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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85527029
Applicant	World Trade Centers Association, Inc.
Applied for Mark	WTC
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Submission	Applicants Request for Remand and Amendment
Attachments	Motion to Remand.pdf(5090483 bytes)
Filer's Name	Sandra Edelman
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Signature	/se/
Date	03/14/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Trademark Applications of
World Trade Centers Association, Inc.

Serial Nos.:	85/473,613 (WTC, Cl. 18)	)	Evin L. Kozak, Esq.
	85/473,617 (WTC, Cl. 16)	)	Trademark Examining Attorney
	85/474,746 (WORLD TRADE CENTER, Cl. 16)	)	
	85/474,748 (WORLD TRADE CENTER, Cl. 18)	)	Trademark Law Office 116
	85/527,008 (WORLD TRADE CENTER, Cl. 9)	)	
	85/527,029 (WTC, Cl. 9)	)	
	85/527,100 (WORLD TRADE CENTER, Cl. 14)	)	
	85/527,119 (WTC, Cl. 14)	)	

APPLICANT'S MOTION TO SUSPEND AND
REMAND FOR SUBMISSION OF ADDITIONAL EVIDENCE

Applicant World Trade Centers Association, Inc. ("Applicant") hereby moves pursuant to Trademark Rule 2.142(d) to suspend the consolidated appeal proceeding and remand the applications under appeal to the Examining Attorney for further consideration. As set forth below, Applicant seeks to introduce additional evidence consisting of: (1) the report of George Mantis on the results of a consumer perception survey for the WORLD TRADE CENTER mark; and (2) the report of Dr. Erich Joachimsthaler, a branding expert, on the creation and growth of the brand identity for the WORLD TRADE CENTER and WTC marks; how the use of these marks on the goods identified in the applications at issue on appeal will extend and enhance this brand identity; and why the brand significance of the WORLD TRADE CENTER and WTC marks has survived and grown notwithstanding the tragic events of September 11, 2001. Both of these reports are highly relevant to the ultimate issues of whether Applicant's marks can function as trademarks and whether Applicant's marks have acquired distinctiveness based on its existing incontestable registrations for association services. *See* 37 C.F. R. § 2.142(d); TBMP § 1207.02.

Applicant respectfully submits that good cause exists for this request to remand because the evidence it seeks to enter is responsive to the 195 pieces of supplemental evidence included as a part of a Final Refusal on October 15, 2013, after the Board granted the Examining Attorney's Motion to Remand. Pursuant to TBMP § 1207.02(3), Applicant is entitled to submit responsive evidence following an Examining Attorney's request to remand. *See* TBMP § 1207.02(3) ("When an Examining Attorney's request to suspend and remand for additional evidence is granted . . . *applicant will be allowed an opportunity to submit, if it so desires, responsive evidence*.") (emphasis added).

Good cause also exists to supplement the record because Applicant has retained new counsel since the issuance of the October 15, 2013 Final Refusal, who wishes to submit further relevant evidence regarding the ability of the WORLD TRADE CENTER and WTC designations to function as trademarks for the goods identified in the applications at issue and the relationship of the association services covered by Applicant's incontestable registrations to those goods. Finally, Applicant's request to remand to enter relevant evidence should be granted because it is timely, as Applicant has not yet submitted its supplemental brief following the Examining Attorney's submission of additional evidence upon remand, the Examining Attorney has not submitted her brief on appeal and the Board has yet to render a final decision.

I. Procedural History of the Appeal

Applicant filed its Notice of Appeal on March 4, 2013[1] and simultaneously filed a Request for Reconsideration. *See* Dkts. 1, 4. The Board immediately instituted the appeal and the case was remanded to the Examining Attorney for reconsideration. *See* Dkt. 2. On April 11, 2013, the Examining Attorney denied Applicant's Request for Reconsideration. *See* Dkt. 5.

[1] The dates and docket numbers referenced in this motion reflect the records for the leading application in this consolidated appeal proceeding, Ser. No. 85/473,613.

