Accounting for trademarks

– indefiniteness is no more than an interim solution

While valuators tend to describe trademarks as having an indefinite life, this is seldom the case. However, there are various ways to estimate a mark's remaining useful life, which can be beneficial for accounting

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The value of an intangible asset is based on its useful life, among other factors, such as its ability to generate cash inflow and risk. For trademarks, valuators regularly opt for an indefinite life when there are no obvious factors to limit the mark's future economic life. However, almost all brands are finite and only a small proportion have the potential to last for a hundred years or more. Assuming indefiniteness can have two serious effects – one relating to value and one to accounting. This article discusses such effects and suggests some guidelines and tools to analyse the lifecycle of a brand and to estimate its remaining useful life (RUL). It also presents new research that examines indefinite-lived trademarks in European jurisdictions and traces their reporting over the past 10 years.

Accounting framework

Determining useful life and the amortisation of intangible assets is governed by accounting standards. Generally, all established accounting standards require that entities assess whether the useful life of an intangible asset is finite or indefinite. International Accounting Standards (IAS), in particular, state that an intangible asset should be regarded as having an indefinite useful life only when, based on all relevant factors, there is no foreseeable limit to the period over which it is expected to generate net cash inflows for the entity. Therefore, if management has the intention and the ability to maintain an intangible asset so that there is no foreseeable limit on the period over which it is expected to generate net cash inflows for the entity, the asset is regarded as having an indefinite useful life.

More importantly 'indefinite' does not mean 'infinite'. Unforeseeable factors may affect the ability and intention to maintain the trademark at its standard of performance.

Legally, the protection of trademarks can be renewed and extended any number of times. Economically, trademarks can successfully subsist for an extremely long time, as long-lived brands such as Moët, Stella Artois, Nivea and *The Times* demonstrate. For these reasons, trademarks are often assigned an indefinite life. However, the decision to assign an indefinite life to a trademark has two important effects. In discounted cash-flow (DCF) based valuation, indefiniteness results in infiniteness – revenues or cash flows are projected into perpetuity. In accounting, the problem is only postponed. Like any other assets, trademarks are wasting. At some point in the future, a decision must be taken as to the finiteness of the trademark's life.

Since early on, the standards have expressed some hesitation with regard to indefiniteness. IAS 38:93 states that: "Uncertainty justifies estimating the useful life of an intangible asset on a prudent basis." This wording suggest that the standard setters prefer – whenever possible and advisable – an estimated definite to an indefinite life.

To avoid misunderstandings, it is not the intention of the authors to motivate valuators and accountants towards avoiding indefinite lives in valuations – this would be impossible for intangible assets such as goodwill, for example. However, we would like to increase the awareness of the problems inherent in infiniteness, and when and how to estimate a finite RUL for trademarks.

Observations in accounting field

Indefinite-lived intangibles were introduced into corporate accounting in the United States through Financial Accounting Statements 142 in 2001 and in Europe through IAS 38 in 2004. Under these rules, valuators and accountants are required to consider the option of indefiniteness in their valuation of trademarks. In a recent *World Trademark Review* article ("The useful life of trademarks", *World Trademark Review 52*) Stefan Rüssli and Christof Binder analysed in detail what useful lives valuators and accountants have applied in the field since 2003. According to MARKABLES data, one-half of all trademark valuations performed between 2003 and 2013 assume an indefinite life. For the remaining half of trademarks with a finite life, the RUL ranged from less than six months to a maximum of 50 years, with an average of 10.7 years.

If we assume that corporations develop detailed business plans and forecasts for a five-year period, an RUL of five years and less would be equivalent to a clear intent to stop using the brand and its products

or to replace it with another brand within this period. Therefore, the determination of trademark RUL in such cases is more a part of corporate business planning than a specific estimation by the valuator. Based on the MARKABLES data, 36% of all trademarks with definite RUL fall into this category of 'clear intent to cease'. In the remaining cases of RUL extending beyond the five-year planning period, the valuator had to analyse and estimate RUL. Sixty-one per cent of these trademarks received the status of indefiniteness.

