

TRADEMARKS AS POWER MEANS IN INTERNATIONAL RELATIONS

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Abstract: The paper studies the role of trademarks in the international system of power. Trademarks are an important asset to a company who struggles to develop and impose it on the market. States are not indifferent to these trends because they have certain benefits after a trademark. The connection is analyzed from the point of view of hard and soft power because a trademark for a state represents soft power or the power of an image and it tries to protect it by the means of hard power, meaning imposing legislation and restrictions to other states.

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1. INTRODUCTION

The concept of power is a very complex one, and has implications in many different fields. Power can be analyzed on many levels and can be defined in many ways, based on the point of view that the analyst chooses as a premises. The idea of power was discussed in all the historical ages and great philosopher such as Thucydides, Plato, Machiavelli, Hobbes and many others struggled to find its meaning. Either we see the problem of power at an individual level as Hobbes did, or at an international level as international relations theoreticians do, a common point arises: the struggle to accumulate-it, and to maximize-it¹.

The idea of power can be seen in the field of international relations, as a mean to impose something to other states. Initially this was done through military force, but gradually the term power was extended to economics, sociology, law, resources. Nowadays the term comprises all the elements that can influence the international relations system: military capabilities, population, territory, wealth².

2. SOFT POWER AND TRADEMARKS

The international competition for power takes place on two levels regarding how to obtain the desired results. Thus, Robert Keohane and Joseph Nye, define two forms of

¹ Jackson Robert, Sorensen Georg, Introduction to International Relations. Theories and approaches, Ed. Oxford University Press, New York, 2007

² Baldwin David A., "Power and international relations, in Handbook of International Relations", Ed. Sage Publications, London, 2002, p. 177-178

power: hard and soft³. Hard stands for the capacity to impose something and soft for the capacity to attract. These two forms of power are evident when we analyze the role of trademarks in the international system.

Soft power is the power to attract other international actors towards one international player. Germany is associated with Mercedes, Audi, and VW, which in terms of power means that it draws a picture of technology and quality or as Wally Olins calls it the “Germany means motor industry”⁴; Japan attracts through Sonny, Panasonic, which generates the idea of the sophisticated technology that this country has to offer. Trademarks are identified with their country of origin and serve as a vector of a certain image.

In the present context, when trademarks are accumulated mostly in the area of transnational corporations, states that generate marks have an advantage because they develop their image through others resources. For example, in France Disneyland promote in Europe a certain American cultural model. McDonalds, while adapting to local requirements by recipes changes and other specific elements, propagates a cultural model, the American way, in all the countries where it can be found.

In fact Robert Keohane and Joseph Nye referring to soft power, state: “it functions determining others to respect or accept the rules and the institutions that lead to the aimed attitude. Soft power can have to its basis the attractiveness of one’s own ideas or culture.”⁵ Marks tend to enter a nation’s culture, identifying it with a certain way of life. So we have the American way of life which is best described by some trademarks as Coca-Cola, McDonalds; the Italian way of life with the pasta like Barilla, and cars like Fiat; the German way of life and so on. The fact that must be stressed out is that generally only the well developed countries manage to impose their culture to others, fact explainable, maybe, by the context that they offer a way of life desirable by other countries citizens.

This could be the reason why the communism wanted to exclude all the elements of capitalist culture, blaming and eliminating it from any form of public knowledge. The jeans, Coca-Cola, Pepsi Cola, were only legends of what one or another heard that could exist in the world beyond the communism curtain. In communist Romania, trademarks could be registered only at the initiation of an industrial company, that at the time had entirely public capital, and with the approval of the industrial ministry.

One important aspect should be considered when talking about the role and scope of trademarks: the position of the transnational companies. The transnational companies may be using brands as an array of rapid penetration tools for the local markets. For example, the Renault Group controls a large part of Romanian car market following the acquisition of the company and brand Dacia. In terms of international image, Romania wins by the spread in European countries and in the world, of the Dacia brand. So, multinational use of national trademark, in this example, suggests that a country may benefit from a national brand spread by a transnational company.