Following Applicant's Motion to Consolidate, Applicant filed its Appeal Brief on July 1, 2013. *See* Dkt. 9. On August 15, 2013, a new Examining Attorney who had been re-assigned to the applications filed a Motion to Remand pursuant to Trademark Rule 2.142(d) to supplement the record. *See* Dkts. 11-25; 27-33. The Board granted the motion and the Examining Attorney issued a new Final Office Action on October 15, 2013, that included 195 pieces of additional evidence that allegedly support the Examining Attorney's position that the applied-for marks fail to function as trademarks. *See* Dkts. 26, 56. In an Order dated November 29, 2013, the consolidated appeal proceeding was resumed and the Board set Applicant's deadline to file its supplemental appeal brief on January 28, 2014, thereby postponing the Examining Attorney's responsive brief until after submission of Applicant's supplemental appeal brief. *See* Dkt. 56.

On December 5, 2013, Applicant filed a motion for an extension of time to file its supplemental appeal brief on the grounds that: (1) Applicant had recently appointed new counsel; (2) Applicant needed further time to analyze and respond to the new evidence and legal arguments submitted by the Examining Attorney following the request for remand; and (3) Applicant needed additional time to develop and gather supplementary responsive evidence, and as may be deemed appropriate, submit a Request for Remand pursuant to Trademark Rule 2.142(d) when such evidence has been finalized. *See* Dkt. 57. The Board granted Applicant's motion on December 10, 2013 and extended the time for Applicant to submit its supplemental appeal brief until March 29, 2014. *See* Dkt. 59. Now, having developed additional responsive evidence, Applicant moves to remand the applications pursuant to Trademark Rule 2.142(d) to allow Applicant to enter the evidence for consideration by the Examining Attorney and suspend further proceedings on the appeal.

II. The Applications at Issue

As noted in the caption, this consolidated appeal proceeding involves four pending intent-to-use applications for the mark WORLD TRADE CENTER and four pending intent-to-use applications for the mark WTC in Classes 9, 14, 16, and 18. The applications cover a wide variety of products and merchandising items. TESS printouts for the eight applications are attached as Exhibit A. Initially, all of the applications were finally refused registration on the basis that the marks do not function as trademarks under Trademark Act Sections 1, 2 and 45, 15 U.S.C. § 1051-1052, 1127, because the applied-for marks call to mind only the terrorist attacks of September 11, 2001. *See* Office Action issued Sept. 6, 2012.

The Examining Attorney also rejected Applicant's argument that the marks had become distinctive of the goods listed in the intent-to-use applications based on Applicant's prior registrations for the marks WORLD TRADE CENTER and WTC for association services.[2] Specifically, the Examiner concluded that "Applicant's claim is insufficient because applicant has not shown sufficient relatedness of the registered services and the goods in the present application[s]." *Id.*

As noted above, during pendency of the appeal, the Board granted a Motion to Remand filed by the Examining Attorney, *see* Dkts. 26 & 35, following which the Examining Attorney issued a further Final Office Action. This time, the Examining Attorney also refused registration on the ground that the applied-for marks do not function as trademarks to distinguish Applicant's goods from those of others and to indicate the source of Applicant's goods because third-party usage of the applied-for marks in connection with the identified goods has rendered

[2] Applicant owns incontestable registrations on the Principal Register for the marks WORLD TRADE CENTER and WTC in Class 42 for association services; namely, fostering and promoting world trade and international business relationships. TESS printouts for these registrations are attached as Exhibit B. As can be seen from the printout for the mark WORLD TRADE CENTER, it was registered pursuant to Section 2(f) of the Trademark Act.

the terms incapable of functioning as trademarks, *see* Office Action issued Oct. 15, 2013.

