

UCL Centre for Law, Economics & Society,
the UCL Institute of Brand and Innovation
Law (IBIL), and the Institute for Consumer
and Antitrust Studies (Chicago)

Brands, Competition Law and IP Law Conference

Friday 2 December 2012
from 2 - 7pm

at the UCL Faculty of Laws,
Bloomsbury Campus, London



SCHOOL of LAW



ABOUT THE CONFERENCE

Brands matter. In modern times, brands and brand management have become a central feature of the modern economy and a staple of business theory and business practice. Coca-Cola, Nike, Google, Disney, Apple, Microsoft, BMW, Marlboro, IBM, Kellogg's, Louis-Vuitton, and Virgin are all large companies, but they are also brands that present powerful, valuable tools for business. Business is fully aware of that power and value. Contrary to the law's conception of trademarks, brands are used to indicate far more than source and/or quality. Indeed those functions are far down on the list of what most businesses want for their brands. Brands allow businesses to reach consumers directly with messages regarding emotion, identity, and self-worth such that consumers are no longer buying a product but buying a brand. Businesses pursue that strategy to move beyond price, product, place, and position and create the idea that a consumer should buy a branded good or service at a higher price than the consumer might otherwise pay. Branding explicitly contemplates reducing or eliminating price competition as the brand personality cannot be duplicated. In addition, this practice can be understood as a product differentiation tactic which allows a branded good to turn a commodity into a special category that sees higher margins compared to the others in that market space. In other words, brands have important effects on competition and the marketplace. Given that both IP law and competition law address business competition, one might expect them to address brands as they fit into each doctrine's areas of concern and that together trademark and competition law would offer a coherent legal regime to manage the way in which brands affect competition. That, however, is not the case.

The aim of this conference is to reflect on the legal and economic understanding of brands by explaining what brands are and how they function, how trademark and competition law integrate brands in their framework and if this is satisfactory, and the role brands play in business competition. The conference will also delve into specific issues raised by branding in the 21st century business competition, such as the challenges raised by online business and the increasing role of private labels in distribution.

This event is accredited with 4.5 CPD hours by the Solicitors Regulation Authority, Bar Standard Board and IPReg.

PROGRAMME

- 13:30 Registration
- 14:00 **Welcome**
Prof. Dame Hazel Genn DBE QC, Dean, UCL Laws
- 14:05 **Brands and Neoclassical Price Theory: Friends or Foes?**
Dr Amelia Fletcher (Chief Economist, OFT)
Dr Peter Davis (Senior Vice-President, Compass Lexecon)
Chaired by Dr Ioannis Lianos (UCL Law)
- 15:20 **Brands in Competition Law I: Private Labels, National Brands and Retail Competition**
Simon Pritchard (Allen & Overy LLP)
Christian Ahlborn (Linklaters LLP)
Simon Baxter (Skadden Arps, Slate, Meagher & Flom LLP)
Chaired by Professor Spencer Weber Waller (Loyola University of Chicago)
- 16:20 Coffee Break
- 16:40 **Brands and the Interaction between Competition Law and Trade Mark Law**
Professor Spencer Weber Waller (Loyola University of Chicago)
John Noble (British Brands Group)
Dr Ioannis Lianos (UCL Laws)
Chaired by The Rt Hon Sir Robin Jacob (UCL Laws)
- 17:40 **Brands and IP Law**
Deven Desai (Google, Inc)
Dr Dev Gangjee (LSE)
Tony Appleton (Procter & Gamble)
Chaired by The Rt Hon Sir Robin Jacob (UCL Laws)
- 18:50 Closing Remarks
- 19:00 - 19:45 Reception

ABOUT THE SPEAKERS

CHRISTIAN AHLBORN is a partner in the Competition & Antitrust Group of Linklaters in London. Christian studied law and economics at the Albert Ludwigs Universität Freiburg and obtained a Licence in Economics from the Université Paris I and an LL.M and an MSc in Economics from the London School of Economics. He is qualified as a Solicitor in England and Wales and as a Rechtsanwalt in Germany. Christian specialises in EC competition law, EC state aid control, UK competition law and German competition law. Christian has worked extensively in network industries, in particular the software industry and electronic financial systems. Christian has particular expertise in abuse of dominance cases and is involved in several industry working groups on the reform of the Article 82 regime in Europe.

SIMON BAXTER is co-head of the European Antitrust and Competition practice at Skadden Arps, Meagher & Flom LLP. He has extensive experience of European and international antitrust regimes and focuses on the antitrust aspects of mergers and acquisitions, as well as advising businesses on regulatory investigations and other compliance issues.

He has counseled clients such as Barclays plc, CHINALCO (Aluminum Corporation of China), General Electric, InBev, Kraft, Macquarie, Nokia Siemens Networks, Novell, Oracle, Philip Morris International and Yahoo! on merger investigations and compliance matters before the EU Commission, the Anti-Monopoly Bureau of China's MOC and other agencies worldwide. He advised Novell on the sale of its intellectual property portfolio to Microsoft Corporation, and is currently advising ArcelorMittal S.A. on its proposed joint bid for Macarthur Coal Limited.

DR PETER DAVIS is a Senior Vice-President at Compass Lexecon and has substantial and varied experience in economic consulting applied to competition policy and also regulatory investigations. Most recently he served as Deputy Chairman of the UK Competition Commission, 2006-2011. In that role he was a board member of the CC and acted as Chairman for inquiry groups investigating mergers, markets, reviews of undertakings and also considering appeals against regulatory price control decisions. He has also recently served as President of the Association of Competition Economists (2009-2011). Peter received his PhD in economics from Yale in 1999 and served on the faculties of MIT (1998-2002) and LSE (2002-2006) before joining the CC. While an academic he contributed to a variety of antitrust cases in the UK and his experience included testifying before both the High Court and also the OFT. He also provided advice to the CC on a variety of cases via membership of their panel of expert academic economists (2004-2006). His academic work includes contributions to a number of leading academic journals and his book, Quantitative Analysis for Competition

and Antitrust Investigations (joint with Eliana Garces), was published by Princeton University Press in 2010.

