locals do not respect the Intellectual property rights. However, Mikkola highlights that in this situation, the most cost-effective and often the only possible legal way of protection is to register your brand. As a summary Mikkola states: "So instead of wailing take action! Don't let your brand be hijacked. If you haven't done so already, it's not too late to give your brand proper protection it deserves." (Mikkola, 2016).

#### 4.6 Brand-owner perspective

According to Petteri Ahonen from ZeroPoint the importance of trademark protection is getting more important also in their field of business as compression product manufacturer. However, he sees that it is not that highlighted as in other field of business, yet. Ahonen thinks that the most important aspect of trademarking is to have relevant rights in correct product classes and categories.

Brands need to grow bigger before the value of trademark protection becomes more important asset. However, Ahonen agrees that when there is an interesting product on the market, the similar products will appear from other competing brands, and it is very common. As Mikkola stated, when there is an attractive brand on the market, others will copy it. Ahonen states that more effective trademark and design monitoring is highly important but for smaller brands with lack of resources it is often a challenge.

Research and Development is valuable asset for brands. According to Ahonen the product and the brand need to meet the demands and expectations of today's trends in the industry. R&D creates credibility for the brand and the customers and target audiences see it as a valuable benefit. Brand are always compared to each other in

the same product category. In other words, R&D done correctly creates positive image and credibility for the brand.

ZeroPoint has faced some challenges with their Intellectual Property strategy. Ever since the brand has applied for a global trademark registration, they have faced charges in several countries. One of the main reasons is that the brand name "ZeroPoint" consists of two generic words, which has caused challenges to register the trademark. Ahonen states that it is difficult to get the application through in wide categories such as "clothing". It is easier to file a trademark in more concise category as in ZeroPoint's case "compression sock". ZeroPoint has filed their first patent and so far have not received any charges or other challenges. A general challenge with sportsbrand's Ahonen sees the high level of competition and the cluster of various "textiles" in the field of business.

ZeroPoint uses trademark specialist in their Intellectual Property strategy, which is responsible to maintain the trademark related issues. However, ZeroPoint as a brand is responsible for monitoring their design rights and possible infringements.

ZeroPoint aims to continue with more effective and wider trademark protection in future, but Ahonen sees that the brand design protection should be in main focus.

## **5 Discussion**

The discussion is based on the answers was based on the results stated in chapter four. The answers of the interviewees had similar opinions and understanding of current situation around intellectual Property rights and its relation to brand management. However, every participant had also important insights for the interview results. In this chapter the author as a researcher aims to understand the research results for own point of view (Tuomi & Sarajärvi, 2004)

The research was divided in two interviewee groups based on their background and knowledge of the topic. In the first group the both interviewed were attorneys

specialized in trademark law. Another aspect was an interview from a brand-owner, in order to have perspective from that practical experience.

## 5.1 Summary of findings

The summary of findings was based on the answers from previous chapter. Interviewees had similar opinions and experiences from the industry, intellectual property management and brand management but each interview offered their own valuable insights.

The main points that the trademark specialist presented were that the brands Intellectual Property strategy should be an ongoing process that should not be underrated in today's high level of competition and cluster of various brands. Intellectual Property strategy should be seen as an investment that creates value for the brand just like marketing. Also the potential new markets with potential customers are great opportunity for brands. However, when the brand decides to enter new unknown markets, the intellectual property rights become even more important. Both trademark specialist emphasized this aspect and used China as an example demographic. In China it is common knowledge that the level of infringements and counterfeits is higher. Also so-called trademark "hijacks" are more common. In new markets that are unknown territories the brand need to find right tools to control their intellectual property and be aware that there are people willing to benefit of your brand. However, it does not mean that it something you need to just accept. That is why the early stage actions of protecting your brand and trademark comes important. Brands cannot assume that their strong position in current markets will be similar in new markets. The brand has been presumably already notified in the markets and there might be already similar brands that have same type of product or service, and even similar intellectual property rights.

When talking about brand and intellectual property, the main key is in trademarks. Other intellectual property elements are more focused in other levels of company's product of service production or innovation. Trademark is the name and logo that determines you on the marketplace and your brand is generally most recognized

from the trademark name. All participants agreed the importance of unique trademark name as a foundation to succeed. It offers the brand to differentiate from others and creates long-term benefits for the company as the brand grows.

As suggestions and effective tools for starting, and keeping the brand in right track is to start with a catchy trademark name and monitor possible similar trademarks that might create likelihood of confusion. By being aware of other potential similar trademarks brands can do right decisions before facing challenges in the markets. However in addition, it is very plausible that attractive brands are always copied and in this case an unique name is not enough to avoid to be infringed. As a possible suggestion for minimizing the infringements is to drive your brand elements and products or services in superiority level, so that the markets just will not accept any type of copy of the brand. As Lemper states, the trademark audits are crucial knowledge in order to make sure the that it fits together with the brand, product or service. Also in trademarks strategies, the trademark system is relevant in order to be able to control brand intellectual property rights.