In support of this argument, the Examining Attorney supplemented the factual record with 195 pieces of new evidence. *See id.* The evidence consists of website printouts from amazon.com, ebay.com, cafepress.com and similar websites allegedly showing use of the terms "world trade center" and "wtc" in connection with third-party commemorative goods. *See id.* The Examining Attorney argued, based on this evidence, that "[b]ecause consumers are accustomed to seeing "WTC" [and WORLD TRADE CENTER] used in connection with the applied-for goods in an effort to remember the events that transpired and lives that were lost on September 11, 2001, without any indication and/or reason to believe that a single entity is the source of those goods, the wording does not function to indicate source of the goods and, therefore, does not distinguish applicant's goods from others." *See id.*

III. New Evidence Sought to be Introduced

In this motion to suspend and remand, Applicant seeks to introduce: (1) the report of market research survey expert George Mantis and the results of his consumer perception survey on the WORLD TRADE CENTER mark (attached as Exhibit C); and (2) the report of a branding expert, Dr. Erich Joachimsthaler (attached as Exhibit D). As discussed in more detail below, this new evidence rebuts the arguments for refusal relied on by the Examining Attorney and provides further support for Applicant's arguments that the WORLD TRADE CENTER and WTC marks can function as trademarks for the specified goods and/or have already acquired distinctiveness.

A. The Mantis Survey and Report

At Applicant's request, George Mantis conducted a consumer survey to evaluate the extent to which potential consumers perceive the mark WORLD TRADE CENTER, when used on backpacks, fanny packs and tote bags, as originating with or authorized by a single

source.[3] The perceptions of the WORLD TRADE CENTER mark were evaluated in comparison to the registered trademarks BOSTON MARATHON and LOUISIANA STATE UNIVERSITY and two common generic terms: "cross country race" and "student union." As shown in the Mantis Report, the survey results demonstrate that Applicant's WORLD TRADE CENTER mark is capable of functioning as a trademark in connection with the surveyed Class 18 goods. This conclusion is based on the results showing that 37.7% of survey respondents associated Applicant's mark with a single source for the surveyed goods and 25% of the survey respondents identified the source of the WORLD TRADE CENTER goods as Applicant, World Trade Centers Association, or the entity that owns the WORLD TRADE CENTER mark for trade center buildings and related services. This is very similar to the level of single source identification for the mark BOSTON MARATHON, which is currently registered in Class 18 for similar goods based on alleged use of the mark in commerce for over 25 years.

Thus, the survey results show that the WORLD TRADE CENTER mark is capable of functioning as a trademark for Applicant for backpacks, fanny packs and tote bags, even though Applicant has not yet commenced commercial use of the mark on these goods. The Mantis Survey also demonstrates that WORLD TRADE CENTER is capable of functioning as a trademark even though the mark – like BOSTON MARATHON – is also associated with a tragic terrorist event.

It is well-established that consumer surveys are useful for proving that the consuming public views a proposed term as an indication of source of a particular product or service. *See* TMEP § 1212.06(d) (citing cases). Accordingly, direct evidence of consumer perception of the WORLD TRADE CENTER mark is highly relevant to determining the ultimate question on appeal: are the designations WORLD TRADE CENTER and its acronym

[3] These three products are included in the description of goods in Applicant's Class 18 applications for registration.

WTC capable of functioning as trademarks in connection with the applied-for goods. *See In re Remington Products Inc.*, 3 U.S.P.Q. 2d 1714, 1715 (T.T.A.B. 1987) ("A critical element in determining whether a term is a trademark is the impression the term makes on the relevant public."); *In re Merrill Lynch, Pierce, Fenner, and Smith, Inc.*, 828 F.2d 1567, 1570 (Fed. Cir. 1987) ("Evidence of the public's understanding of the term may be obtained from any competent source, such as . . . consumer surveys."); *cf. Bausch & Lomb Inc. v. Leupold & Stevens Inc.*, 6 U.S.P.Q. 2d 1475, 1478 (T.T.A.B. 1988) (noting that applicant failed to carry its burden of proving that its mark functions as a trademark in part because it submitted "no survey evidence indicating that the relevant public associates [its mark] when applied to [its goods] with applicant.").