It can be seen that between the state and transnational companies it’s a form of interdependence, in gaining after a trademark, thus it is in the both interest to protect this intellectual property element.

This is the situation of the relations between two international actors, meaning states and transnational companies, but a question remains: which is the relation between

3 Keohane Robert O., Nye Joseph S., *Putere si interdependenta*, Iasi, Ed. Polirom, 2009, p. 177-178

4 Wally Olins, *Making a national brand*, in *The New public diplomacy. Soft Power in international relations*, edited by Jan Melissen, New York, Ed. Palgrave, 2007, p. 173

5 Keohane Robert O., Nye Joseph S., *op. cit.*, p. 177-178

small and medium companies with marks that are not yet as big in order to represent a country, and the state in which it starts the business. The state offers a very important asset to a company: the permission to use the indication: “made in”. This indication introduced after the First World War as a mean to distinguish the German products, became an international practice to identify the products made in a certain country. The indication stands for two elements: a fact, the origin of the product, and a subjective perception, meaning a certain perception of the international community in regard to that country. A well-known mark or a middle value one, are both affected by this indication.

As an example the products that have the indication “made in Germany” induce the idea of quality, even if this idea could be proven wrong after a few uses. The products carrying the indication “made in China” are expected to be counterfeits because of the high activity in this part, of the companies in this country, or low quality, even if it could be not so. So this indication could prove to be an advantage for certain marks or a disadvantage for others. It could be fairly stated that marks tend to have a different chance of success due to the premises of the country, that could help a trademark or not, because its own good or bad will.

The importance of the country’s image it is emphasized by the problems caused by the interference between trademarks and geographical indications. So, a trademark that is theoretically produced in Romania but carries the Eiffel Tower as a mark can easily induce into the buyer’s mind a false idea of origin. Generally marks are not registered if they carry a false indication of origin.

Regarding the country’s image Wally Olins emphasizes that the concept of soft power embodied by the national brand can be severely affected by the hard power means chosen by the state⁶. He refers to the case of the United States of America who due to hard power measures has a decrease in image.

In our opinion, for a society where every producer of goods and services competes for attention of the global market, the trademark is a vector that captures a kind of attention, a soft way of spreading and perpetuating the own national cultural-economic model.

3. HARD POWER AND TRADEMARKS

As the trademark by itself can be seen as a resource, a form of soft power, knowingly or otherwise, officially or not, developed countries attempt to protect this resource by the means of hard power. That is to impose a system of international law and international institutions to ensure the protection of trademarks.

In the case of trademarks the first international agreement was realized due to the protest of some states, such as USA, who complained about the lack of protection of inventions in the International Exhibition of Vienna in 1873. This caused an international debate about the way industrial property should be protected. This discussions lead to the Paris Convention in 1883 for the protection of intellectual property.

The Convention was revised several times, Brussels in 1900, Washington in 1911, Hague in 1925, London in 1934, Lisbon in 1958, and Stockholm in 1967, each time the states tried to perfect the protection marks should enjoy. The Convention is completed by Madrid Agreement (1891) for the repression of false or deceptive indications of source of goods, and the Madrid Agreement (1891) and the Madrid Protocol (adopted in 1989 and

⁶ Wally Olins, op. cit., p. 169.

amended in 2006 and 2007) regarding the international registration of Trademarks, Nairobi Treaty (1981) for the protection of the Olympic Symbols, Trademark Law Treaty (1994), and Singapore Treaty on the Law of Trademarks (2006)⁷.

Apart this international acts administrated by World Intellectual Property Organization, we must mention the Trade Related Aspects of Intellectual Property administrated by World Trade Organization, and other regional agreements and legislations such as the ones existent within the European Union.

In our opinion, it is obvious, that the states interest to protect trademarks is high, and the treaties stand as a confirmation for this fact. This protection is extremely necessary because of the unfair competition that some companies promote, and also because some states may have interest in diminishing the economic power of other countries.

