

ADIDAS GROUP: LOCKING IN THE VALUE OF THE BRAND

Posted on 21/04/2008



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The three stripes that distinguish the products of adidas are one of its most valuable assets, as well one of the primary means by which the company communicates to its consumers, says Eduardo Casals of the adidas Group.

Las tres rayas que distinguen los productos Adidas representan uno de los activos más valiosos, no sólo por lo que significa sino por lo que comunica a los consumidores, afirma Eduardo Casals, Director de protección de marca para Adidas en el sur de Europa.

La creación de marca, su gestión y protección son críticas en cualquier empresa que busca obtener y mantener la fidelidad de sus clientes.

In an Olympic year, sportswear company adidas is among the many organisations looking to capitalise on its formal affiliation with the Games – however the predominant means by which it will communicate to the many millions watching the events will be through the athletes involved,

wearing the trademarks of its multi-billion euro brand.

Rating agency Superbrands last year ranked adidas the coolest sports brand in the world and within the 50th most valuable. Interbrand's Best Global Brands Report 2007 valued the adidas brand at \$4.76bn (€3.05bn) – equivalent to well over a third of the company's current €8.2bn market capitalisation. The same report measured the cumulative value of the ten most important global brands at \$388bn (€ 249bn), and the value of the top ten leading Spanish brands alone at €46bn.

Brand creation, management and protection are critical to any business seeking to obtain and maintain consumer loyalty, but adidas' ability to define and demonstrate its brand positioning helped prove fundamental also to the success of its 2006 merger with US sports giant Reebok – to create what is now the second-largest sporting goods company in the world, after Nike. 

Core focus

Given the importance to adidas of its core manufacturing and marketing operations it is perhaps of little surprise to find that intellectual property (IP), including brand protection and management issues, are central to the work of its in-house legal team.

Though the company may be headquartered in Herzogenaurach, Germany – the seat also of the company's international corporate legal team, and General Counsel Frank Dassler – intellectual property issues are managed out of its Amsterdam-based subsidiary, adidas International Marketing B.V. The Netherlands legal operation accounts for around a half of the total 34-strong international legal team.

Responsibility for overseeing trademark prosecution brand protection and enforcement issues across southern Europe, including Spain and Portugal, falls to Spanish lawyer Eduardo Casals, who divides his time between Amsterdam and the company's Spanish headquarters in Zaragoza.

A dedicated corporate lawyer also operates out of Zaragoza, with responsibility for local corporate and commercial issues.

"The adidas brands are core to what the company does. Intellectual property (IP) rights are an integral element of the value of the company and it is primarily through our designs and trademarks that we communicate to our consumers," he says.


"The 3-stripe mark is a simple device but so distinctive that anyone watching, for example, Real Madrid in the stadium or on television will know that they use adidas products."

His team's responsibility, he explains, extends to all design, patent and trademark, brand and design filings – which for adidas increasingly means under the Community trademark or Madrid protocol initiatives – but includes also clearance initiatives in relation to product development, as well as all marketing, co-operation and licensing agreements.

Brand positioning

But brand protection means more than just filing trademarks and chasing counterfeiters, explains Casals, it also presents the means to define the company's consumer profile and market positioning.

Early 2006 saw adidas acquire US rival Reebok for €3.1 billion – a deal that prompted competition investigations by both the US Federal Trade Commission (FTC) and the European Commission (EC) due to concerns over the potential for the enlarged company to dominate key sports markets.

At stake for adidas was both an enhanced US profile, and broader European presence, through ownership of Reebok's own IP portfolio as well as its subsidiaries, Rockport, CCM, Jofa, Koho and 

Greg Norman brands.

The clarity of the global brand strategy embarked on by adidas helped to demonstrate to both the FTC and EC the very different consumer perceptions and pricing of the two companies' brands, explains Casals.

The EC investigation particularly was notable for its willingness to engage in an analysis of brand differentiation and positioning as much as purely economic issues, to assess the potential overlap between Reebok and adidas products in the EU athletic footwear market. The outcome was an acceptance that clear differences in brand strength and positioning existed between the two companies, and as a result a lack of direct competition.

"The ability of adidas to position itself as a more technical and professional brand, in contrast to the more leisure and US-focused positioning of Reebok, was critical," says Casals.