Applicant submits that the Mantis Survey is directly responsive to the supplemental evidence and arguments entered by the Examining Attorney. The Examining Attorney submitted 195 website printouts in support of her argument that WORLD TRADE CENTER and WTC cannot function as trademarks for the applied-for goods because third-party usage of the applied-for wording in connection with the identified goods "does not point to a single source of those goods" and "has rendered the applied-for mark incapable of functioning as a trademark for the enumerated goods." *See* Office Action, issued Oct. 15, 2013. In contrast to the assumptions about consumer behavior based on website printouts, the Mantis Survey shows how actual potential consumers perceive the mark WORLD TRADE CENTER in connection with products that are representative of the goods identified in the Class 18 applications specifically, and the remaining applications generally. Accordingly, this important evidence should be considered by the Examining Attorney before the appeal proceeds further.

B. The Joachimsthaler Report

Applicant also requests remand of the applications under appeal to introduce the report of Dr. Erich Joachimsthaler, a branding expert. The Joachimsthaler Report provides relevant and valuable context about the creation and development of the WORLD TRADE CENTER mark and the acronym WTC as a brand, arising from the use of these marks in connection with the core association services provided by Applicant for decades. Dr. Joachimsthaler also explains how the use of the WORLD TRADE CENTER and WTC marks on the goods identified in the applications at issue will serve the trademark function of indicating sponsorship by, and affiliation with, WTCA as the brand owner. The use of the WORLD TRADE CENTER and WTC marks on the merchandise described in the applications, as Dr. Joachimsthaler notes, is part of a well-established strategy for enhancing and extending brand identity, as shown by similar efforts undertaken by a wide variety of trademark owners, including New York University, the Fire and Police Departments of the City of New York, and the owners of iconic buildings such as the Empire State Building, Rockefeller Center, the Chrysler Building and Radio City Music Hall.

Dr. Joachimsthaler also confirms that the brand identity for the WORLD TRADE CENTER and WTC marks has not been fatally undermined by the tragic terrorist events of 9/11. As he opines, WTCA, like other unfortunate brand owners before it who have suffered crises affecting their brands, can recover and build upon brand goodwill that existed before, and continues to grow after, difficult events, just like the owners of the marks BOSTON MARATHON, EXXON, TYLENOL and AMERICAN RED CROSS. Further, according to Dr. Joachimsthaler, the WORLD TRADE CENTER and WTC brand identity will not be destroyed by media coverage or research material that refers to the historical events of September 11, 2001

or the sale commemorative items that do not use WORLD TRADE CENTER or WTC as a brand identifier for the products.

The Joachimsthaler Report is relevant to Applicant's contention that the WORLD TRADE CENTER and WTC marks for the goods identified in applications on appeal have acquired distinctiveness based on its prior incontestable registrations for the same marks for association services in the field of world trade and international business relations. As noted by the Trademark Trial and Appeal Board in *Kellogg Co. v. General Mills Inc.*, "[t]he showing necessary to establish relatedness will vary from case to case and depend on the nature of the goods or services involved and the language used to identify them." 82 U.S.P.Q. 2d 1766, 1770, (T.T.A.B. 2007). Dr. Joachimsthaler explains that the brand identity for Applicant's association services offered under the WORLD TRADE CENTER and WTC marks is in fact directly related to the trademark–identifying ability of WORLD TRADE CENTER and WTC when used on the applied-for goods. *See* TMEP § 1212.04(c) (when a claim of acquired distinctiveness in an application is based on prior registrations, the Examining Attorney must determine the relatedness of the goods and services named in the application to the goods and services in the prior registrations); *see also* TMEP § 1212.09(a) (an intent to use applicant can claim acquired distinctiveness of a mark that is the subject of an intent-to-use application based on use of the same mark on related goods or services).

Dr. Joachimsthaler, as a branding expert, also disagrees with the Examining Attorney's position that the designations WORLD TRADE CENTER and WTC cannot function as trademarks for the identified goods in the applications on appeal. Further, he believes that media coverage of the tragedy of 9/11 and third-party commemorative items will not prevent the WORLD TRADE CENTER and WTC designations from functioning as single source identifiers.

As such, the Report is highly relevant and should be considered in response to the new evidence attached by the Examining Attorney following remand.