These are the averages over a 10-year period. As the research illustrates further, RULs are falling over time, indicating increased awareness among valuators and accountants of the importance of assigning an appropriate and reasonable life to trademarks where possible, and of the difficulties that can arise from indefiniteness.

In European countries, the results are mixed. In the United Kingdom, 28% of all trademarks were assigned an indefinite life, while Germany (77%) and France (88%) show a much higher share of indefinite-lived trademarks. The United States (49%) and Canada (62%) are somewhere in between. These differences are mainly a result of the national accounting standards that were in place and practised prior to IAS.

From ambiguity to clarity?

IAS 38 expressly states that: "The term indefinite does not mean infinite." To account for this, the International Accounting Standards Board (IASB) developed two additional concepts. One is that indefinite-lived assets shall be tested at least annually for impairment by comparing their recoverable amounts with their carrying amounts. The second is that the RUL of an indefinite-lived asset shall be reviewed annually to determine whether events and circumstances continue to support an indefinite useful life. In other words, the standard setters did not contemplate the creation of an asset category that would sit on the balance sheet forever.

With this in mind, we tried to understand what happens to accounted trademarks once they are assigned indefiniteness and to determine whether the IASB's vision of a later finiteness would come true. Therefore, we analysed how 70 brands (or brand portfolios) which had been valued and accounted with an indefinite life developed in the accounts over a 10-year period. The sample was taken from the MARKABLES database and included 70 trademarks (or trademark portfolios) resulting from business combinations and reported between 2004 and 2006 by entities listed in various European countries (in particular, we analysed 10 trademarks for each of the following: Austria/Switzerland, Benelux, France, Germany, Italy, Scandinavia and the United Kingdom). We traced the reporting of these trademarks from 2004 to the 2014 reporting season.

International Accounting Standards state that an intangible asset should be regarded as having an indefinite useful life only when, based on all of the relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows for the entity

PICTURE: WRANGLER/SHUTTERSTOCK.COM

Since the date of their initial accounting, these 70 brands were presumably subject to annual impairment tests and RUL reviews. The results of these reviews after 10 years are illustrated in Figure 1. Eighty per cent of the brands remained unchanged, while the remaining 20% experienced some sort of depreciation:

- Nine brands (13%) were partly impaired. The impairments ranged from 1% to 82% of the original value, with an average impairment of 37%. These impairments occurred 13 times, or on average 1.5 times per impaired brand over a 10-year period. Thus, if impairments happen at all, they are singular events rather than a series of consecutive occurrences.
- Four brands (6%) were fully impaired. Reasons were rebranding or cessation of brand. All of these impairments happened in one single step, without any symptoms or partial impairments before.
- Only two brands (3%) were reclassified as definite lived, with RUL of six years and 19 years. In other words, as many as 64 of the 70 brands (91%) were still deemed to have an indefinite life 10 years after their initial recognition.

At the end of 2014, the overall value of the brands in the sample stood at 90% of their original value. This corresponds to an average annual impairment of 1% per brand or an extrapolated average useful life of 100 years per brand. These figures include the global financial crisis in 2008/2009 and the subsequent Eurozone debt crisis in 2010, when the likelihood for extraordinary impairments was much higher.

Compared to the impairment of indefinite brands of reporting issuers in the United States (which was published in *Business Valuation Update*, Volume 21 Number 5, in May 2015), European reporting issuers lag in all aspects. In the United States, the trademark value of the sample stood at 83% after 10 years (versus 90% in Europe), with only 47% of the brands remaining unchanged (versus 80%), and impairments (or regular amortisations after reclassification) happened much more frequently. The average impairment frequency in the United States stood at 11.5% (as opposed to 3.7%).

Compared within Europe, impairments are particularly rare in the United Kingdom, Benelux and Scandinavia.

Three major conclusions can be drawn from this analysis. First, a substantial number of all indefinite-lived brands remain untouched during the 10-year period. The problem is that these brands have the same financial statement measurement amount as 10 years previously; but in reality, they have little to nothing in common with the original brands.