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DR AMELIA FLETCHER is Chief Economist and Senior Director of Mergers at the Office of Fair Trading. Amelia Fletcher combines two roles at the OFT. She has been Chief Economist since 2001 and became Senior Director of Mergers in late 2008. As Chief Economist, her primary responsibility is to ensure that the economics carried out within the OFT is of high quality and represents state-of-the-art thinking. As Senior Director of Mergers, she heads up the UK's Phase I merger control. Amelia has presented and written on a variety of competition policy issues. She was previously an economic consultant at Frontier Economics (1999-2001) and London Economics (1994-1999). She has a DPhil, MPhil and BA(Hons) from Oxford University.

DR DEV GANGJEE joined the LSE as a Lecturer in 2005, with a primary research interest in Intellectual Property. He is a graduate of the National Law School of India (BA, LLB) and the University of Oxford (BCL, DPhil), where he was a Rhodes Scholar. Dev is presently an Associate of the Oxford IP Research Centre and a Research Affiliate with IP Osgoode. He has advised both governments and law firms on intellectual property issues. Dev's research focuses broadly on Intellectual Property, but with a special emphasis on property interests in signs and the legal regulation of communication. This includes Trade Marks, Geographical Indications and Domain Names. He's presented research on Geographical Indications in Japan, the UK, the US, China and India and is currently writing a monograph (CUP), while also editing a volume (Edward Elgar) on this subject. Additional research interests include the political economy of IP, collective innovation, IP and development and the protection of Traditional Knowledge. Dev is a qualified advocate and Member of the Calcutta High Court Bar. He was an Invited Researcher at the Institute of Intellectual Property, Tokyo in 2005 and is a Research Fellow of the Oxford Intellectual Property Research Centre

DR IOANNIS LIANOS is a Reader in European Union Law and Competition Law and Economics at the Faculty of Laws, University College London (UCL) (since 2005), the Director of the Centre for Law, Economics and Society and the co-director of the Institute of Global Law, the Centre for Law and Governance in Europe and the Jevons Institute of Competition Law and Economics at UCL. Ioannis is the co-editor of the Global Competition Law & Economics Series published by Stanford University Press. His book, published in French in 2007, on the Transformation of competition law by economic analysis of law (Brussels, Bruylant, XIX+1698 pp) earned the Emile Girardeau prize of the French Academy of Social Sciences (Académie des Sciences Morales et Politiques). He is currently

coauthoring a book on Private Enforcement - A Global perspective (forthcoming Oxford University Press, 2012), a book on Competition Law Remedies in Europe (forthcoming Hart Pub, Oxford, 2012), a casebook in EU and UK competition law (forthcoming Hart Pub., 2012) and has published widely in European law and competition law, including five edited volumes (including the forthcoming Research Handbook in EU Competition Law, Edward Elgar and The EU After the Treaty of Lisbon, Cambridge Univ. Press), a number of chapters in collected volumes and articles in generalist and specialised in competition legal journals. His recent research focuses on the impact of the emergence of forensic economics and economists on the evolution of economic thought and on the assessment of economic evidence in courts.

JOHN NOBLE is Director of the British Brands Group, a membership organisation that provides the collective voice for brand manufacturers in the UK. The Group was founded 11 years ago to promote the values and benefits of brands to consumers, the economy and society, as well as to represent brand manufacturers on policy issues. John is a Chartered Marketer whose marketing career started with British Airways before moving into marketing consultancy with Marketing Solutions. He then became Head of Marketing for Hamptons, the firm of estate agents, and held a senior marketing role with Bristol & West International.

SIMON PRITCHARD is a Partner at Allen & Overy LLP. He joined Allen & Overy LLP in 2009 from his previous post as Senior Director, Mergers, at the Office of Fair Trading (OFT) and a member of its Senior Executive Team.

In government, Simon held prime OFT responsibility for deciding which UK transactions should be subject to in-depth Phase II inquiry or OFT remedial settlement; he also represented the UK government in complex EU merger cases and defended OFT cases in litigation. He was involved in over 140 complex merger and antitrust cases including the four bids for the London Stock Exchange, BSKyB's stake in ITV, the InBev/Anheuser-Busch merger, and the credit card interchange fee cases.

Before joining the OFT, Simon spent several years practicing US antitrust law in Washington DC and EU competition law in Brussels. Simon is the editor of Parker & Majumdar, UK Merger Control (Hart, 2011), the leading textbook in the field, and speaks regularly at conferences. He is a current International Competition Network Non-Government Adviser (ICN NGA) to the OFT and also served as ICN NGA to the US Federal Trade Commission.

SPENCER WEBER WALLER is Director of the Institute for Consumer Antitrust Studies at the Loyola University Chicago. Professor Waller served as a staff law clerk for the U.S. Court of Appeals for the Seventh Circuit. He also worked for the U.S. Department of Justice, first as

a trial attorney in the Foreign Commerce Section of the Antitrust Division and later as a special attorney in the Chicago Strike Force of the Criminal Division. He then practiced at the Chicago firm of Freeborn & Peters. He was a full-time faculty member at Brooklyn Law School for ten years until joining Loyola in 2000.

Name:

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The fees are as follows:

Standard Ticket: £50

UCL / Chicago Alumni: £40

Non-UCL / Chicago U. Student: £5

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Substitutions can be made at any time.