IV. Good Cause Exists for Remand to Submit Applicant's Supplemental Evidence

Pursuant to TBMP § 1207.02, a request to remand for additional evidence "must include a showing of good cause therefor (which may take the form of a satisfactory explanation as to why the evidence was not filed prior to appeal)." Applicant submits that good cause exists because, as shown above, its evidence is responsive to the additional evidence introduced by the Examining Attorney following the grant of her Motion to Remand, and under the applicable rules, Applicant is entitled to an opportunity to submit responsive evidence. *See* TBMP § 1207.02(3) ("When an Examining Attorney's request to suspend and remand for additional evidence is granted . . . applicant will be allowed an opportunity to submit, if it so desires, responsive evidence.")

Good cause also exists because Applicant appointed new counsel after the submission of its appeal brief and Examining Attorney's request to remand. New counsel wishes to supplement the record in the same way that the re-assigned Examining Attorney was permitted to submit additional evidence following her appointment to this proceeding. *See* TBMP § 1207.02(2) (providing examples of good cause, including "a new attorney for the applicant, or a new Examining Attorney, has taken over the case and wishes to supplement the evidence of record.") The appointment of new counsel by Applicant therefore provides an additional ground for granting this motion. *See* TBMP § 1207.02(2).

V. Applicant's Request is Timely

Pursuant to TBMP § 1207.02, "[a] request under 37 CFR 2.142(d) to suspend and remand for additional evidence must be filed prior to the rendering of the Board's final decision on the appeal." Applicant submits that its request is timely because the Board has not rendered

its final decision in this appeal. Furthermore, Applicant has yet to submit its supplemental appeal brief following the Examining Attorney's submission of new evidence on remand, *see* Dkt 59, and the Examining Attorney has yet to submit her responsive brief. Therefore, Applicant's request is timely.

VI. Conclusion

For the foregoing reasons, Applicant respectfully requests that the Board grants its motion to suspend the consolidated appeal proceeding and remand the applications for consideration of the additional evidence submitted by Applicant.

Respectfully submitted,

DORSEY & WHITNEY LLP

Dated: March 13, 2014

By /Sandra Edelman/

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Attorneys for Applicant
World Trade Centers Association, Inc.

EXHIBIT A

Trademarks > Trademark Electronic Search System (TESS)

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Start List At: OR Jump to record: **Record 1 out of 11**

TSDR | ASSIGN Status | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

WTC

Word Mark	**WTC**
Goods and Services	IC 018. US 001 002 003 022 041. G & S: Backpacks, book bags, sports bags, bum bags, handbags, duffel bags, fanny packs, garment bags for travel, gym bags, handbags, leather cases, tote bags, shoulder bags, clutch bags, roll bags, briefcases, purses, coin purses, cosmetic bags sold empty, cosmetic carrying cases sold empty, cosmetic cases sold empty, suitcases, luggage, luggage tags, luggage tag holders, straps for carrying cases, toiletry bags and cases sold empty, wallets including card holders/with card compartments, waist packs, wristlet bags, umbrellas
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85473613
Filing Date	November 15, 2011
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086

Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	**LIVE**

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Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 4 out of 11**

WTC

Word Mark	**WTC**
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: Address books and diaries, architectural models, art prints comprised of digital illustrations originating from photographs, atlases, binders, bookends, booklets in the fields of business, bumper stickers, calendars, cards not magnetically coded for use in business transactions, coasters, commemorative books and coffee table books featuring history of the World Trade Centers Association, day planner, decals, dictionaries, books featuring finance and international trade, globes, graphic art prints and reproductions, greeting cards, maps, directories featuring photographs and information regarding members of the World Trade Centers Association, mounted and unmounted photographs, paper name badges, passport holders, pens, pencils, photograph albums, posters, postcards and picture postcards, publications namely, news bulletins, newsletters, newspapers, brochures, pamphlets and magazines in the fields of business, finance and international trade, stickers
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85473617
Filing Date	November 15, 2011
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271

Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	**LIVE**

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TSDR | ASSIGN Status | TTAB Status ***(Use the "Back" button of the Internet Browser to return to TESS)***