Second, only weak brands are considered for rebranding or cessation. Signs of brand weakness emerge slowly. Accounting for brands does not (yet) reflect such slow weakening; rebranding or cessation is accounted for *ex post* in full impairments. Brand management and accounting and auditing need to improve communication – in both directions.

Finally, once indefinite – always indefinite. Only in a few cases was the option of shifting from indefiniteness to finiteness chosen. Valuators and accountants who opted for indefiniteness in their original valuation seemed to maintain this preference permanently; they continued to prefer annual impairment testing and irregular impairments over a determination of RUL and regular amortisation. While not subject to empirical testing, the reasons for this may include difficulty in estimating an RUL; lack of objective, observable data; management's belief that the trademark will exist into perpetuity; and management's aversion to the expense of amortisation.

Overall, the findings fall foul of IAS 38's statement that: "The term indefinite does not mean infinite." At some point in time, there is an end to the lives of most trademarks, which should be foreseeable.

Discounting sensitivity of indefiniteness

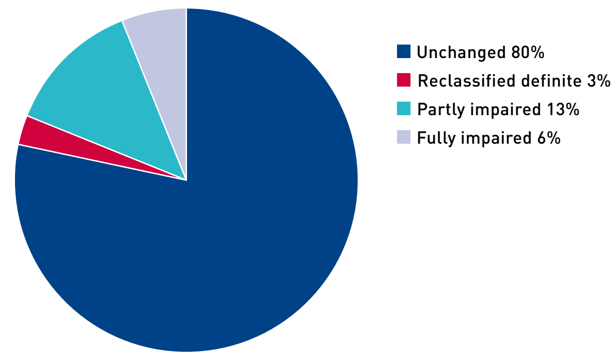
Almost all published brand valuations apply the relief from royalty method or – in rare cases – the multi-period excess earnings method. Both methods are income approaches which project future earnings from the trademark and discount them to a net present value (NPV). In instances where the RUL is deemed indefinite, the projection of future earnings extends into perpetuity – that is, the projected income stream will not stop. As a result of discounting, the contribution of earnings to NPV diminishes over time. The higher the discount rate, the sooner future earnings from the trademark become negligible for its present value.

Put simply, the result of a valuation will be different depending on the length of the RUL and the length of the income projection into the future. An income over 200 years is obviously more than the same income over 35 years. This increasing effect over time is overlapped by the discounting. The key question here is at what discount rate the difference between a (long) finite RUL and an indefinite RUL becomes insignificant.

Many valuation professionals say that the difference between applying indefiniteness and (long) finiteness in a valuation is marginal. However, this depends on the discount. To illustrate this, we compared the NPV difference for a brand with indefinite RUL to a brand with a RUL of 40 years for different discount rates. Figure 2 illustrates that the NPV difference is less than 5% if the discount rate is 10% and higher. For lower discount rates, the NPV difference is higher and approaches 20%.

It is a question of auditor materiality as to which difference is acceptable. In the illustration, the 5% threshold would be surpassed at a discount rate of 10% or less, or at a net discount rate of 8% considering the 2% growth rate assumed. In these cases, the resulting trademark value would be more than 5% higher than in the 40-year RUL scenario.

FIGURE 1: Indefinite-lived trademarks: Europe (results of annual reviews after 10 years)



