

Just about every business has a brand whether they know it or not. Your brand may be the reason people are buying your products, despite the availability of equivalent or even better products from competitors. As such your brand is more than just your product name or your logo, it represents the story you tell about your product and your product's perceived point of difference, and is part of your intellectual property.

Despite the importance of a brand, many New Zealand businesses often fail to adequately plan, protect and develop their brands in a systematic and strategic way.

Consider the following:

- Is your brand name distinctive? Brand names which are distinctive will help your business to stand out, and are often easy to protect via trademarking. New Zealand brands such as Orca, 42 Below, Icebreaker have all adopted distinctive names, names which help them to get noticed, be remembered.
- Is your brand singularly focused, and can customers easily identify what your brand's point of difference is? The Warehouse brand is focused on being a low cost retailer, this focus drives their strategy, and is the reason many people choose to shop at The Warehouse. Virgin, one of the UK's most respected brands is involved in planes, trains, finance, soft drinks, music, mobile phones, holidays, cars, wines, publishing, bridal wear - the lot! What tie all these businesses together are the values of that brand and it's attitude. Virgin stands for value for money, quality, innovation, fun and a sense of competitive challenge. When you buy a Virgin product or service you know what you are getting, and how it differs from the competition. Is it easy for your customers to know what your brand stands for, and how you are different from the competition?
- Have you trademarked either your name or logo? Trade marking gives you the legal right to exclusively use a name or logo exclusively. Note a registered trade mark is different from a company name. Incorporating your company with a particular name does not prevent others from selling goods under the same or a similar name. Only a trademark creates a legal right to use a name. Often the easiest trademarks to obtain, and defend are those that are non-descriptive, e.g. Zespri, Janola. It is difficult to register descriptive brand names or names which are surnames or refer to geographic areas. Even if you are able to register a descriptive brand name or surname or geographic area you may have some difficulty in preventing competitors from using similar names. The recent New Zealand trademarking case involving Trelise Cooper and Arrowtown based designer Tamsin Cooper is a good example of this. Tamsin Cooper tried to register her two year old label last year, but Trelise Cooper lodged an objection saying the name was too close to her brand and would cause confusion in the competitive industry. Tamsin Cooper says she is not trying to deceive the public, her brand is her own name and she should be able to continue to use it. Patent lawyers say that trademark registration cases are often settled out of court. But to succeed in court Trelise Cooper will need to prove the public is being confused or misled into buying Tamsin Cooper clothing.

If you plan to export your goods or services around the world, plan now for obtaining trademark protection in the markets you plan to enter. Whilst this might seem relatively costly, it can save the hassle of an expensive re-branding exercise down the track. Many New Zealand exporters who fail to trademark, or check availability of their trademark in offshore markets have found they are unable to use their brand name in selected offshore markets.

- Are your website and email addresses consistent with your brand name? As the amount of real estate on the world wide web increases it is becoming increasingly difficult to secure some brand names as www addresses. If you have registered a co.nz site, you might also wish to secure the com.au or .com versions of your brand name, depending on your future markets.
- Are you consistent in how your brand is portrayed? Brands are not built overnight. Success in branding is measured in decades not years. As such every organisation requires branding guidelines to ensure that your brand is used consistently (e.g. initiative fits with your strategic focus, logo used with same colours, appropriate sizing and placement). While brands can be changed, and may from time to time need updating, these changes should take place relatively infrequently, and with careful consideration.

The advice here is general and should be discussed with your accountant or lawyer who will put this into context around your business needs.

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