Brand protection strategy should be included as an important part of the company's strategy. Brand Intellectual Property strategy should be at least in same level of importance as marketing strategy. In today's high and continuously increasing level of competition Intellectual property rights create great value for the brand and makes sure that you can take action against infringements.

It seems that there are still lot to do in order to manage your brand intellectual property as a valuable asset for businesses. As stated, today's high number of brand in same category of business and continuously increasing competition emphasizes the value of intellectual property right order hold current position in the markets, and well managed intellectual property strategy and its management gives brands at least an opportunity to avoid infringing other brands and also gives opportunity to take action against counterfeits or infringements towards them. Larger brands are more resourceful to take action against individual cases, when smaller brands need to build their brand protection according to their resources in financial matter.

## 5.2 Limitations

The author had to ensure that the interview by its nature was consistent with the research topic and research questions. (Saunders et al. P.372) Author ensured that the research had reliability. The reliability was covered by choosing proper sources of theory from well-known authors. Author was also aware of possible issues of bias during the research. Firstly, the interviewer bias, including the comments, tone of voice or non-verbal behaviour that could affect the way how the questions were asked during the interview. (Saunders et al. p.381) Since the research included three interview participants, the participation bias was also taken in consideration. The participation bias may limit the participant's willingness to take part in the research, which then may limit the data collected during the interviews. (Saunders et al. p.381-382). However, all participants were willing to be interviewed and the time and way of interviewing of conducting was agreed based on the schedule of the participant, in order to make them feel comfortable when interviewed. Interviews were conducted via Skype call, telephone call and email interview, based on the wishes of the participants. Author was aware of possible challenges that may occur when using internet and phone as a interview channel. Author had to make sure that the internet connection was stable and the venue of interview was silent and had no limits in time of usage. Before each interview, author made sure all the equipment needed for the interview worked smoothly. Interviewees were informed beforehand about the interview topics and estimated schedule by email, so each interviewee were able to prepare themselves. Since each interview was conducted in english, author made sure that authors own pronunciation was clear, and the questions asked were clear. Each interviewee was able to be interviewed in english, and were able to express their answers with proper content. Some small corrections had to be done, by verifying from the interviewee that did the author understand correctly what the answer included.

Authors level of knowledge of the research topic effected the interview process and its results. During the theoretical (Saunders et al. p. 834) Author wanted to explore the phenomena and gain personal knowledge and understand the main points of current situation of the value of intellectual property rights in brand management. It had both positive and negative impact. A positive factor was that the author was

interested and motivated to seek data of the topic and strengthen personal knowledge of the research topic. A negative factor was the topic was relatively wide and complex; including two large entities Intellectual Property Rights and Branding. However, the author wanted to conduct a research of a current and important phenomena and therefore create a challenging topic for gaining special knowledge.

Limitations that the author noticed after interviews were completed, were that in some probe questions used to gain deeper data could have been even more detailed. The authors lack of experience in semi-structured interviews caused this limitation, but also gave strong understanding of the process. Author expected that the interviews would be done in relaxed mood, in order to have interesting discussions and so gain more information. Interviewees were, positively, willing to answers the interview questions and they saw the research topic very useful and timely.

## **6 Conclusions and Future Suggestions**

In this research the aim was to explore the current situation of the impact of intellectual property rights in branding, and in order to have somewhat general image of the situation the interview was suitable method. The literature about Intellectual Property was easily found from the official websites of intellectual property rights such as WIPO. Brand literature was more theoretical and the review had more workload in order to have proper theory to support the research. However, large amount of literature and advisement from several people lead to great outcome during collecting the theoretical background for this research.

The research aim was to explore the research topic based on following research questions:

1. What is value of intellectual property rights for brand management?
2. How intellectual property rights can be used as a tool in brand management?

The first question was based on the content of the interview questions asked from the participants. During the interviews the author had main themes in the questions, added with probe questions in order to gain deeper data. The expectation was that



none of the participants will have similar opinions in every question. However, after the interviews were completed and data was analyzed, both trademark attorneys had quite similar thoughts about current trends in today's industry. As the most important example, the value of intellectual property rights in brand management is a great asset in high level of competition, that should be seen as an investment for the business. Both agreed that just like marketing strategy and financial investments in marketing, the intellectual property of the brand should be included to the company strategy. As the competition increases, brands have to be innovative, upgrade their product or service, and also protect them. In order to maintain the competitive advantage and value for the brand, brand owners need to aware the brand and trademark has to be under continuous development and upgrade. As both trademark experts agree in interviews, a catchy and unique trademark or brand name gives strong foundation for successful intellectual property management.