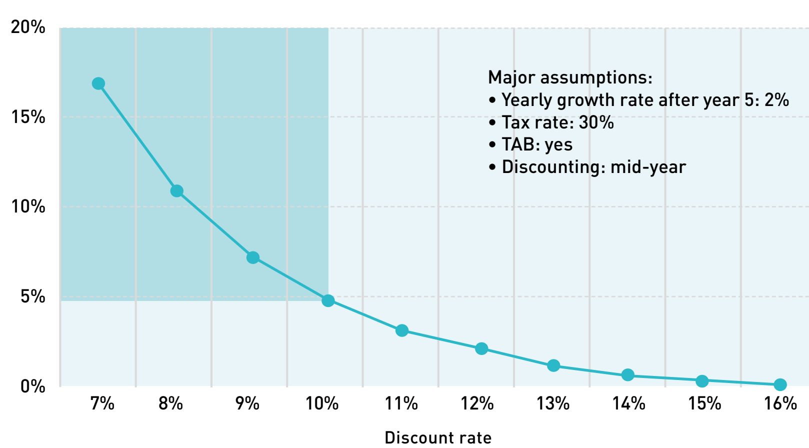
SOURCE: markables.net

Valuators must be aware that a valuation into perpetuity can result in an overstated value, depending on the discount rate. To avoid this, the valuator may either cap the RUL at a certain point in time or account for the higher uncertainty of indefiniteness with a higher discount rate – or, at the very least, a higher discount rate in the outer years.

Need for maintenance

In contrast to other intangible assets, such as patents or copyrights, trademarks need to be maintained. Such maintenance goes far beyond the formal efforts of protecting and renewing the legal rights. Assuming an indefinite life means that the trademark will not be amortised, but will keep its value. Therefore, it is essential that the rights holder has the intention and ability to provide for all future brand advertising, promotion and design expenses necessary to maintain its value. In this respect, IAS states that when determining the useful

FIGURE 2: Trademark value and useful life (difference between 40 years and indefinite RUL in %)



SOURCE: markables.net

88%

Marks from France that were assigned an indefinite life

life of an intangible asset, "the level of maintenance expenditure required to obtain the expected future economic benefits from the asset and the entity's ability and intention to reach such a level" must be considered.

Typically, brands must react to changes in the marketplace. Over time, the positioning of brands may require minor or major adjustments, resulting in additional expenses which are not covered by the standard level of maintenance expenditures. The likelihood of such extraordinary adjustments and expenses increases with an increasing RUL. If thoroughly considered, they will reduce future brand earnings and value.

Neither IAS nor valuation textbooks provide clear guidance as to how and where to consider maintenance expenditures in brand valuation. In many valuations it is unclear whether and how brand maintenance spending is included in the valuation assumptions. In particular, the relief from royalty method does not specify whether the appropriate royalty rate is determined pre or post-maintenance spending.

In the case of valuing a trademark into indefiniteness, it must be clear that indefiniteness carries a substantial risk of extraordinary maintenance expenses in the future. The appraiser may consider this risk in brand earnings (in the royalty rate) or in the discount rate, or alternatively choose a long but definite RUL with a regular amortisation. However, he or she should not ignore it.

Reasons for trademark obsolescence

Our analysis shows that valuators frequently consider the RUL of a trademark as indefinite if and so long as the rights holder intends to continue using the trademark or has no specified plans to the contrary. One-half of all valued trademarks are assigned an indefinite life and a large part of these remain indefinite for quite some time. However, accounting into indefiniteness was never the intention of the standard setters. Nor is it advisable to follow this simplification instead of further analysing all factors that might cause a mark's decline or extinction. Valuators ought to perform a detailed RUL analysis before they opt for indefiniteness.

Before one starts to estimate trademark RUL, it is important to understand why trademarks are used and why they can die. Trademarks facilitate the clear identification and a condensed description of a product or service offering, and the easy orientation of target buyers. Marking or branding is a prerequisite to establish any commercial offering in the marketplace. Later in their lives, branding and brands become subject to more economic decisions. Accordingly, the returns attributable to a brand shall be higher than the cost spent on developing and maintaining it. Such brand returns are defined as additional sales volume plus additional price premium which would not be achieved without the brand, minus expenses for branding. A brand will die if its use ceases to make economic sense.

There are three major reasons why the use of a trademark may cease to make economic sense.

Product obsolescence

The products or services sold under a trademark may reach the end of their lifecycle. With the products dying, the brand attached to them will disappear too (eg, Agfa photo film, Zündapp motorcycles or Lambretta scooters, and Palm handhelds). This happens if and when the brand is closely associated with a specific product and has little or no flexibility to switch to other products. This can be observed in the case of product specialist brands or product names. With short product lifecycles – such as in the high-tech or software industry – brands eventually move too slowly to climb on the bandwagon of the next product generation. Typically for such businesses, the value of a brand is relatively low compared to the value of technologies and customers.