Awareness

The ability of adidas to rely on its brand position, and to manage and protect its IP portfolio, comes as a direct result of the legal team's ability to take a global overview of what can be a very localised issue, says Casals. Counterfeiting of the company's products often emanates from factories in China and Asia, but which are then sold around the world.

His own experience extends to a period as Brand Protection Manager for adidas Spain, based in Zaragoza. He ultimately spent four years in the role, which saw him involved daily with the local and national authorities, and domestic courts, he says.

"It was an interesting time, to experience first-hand enforcement actions, involving governmental agencies and the police, taking witness statements and representing the company in proceedings."

The local legal function was merged into the company's human resources group, where he also got to experience wider people and management issues. Further experience was also to be found at Union Fenosa in Madrid, where Casals worked in the corporate and transactional group, before being persuaded to return to adidas, albeit in Amsterdam as Assistant General Counsel Intellectual Property.

"Union Fenosa was a very different experience, being involved in corporate deals and cross-border merger transactions, but I gained from it an excellent oversight of the corporate needs of a company and my first insight into international legal issues."

His time is now split between Zaragoza and Amsterdam, and overseeing the company's brand issues within the countries and regions for which he has responsibility – which outside of Iberia includes Italy, Greece, Turkey the Balkans, Russia and the CIS countries, Scandinavia and parts of the Middle East and Africa as well as International and community trade mark issues.

Global problems

From Amsterdam the adidas legal IP team takes responsibility for all IP and marketing issues. Separate teams primarily based in Germany, Hong Kong and the US look after global and regional corporate issues respectively.

✖ "The IP team in Amsterdam is a global company resource split into groups with specific task or regional responsibility, encompassing trademark, patent and design filing and prosecution, brand protection, and counselling the Group on Intellectual Property issues. With the department overseen ultimately by Tim Behean, who reports direct to the general counsel in Germany," he explains.

It is important that the adidas legal team is seen as a value-added service rather than a mere cost

centre, explains Casals. So as much emphasis is placed on avoiding potential conflicts as robustly defending those that arise.

"We are very strict on ensuring that our products have market clearance and because of the tremendous value we place on our own brands we have to be equally respectful of other corporations' rights. Our remit therefore extends to ensuring that products even in the development phase raise no potential future IP problems – the best way to reduce issues we have found is to avoid them in the first place."

The scale of protecting the adidas brand portfolio is tremendous, says Casals, and involves working with specialized IP agents and lawyers around the world.

"My role extends to overseeing all trademark, patent and design right filings, and managing our response to infringements. Adidas has at least one trademark in every country therefore the potential for issues to arise is enormous."

Underpinning the work of Casals, and the entire IP team, is a reliance on technology, not only to track their own work, but also to implement protection and enforcement issues as they arise, wherever that may be in the world.

"It is a major challenge dealing with the volume of paperwork that comes across our desks, so access to our global databases is critical if we are to keep track of cases, and to be able to trace the root cause of problems. It is key to have that sort of information for us to be successful," he believes.

The internal system is so comprehensive that the legal team is able to trace production, distribution and wholesale relationships among legitimate suppliers, as well as counterfeiters, from outlets in Spain to consigners and in the Middle East and on to factories in China, for example.

Key focus

Ultimately the core focus of the work of the adidas IP team comes down to ensuring protection of the company's brands in around 60 key markets, explains Casals.

Inevitably the Far East, and particularly China, are key areas of enforcement activity and where adidas has its own small legal presence, but there too it is important to work in tandem with local counsel and enforcement agencies, he says.

"It of course depends on the country, and whether we have local legal operations, but nonetheless it is important that from Amsterdam we take the strategic overview, and to work with outside help to construct specific suits and pleadings," says Casals.

Within Spain, he explains, local IP matters are outsourced to Elzaburu, and Barcelona-based law firms, Grau & Angulo and Pintó Ruiz & Del Valle. In Portugal adidas uses Abreu Advogados for both filing and enforcement issues.

"As a rule we go for the best service providers, which are not necessarily those that are the most expensive," he says. "What is most important, is that we use lawyers that we can work with – that understand the needs of the group, care about building a strong relationship, and work how we want to work." It is important therefore, he emphasises, that the law firms that adidas chooses to work with are cooperative and open to an exchange of ideas. Events such as the Olympics may tie-in with the company's international strategies, but ultimately day-to-day operations take place at a very local level.

"We do not send work out to a lawyer and then forget about it. We have to think globally but act locally, there is never a one-fits all solution for issues when they arise."