The trend is that brand owners are more responsible to maintain and manage their intellectual property issues. As a conclusion, brands then need to have workforce which understand the importance of intellectual property as an asset, and also have the skills how to manage and monitor the brands intellectual property rights. From the brand-owner perspective, it is important to be aware of intellectual property rights as an valuable asset. Depending on the resources, brands should manage their intellectual property strategy in best possible level so that at least the trademark and design is protected. Brand-owners need to understand that once there is an attracting product on the market, others will copy it. Also the risk of getting infringed increases. However, effective management and monitoring of intellectual property rights will at least limit the possible harm that counterfeits or infringements may cause for the brand. Intellectual property rights is an asset that offers stronger and stable future for the brand as it grows. By successful efforts in brand management together with intellectual property rights, the level of leverage in brands competitive advantage can be increased. Protected trademark, for example will create more goodwill and value for brand than the logo or slogan.

As suggestion for future, brand audits, consumer feedback documentation and effective mystery shopping could be valuable data that helps to manage and monitor the brand with better outcome. Future suggestions for avoiding, or at least

minimizing counterfeits and piracy, brands should adopt new technology to strengthen authentication of their products. Brands can also design a product with such superior features, that the markets and customer's will not accept any type of alternatives.

According to the authors own point of view, the research answered well in the research question. Interviewees impact for the research was in high importance in order to gain data results. The research could have more participants in order to have even more detailed data from the field on trademark and intellectual property in general. All the data received through interviews was very valuable and had great insights about today's industry. In addition, this research was the very first conducted by the author, which gave great experience for future.

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## Appendices

### APPENDIX 1: Interview questions for Kolehmainen and Mikkola

<p>Background question</p> <p>Taustakysymys</p>	<p>Who is interviewed, profession, specialities etc.</p>	
<p>1.How would you describe the importance of IPR and the strategy for todays brands?</p> <p>Miten kuvailisit immateriaalioikeuksien tärkeyttä ja IP strategiaa brandeille ?</p>	<p>What are the major issues</p> <p>And main key points.</p>	
<p>2. What are the challenges today in IPR for a brands and companies in general?</p>	<p>Patents, TMs, Design rights, copyright,</p> <p>Where brand tend to fail ?</p>	

<p>Mitä haasteita nykypäivän yritykset ja brandit kohtaavat ?</p>	<p>Is there common trends that repeat?</p>	
<p>3. How would you describe the value of R&amp;D process in the company's brand equity?</p> <p>Miten tärkeäksi näet tutkimus ja kehitystyö prosessia brändipääoman näkökulmasta ?</p>	<p>Innovations management Future?</p>	
<p>4. What are common challenges in IP strategy from the aspect of Brand Management?</p> <p>Mitkä ovat yleisimmät haasteet IP strategiassa brändin hallinnoinnin/ johtamisen näkökulmasta? (Brand Management)</p>		

5. What could be (one) way to avoid, or at least limit and minimize piracy and counterfeits in future?		
6. Do you see any changing trends in todays industry from the aspect of IPR?	Upcoming 5 years?	
7. Anything to add?		

## APPENDIX 2: Interview questions for Ahonen

<p>Background question</p> <p>Taustakysymys</p>	<p>Who is interviewed, profession, specialities etc.</p>	
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<p>Miten kuvailisit immateriaalioikeuksien tärkeyttä ja IP strategiaa brändillenne?</p>	<p>What are the major issues</p> <p>And main key points.</p>	
<p>2. Mitä haasteita näet Brändillänne immateriaaliloukkauksien osalta ? (Väärennökset, kopiot, tavaramerkkiloukkaukset) Mitä muita ? Kuinka yleisenä pidät niitä ?</p> <p>Mitä haasteita nykypäivän yritykset ja brandit kohtaavat ?</p>	<p>Patents, TMs, Design rights, copyright,</p> <p>Where brand tend to fail ?</p> <p>Is there common trends that repeat?</p>	
<p>3. Miten tärkeänä mitä tutkimus ja kehitystyötä brändin vahvistamisena näkökulmasta</p>	<p>Innovations management</p> <p>Future?</p>	
<p>4. Onko brändillänne tällä hetkelle selkeitä haasteita immateriaalioikeus strategiassa? Onko jotain selkeää haastealuetta ?</p>		
<p>5. Toteuttaako Brändinne</p>		

<p>brändistrategiassaan immateriaalioikeusloukkauksia ennaltaehkäisevää tai vähentävää toimintaa( tavaramerkit, design) ? Mikäli kyllä, osaatko antaa käytännön esimerkin?</p>		
<p>6. Onko retkeily/urheilubrändeillä yleisesti selkeitä haasteita tavaramerkkien ja muiden immateriaalia koskevien osa-aluiden kanssa?</p>	Upcoming 5 years?	
<p>7. Anything to add?</p>		

## Figures

Figure 1: From brand awareness to financial value

Figure 2: Brand triangle

Figure 3: The Framework for brand management

Figure 4: Brand awareness pyramid