Trademark obsolescence

Over the years, a trademark itself may grow old and outdated (eg, Threshers off licences, Thomson consumer electronics, Gitano jeans). Often the products, services or ranges sold under a trademark change and innovate faster than the mark can follow. This phenomenon is typically called 'trademark obsolescence'.

Products and services sold under a trademark are continually improved, renewed, adopted, refreshed or otherwise kept up to date. In most industries, this change is substantial. A Ford of today has little in common with a Ford of 1970. An Apple computer of today is very different from an Apple computer of 1990. A fashion brand changes its complete range twice every year. Even for a trademark that seems to be immutable, such as COCA-COLA, the changes over time are significant.

> **"Brands are not made to keep pace forever with the dynamic product or service ranges sold under them**

Brands are the opposite. Their main purpose is to provide recognition and trust to customers. However, at the same time, they have to be innovative, launch new products and renew themselves; sometimes, brands are adapted too, such as through a modernised logo. Essentially, brands are not made to keep pace forever with the dynamic product or service ranges sold under them, and may become signs of the past for products of today.

There are different root causes for trademark obsolescence. The most important is technological innovation resulting in improved and/or cheaper products. Think of the changes happening in the mobile device category: from Walkman and MP3 player to the smartphone of today, integrating telephone, camera and small computer. In dynamic markets, such changes can happen extremely fast. A second cause relates to changes in consumer behaviour – not necessarily involving innovation, but rather existing products. For example, low-carb food products have existed for a while now, but their recent success results from a substantial shift in consumer preferences. Trademarks associated with the old behaviour may then be perceived to be out of date. A third cause relates to changes in social behaviour. In some areas of life, people want to be part of certain social groups and thereby distinguishable from people belonging to other social groups. Often this is referred to as 'lifestyle' and involves selecting brands. Lifestyles change over time and with age; trademarks may face difficulties coping with such changes. Often, changes in social behaviour relate to products where styles and look are important, such as fashion and sports.

Trademark consolidation

Sometimes, businesses own and operate more than one brand in the same category, often as a result of merger activities. In these cases, the trademark may become subject to corporate consolidation, with one trademark replaced by another belonging to the same rights holder in order to increase efficiency and lower costs (eg, Mannesmann D2 to Vodafone, Hertie to Karstadt, Mammouth to Auchan and Lancia to other brands belonging to the Fiat Chrysler group). In these cases, it was more efficient to keep one trademark instead of two. This is probably one of the most frequent reasons for a trademark to disappear – economies of scale.

Peer group analysis of trademark RUL

Accounting standards, textbooks, course materials and relevant literature provide an overview of the different factors that might influence the RUL of trademarks, but little to no guidance on methodologies and tools to quantify or estimate it. In a first step towards estimating trademark RUL, it is helpful to understand the general mortality risk of trademarks in the subject industry. Two simple tools can be used for this.

First, you can randomly pick a population of competitor brands which were active in the subject industry five to 10 years ago. The composition of the population is less important; more important is the size (ideally 20 brands, minimum 10) and how many years have passed since the observation of population (ideally 10 years, minimum five). The source of such historic population might include:

- all participants at a specific trade fair at that time;
- all brands that advertised in a trade magazine at that time;
- a members' list of an industry association at that time; or
- all brands that were then covered in the report of a consumer research or market intelligence company.