In a certain context states seek to remove from the power of the competing states the tool brand, such as the case of Aspirin, a mark that was the subject of compensation for war, thereby reducing the advantage of Germany's pharmaceutical area. Perhaps not incidentally, at the international level, there are powers trying to reduce the force of the brand message, through counterfeiting and forcing brand to enter into the public domain. Perhaps not incidentally, China tolerates infringement of brands, flooding the market with products which trough their questionable quality, reduced the prestige of the brands in question. In fact trademarks are only one component of what is called intellectual property, and is only one facet of a social identity - cultural - economic of a country.

4. THE RELATIONSHIP BETWEEN ECONOMIC POWER AND BRAND POWER

In order to justify our affirmations, we have done a simple analysis based on GDP-brand power correlation as seen in Table 1 Basic correlation between trademarks and GDP.

Table 1 Basic correlation between trademarks and GDP⁸ (billion USD)

Country	Brands (place in top 20) ⁹	GDP 2007	GDP 2008
USA	Google(1), Microsoft(2), Coca-Cola(3), IBM (4), McDonalds (5), Apple (6), GE (8) Marlboro (10), HP (17), Disney(20), American Express (20-2008)	14,077.650	14,441.425
Japan	Toyota(14)	4,380.393	4,910.692
China	China Mobile(7), Industrial and Commercial Bank of China (12)	3,382.445	4,327.448
Germany	BMW (18), SAP (19)	3,328.177	3,673.105
UK	Vodafone(8)	2,800.113	2,680.000
France	Louis Vuitton (19-2008),	2,597.700	2,866.951
Canada	BlackBerry(16)	1,427.190	1,499.551
Finland	Nokia (13)	246.247	271.867

7 World Intellectual Property Organization on www.wipo.org

8 www.imf.org

9 www.brandz.com

Because of the size of this article we have selected only the countries with brands in top 20. Some other countries with top GDP have brands in top 100, but they are not shown here. GDP data are obtained from IMF, but we have chosen not to use GDP for year 2009 because data is only estimate. We have selected latest Brand value top, because except 2-3 brands top 20 was not significantly changed. Between 2007 and 2009 a French trademark (Louis Vuitton) left the top 20 and changed places with Disneyland. The top 20 we use is a compilation between 2008 and 2009 tops, data shown between brackets being from the top of year 2009, except where year 2008 is presented. We did not intend to present a top of brands, but the top brands origin countries.

From the table presented above it's obvious that the most powerful countries economically, have the most valuable brands. The correlation can be seen in reverse angle, as the most powerful brands may generate the most powerful countries. From our point of view it's a chicken and egg type of dilemma. The table presented is just a sketchy image of a more extended study we are undergoing.

The relationship between power and brands seems to be obvious, however we do not imply that brands are the only reason, but they are one of the tools of the trade of being an economic power.

The "made in" formula is also somewhat proven since trademarks originating from powerful economies tend to become powerful trademarks at international level. This top and this presentation do not show the ownership of the capitals that control the trademarks involved, as such data is unavailable.

5. CONCLUSIONS

From what we have shown above results the element that justifies in our opinion the trademark research in the context of international relations, namely that the mark is a soft type tool for the international actors and that their protection is an objective for measures of "hard" type actions. Robert Keohane and Joseph Nye state that the "attracting the attention of others is a prerequisite for using information as a political resource¹⁰". In our opinion trademarks are means of attracting a certain type of attention, the solvable one.

In our opinion, any country that wants to affirm itself on the global markets should support the development of local brands and their internationalization. This will have two side effects: a growth in economic values of the companies doing business in the state, and a growth in image of the national brand of the state. This effect will be mutually beneficial for both parties.

As the brand value top has shown, there is an obvious link between brand origins, and economic power. Trademarks as protected part of the brands are a mean to an end, a mean to promote a country's economic power, both as economic culture and through the value added by the trademark (and brand) value, thus generating a comparative economic advantage in the international trade.

As globalization is expanding, and products are competing on an ever more complicated and complex market, governments should support and promote their own companies trademarks in order to get precedence over unidentifiable goods and services competition.

10 Keohane Robert O., Nye Joseph S, *op. cit*, p. 177-178

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