

Business Law & Tax Review

Corporations flex brand muscle

Top-performing brands continued to increase in value despite the global financial crisis

DON MACROBERT

Edward Nathan Sonnenbergs

THE Best Global Brands 2009 report has just been published and lists, in order of priority, the world's best valued brands.

The Top Ten list starts with Coca-Cola, followed by IBM, Microsoft, GE, Nokia, McDonald's and then ends with Google, Toyota, Intel and Disney.

The top three — Coca-Cola, IBM and Microsoft — were also the top three best valued brands last year.

What is encouraging is that the 2009 annual report shows that the value of many brands has actually increased over the past year, despite the world recession. The best, perhaps, was Coca-Cola (as an example). Also, although Microsoft lost ground in the rankings to IBM, its overall value was not impaired and, in fact, the value has increased.

The report also shows that the values of banking companies in the financial services markets have lost billions of dollars and most of this is attributed to the banking and financial crisis. Overall, the top 100 brands have lost around 4.5% of their worth since 2008, according to the InterBrand survey.

However, away from financial services, the report says that the top-performing brands continued to increase in value, adding millions of dollars to their value. Google, for example, was the fastest riser, adding another quarter to its brand valuation, and next was Amazon, adding 22% to its brand valuation.

Also, Nestlé added 13%, or \$727 million, to its value, while Apple moved up four places. The best-performing motor vehicle brand was Ferrari and it is

clear that, despite the recession, there is still a demand for luxury cars.

All in all, despite the financial crisis, many of the brands, outside of the financial sector, have maintained their positions or even increased. This emphasises the importance of brands and the need to register, protect, market and use them correctly.

The importance of trademarks is that they are the fingerprint a trader leaves in the marketplace to identify its goods or services and to distinguish its goods or services from those of its competitors.

One has noted that the South African corporate world is not quite so attentive to the protection of its intellectual property and many companies do not always register their trademarks. Indeed, our own survey of the South African situation showed that, apart from the major players, only 40% of the commercial world ever thinks of registering its trademark. This amounts to a disregard of what is perhaps the greatest asset of a company.

The importance of registering a trademark is best underscored by the former in-house lawyer for Coca-Cola who, at a speech in Florida, said: "You can burn down my factories; destroy my bottles; burn the delivery trucks; smash the coolers in which the drinks are kept for retailing; destroy it all. But give me one thing; give me that certificate of trade mark registration. And based on that alone, I will be able to go to the banks and pledge my certificate of registration as collateral to raise sufficient money to again build my coolers, delivery trucks, bottles and factory, and start over again."

The Global Brands 2009 Valuation report says that South African trademarks, such as MTN, Anglo and SAB-Miller, did not make it to the top 100



list, but were identified as brands to watch.

If South African companies really want to make it to the big league, one of the first things that they must remember to do is to register their trademarks. This often becomes the most important asset of the company. Our revenue authorities, the South African Revenue Service (SARS), often query trade mark valuations that are included on the balance sheets of companies that have never registered them, as they wonder why is it still important enough to appear on the balance sheet

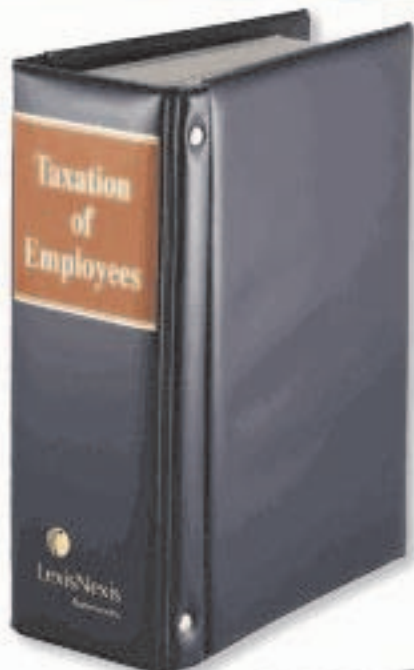
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if it's not important enough to register. If not registered, SARS simply regards the value attributed to a brand as being goodwill — and not brand value. This is certainly not what companies would prefer.

Therefore, this international and local brands valuation report is a timely reminder to the South African corporate world to appreciate the value of their brand and protect their intellectual property assets at all times.

■ Don MacRobert is a consultant to Edward Nathan Sonnenbergs.

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