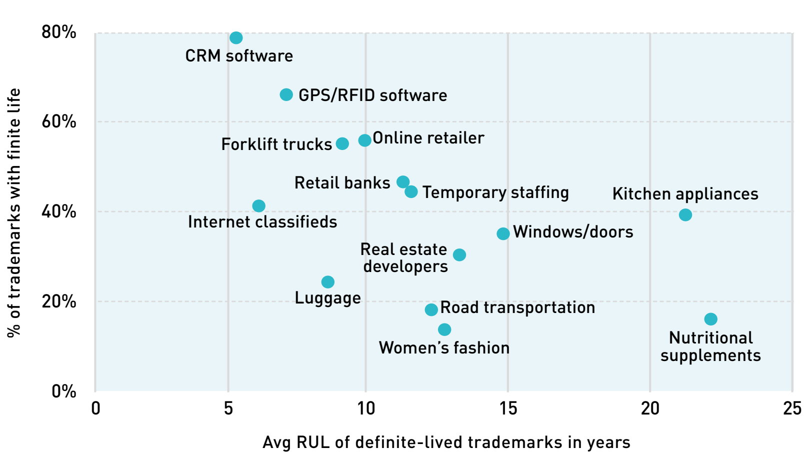
Then find out which of these brands still exist today. By dividing the number of remaining brands by the number of brands in the former population, you get an approximate survivor ratio and an annual mortality rate.

If four out of 20 competitor brands that existed 10 years ago have disappeared in the meantime, the average annual mortality rate would be 2%. Assuming a constant mortality rate and projecting this trend into the future, all brands would vanish by year 40 and the average RUL of the existing brands would be 20 years. A subject trademark will have an RUL below or above average, depending on its relative position and strength.

Alternatively, it can be helpful to see how other valuators dealt with similar situations in the past. Therefore, have a look at the RULs assigned to other trademarks in the subject industry in earlier trademark valuations. Such data can be found in the financial reporting of listed companies in relation to their purchase accounting and accounting for intangible assets in connection with business combinations. Figure 3 illustrates the RULs found in peer group analyses for various industries based on MARKABLES data. The results show not only that plentiful guideline data is available, but also that trademark mortality risk differs by industry.

Such industry-based trademark mortality analyses rarely provide evidence for zero mortality or infiniteness. In almost all cases, some trademarks have disappeared in the observation period or are expected to disappear. The average RUL resulting from these peer group analyses provides a first understanding of the trademark dynamics in the subject industry and a guideline as to whether an indefinite RUL is justifiable.

FIGURE 3: Trademark RUL peer group analysis



SOURCE: markables.net

Estimation of trademark-specific RUL

The RUL of the subject trademark depends on some specific characteristics in relation to its environment and customers. The following analytical steps are helpful to understand the specific position of the subject trademark in various cycles and provide a best estimate of RUL.

Product lifecycle

The product lifecycle theory provides five stages in the life of a product or service forming a typical S-shaped curve: introduction, growth, maturity, saturation and decline. For RUL estimation, two aspects are important. First, it is important to understand the current position of the trademarked products in the cycle. Second, it is important to anticipate the total length of the cycle.

High-tech products (eg, pharmaceuticals, software or semiconductors) can have very short lifecycles, sometimes less than five years. Other products (eg, coffee or hairdressing services) reached the saturation stage long ago, but show no signs of decline.

Brand specificity and brand architecture

A brand will not necessarily die because the branded product has reached the end of its lifecycle. The ability of brands to keep pace with change and innovation depends very much on their specificity. Some brands are closely tied to a specific product, such as pharmaceuticals or other product name brands. Such brands will necessarily die when their products reach the end of their lifecycles. Other brands are much less specific, having more flexibility in terms of the variance and modifiability of the products or services they carry. They can successfully absorb product variants and new product generations. For the life of such brands, numerous individual product lifecycles add to one another, thereby separating the brand's life from products' lives.

In RUL analysis it is important to understand the brand architecture of the subject business. Often, businesses operate brands at different levels. Product brand names provide branding at the level of products or individual services. Corporate brand names or umbrella brands provide branding at the level of a company or business unit, grouping different products under one and the same brand. Often, branding incorporates a combination of both umbrella and product brand names. Obviously, product brand names will have shorter lives than corporate or umbrella brand names and it is advisable to attribute different RULs to brand names at such different levels.

The valuator must also understand that a brand's level of specificity can affect its returns. A less specific brand may have a very long life, but at the same time may have a lower profit margin compared to a highly specific specialist brand. In some way, this phenomenon relates to the issue of niche versus mass market branding strategy.

Brand strength

When a market begins to decline, not all brands will perish at the same time or at the same rate. Some will disappear sooner and some will survive until the very end or even create the next market upturn. This is a question of the strength of each particular brand. Several factors determine brand strength with regard to its RUL.

One factor is the relative size of the brand or its relative market share compared to its competitors. Small brands will likely disappear faster than market-leading brands. Another factor is relative growth. If the subject brand grew more slowly – or declined faster – than market average, it will likely disappear sooner than other brands. Another factor is brand profitability. The more profitable a brand is relative to its competitors, the more likely that it will survive until the final consolidation in its category.

Industry consolidation cycle

Industries and businesses consolidate over time, and with them the names and brands that they use in the public. The structure of an industry is often described by concentration measures. Concentration is a function of the number of competitors and their respective shares of the total market. In competition and antitrust law, the Herfindahl index is the most frequently used concentration measure. Another more convenient concentration measure is the sum of the market share of the top three or top four players, described as CR3 or CR4 ratios. CR3 50% means that the top three players of the industry hold a combined 50% market share.

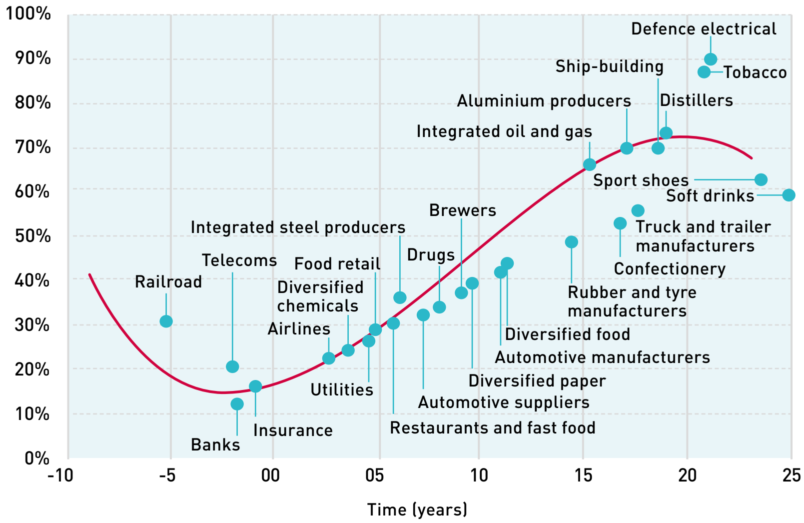
> **"High-tech products (eg, pharmaceuticals, software or semiconductors) can have very short lifecycles, sometimes less than five years**

Structure and concentration rates of industries change over time. Typically, industries follow a concentration curve which resembles the S-shaped product lifecycle curve. In the emerging stage of an industry, the concentration rate CR3 will be high (sometimes 100%), with very few competitors. The more promising and growing this new market, the more players will enter, thereby reducing the market share of each player and the CR3 rate. Very fragmented markets with many players can have CR3 ratios of less than 10%. With decreasing growth rates, the industry will start to consolidate through mergers. The number of players will decrease and CR3 will increase to a maximum level. In very mature industries, there are only a handful of players left and CR3 reaches 80%. In the mature stage of the curve, the need to consolidate further is extremely limited. Sometimes, such mature industries decline to their demise; sometimes new small entrants make their appearance and attack the old players with new varieties, thereby reducing CR3 again. Figure 4 illustrates the typical S-shaped curve of industry consolidation. For the trademark valuator, it is important to understand the shape (the duration) of the S-curve of the subject industry and its current position on the curve.

Many national statistics offices publish concentration ratios by industry and service sub-sectors on a regular basis. Figure 4 illustrates that some old industries are still very fragmented (eg, banks), while some younger industries are much more concentrated. Obviously, intensity and speed of consolidation follow different, industry-specific patterns. The major reason for this is cost structure – more specifically, the fraction of fixed costs. The higher the share of fixed costs in an industry, the higher the advantage of being large, and the higher and faster consolidation. High-tech industries typically have a high share of fixed costs for R&D. Surprisingly, the beer industry is another example of high fixed costs; its concentration rate CR4 in the United States stands at around 90% for 15 years now and has reached its maximum, constant level.

From the existing concentration rate, from the current number of remaining players and from M&A and consolidation rate in the past years, the valuator can develop a projection of the likely average annual consolidation rate for the next period, until a mature and stable stage is reached. Such consolidation at company, firm or business level is a strong indicator of the pressure on the consolidation of trademarks.

FIGURE 4: Industry concentration 1989-2001 (CR3)



Trademark consolidation economies

One major reason for trademarks to disappear is trademark consolidation. If a business owns and operates more than one trademark in the same category or segment, it has the option to merge one of the trademarks into another. This option should be considered and carefully analysed by the valuator, even if management expresses its intent to use the subject trademark indefinitely in the future.

Cost savings from a trademark consolidation can be estimated by comparing the variable cost of brand marketing of the larger brand with the total cost of brand marketing of the smaller brand (in percentage of revenues). Eventually, there will be an additional gain from reorganising or combining two separate sales forces. The net present value of all future savings represents the total consolidation gain, which needs to be larger than the one-time cost of the rebranding. In most businesses, the cost of brand marketing is more fixed than variable or marginal, thus supporting trademark consolidation.

The cost of rebranding is determined by the nature of the customer relation. In a direct and personal relation, customers can be informed directly about the rebranding, at low cost. In anonymous relations, it takes time and an expensive media budget to make sure that all customers get the message. In addition, there is the – often negligible – cost of redesigning graphics, layouts, packaging, business stationery and so on. The replacement of illuminated signs and advertisements can be expensive. Rebranding a business-to-business brand or a subscription-based consumer goods brand will be relatively inexpensive, while rebranding a staple consumer goods brand sold through retail channels can be quite expensive.

Further, the cost of rebranding includes an estimate of the loss of business resulting from customer confusion or unwillingness to purchase the rebranded offering. Such loss may occur if:

- the information provided to existing customers is incomplete;
- the nature of the brand to be consolidated is image based rather than feature or performance based; or
- the consolidated brand had a perceptibly different positioning, value proposition or customer group.

The likelihood of trademark consolidation will increase after a merger. Immediately after the merger, the acquirer is often concerned about the stability of customer relations and about losing business and customers due to a rebrand. The more confident the acquirer becomes about the loyalty of customers (and the acquired salesforce), the more likely the option of rebranding in the future becomes. The valuator may consider the likelihood of such trademark consolidation or rebranding sometime in the future in his or her estimation of trademark RUL if the difference between savings and additional cost is already small.

Conclusion

The determination of trademark RUL to somewhere beyond five years but before infinity can be a challenge. The standard setters have considered these difficulties, providing for the possibility of indefinite useful life on one hand and for the admission of best estimation instead of determination on the other. The valuator should be aware that an indefinite RUL can be a delicate route. Under certain circumstances, indefiniteness may result in overstated value or in an old trademark sitting unalterably on the balance sheet.

Still, best estimation of trademark RUL needs some sort of quantitative analysis and justification. A careful analysis of all relevant factors – including the current situation of the brand, as well as past and future lifecycle and consolidation dynamics – helps to develop such a best estimate. The purpose of an RUL analysis is not to conclude with a precisely determined RUL of, say, 22.5 years. Its first purpose is to develop a clear understanding of the likelihood that the subject trademark will live for more or less than 40 years. If less, the second purpose is to estimate whether the RUL will most likely be closer to 10 or 40 years, or somewhere in between.

The data analysed suggests that the prevailing practice is to conclude (perhaps with a pre-conceived notion) that trademarks have indefinite lives. Further, the data suggests that, once determined an indefinite-lived asset, it is rare that a life is subsequently assigned to the asset. The reasons for this, some of which are suggested in this article, are elusive. However, the accounting literature is clear: indefinite does not mean infinite. As has been proven in the past, the accounting standard setters and regulators may, if need be, establish policy regarding issues such as this if the profession (ie, chartered public accounting and intangible asset valuation) does not do so on its own. **WTR**

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