WORLD TRADE CENTER

Word Mark	**WORLD TRADE CENTER**
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: Address books and diaries, architectural models, art prints comprised of digital illustrations originating from photographs, atlases, binders, bookends, booklets in the fields of business, bumper stickers, calendars, cards not magnetically coded for use in business transactions, coasters, commemorative books and coffee table books featuring history of the World Trade Centers Association, day planner, decals, dictionaries, books featuring finance and international trade, globes, graphic art prints and reproductions, greeting cards, maps, directories featuring photographs and information regarding members of the World Trade Centers Association, mounted and unmounted photographs, paper name badges, passport holders, pens, pencils, photograph albums, posters, postcards and picture postcards, publications, namely, news bulletins, newsletters, newspapers, brochures, pamphlets and magazines in the fields of business, finance and international trade, stickers
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85474746
Filing Date	November 16, 2011
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271

Attorney of Record	Sandra Edelman
Prior Registrations	1011720;1469489;1749086
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	**LIVE**

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WORLD TRADE CENTER

Word Mark	**WORLD TRADE CENTER**
Goods and Services	IC 018. US 001 002 003 022 041. G & S: Backpacks, book bags, sports bags, bum bags, handbags, duffel bags, fanny packs, garment bags for travel, gym bags, handbags, leather cases, tote bags, shoulder bags, clutch bags, roll bags, briefcases, purses, coin purses, cosmetic bags sold empty, cosmetic carrying cases sold empty, cosmetic cases sold empty, suitcases, luggage, luggage tags, luggage tag holders, straps for carrying cases, toiletry bags and cases sold empty, wallets including card holders/with card compartments, waist packs, wristlet bags, umbrellas
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85474748
Filing Date	November 16, 2011
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1011720;1469489;1749086

Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	**LIVE**

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WORLD TRADE CENTER

Word Mark	**WORLD TRADE CENTER**
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Binoculars, cameras, blank USB flash drives, chains for eye glasses, electronic personal organizer, eyeglass cases, eyeglasses, hard hats, light pens, magnets, mouse pads, cell phone cases, sunglasses, viewing devices, namely, digital photograph viewers, 3D digital photograph viewers, LCD displays, enclosures for LCD displays and enclosures for video players
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85527008
Filing Date	January 27, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086
Type of Mark	TRADEMARK

Register	PRINCIPAL
Live/Dead Indicator	**LIVE**

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TSDR | ASSIGN Status | TTAB Status ***(Use the "Back" button of the Internet Browser to return to TESS)***

WTC

Word Mark	**WTC**
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Binoculars, cameras, blank USB flash drives, chains for eye glasses, electronic personal organizer, eyeglass cases, eyeglasses, hard hats, light pens, magnets, mouse pads, cell phone cases, sunglasses, viewing devices, namely, digital photograph viewers, 3D digital photograph viewers, LCD displays, enclosures for LCD displays and enclosures for video players
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85527029
Filing Date	January 27, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086
Type of Mark	TRADEMARK

Register	PRINCIPAL
Live/Dead Indicator	LIVE

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WORLD TRADE CENTER

Word Mark	**WORLD TRADE CENTER**
Goods and Services	IC 014. US 002 027 028 050. G & S: Bracelets, charms, clocks, commemorative coins and medals, cuff links, earrings, jewelry pins for use on hats, holiday ornaments of precious metals, jewelry, key rings of precious metals, lapel pins, necklaces, ornamental pins, statuettes of precious metals and their alloys, watches
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85527100
Filing Date	January 27, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit corporation DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086
Type of Mark	TRADEMARK
Register	PRINCIPAL

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TSDR | ASSIGN Status | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

WTC

Word Mark	**WTC**
Goods and Services	IC 014. US 002 027 028 050. G & S: Bracelets, charms, clocks, commemorative coins and medals, cuff links, earrings, jewelry pins for use on hats, holiday ornaments of precious metals, jewelry, key rings of precious metals, lapel pins, necklaces, ornamental pins, statuettes of precious metals and their alloys, watches
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85527119
Filing Date	January 27, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) World Trade Centers Association, Inc. non-profit organization DELAWARE 120 Broadway, Suite 3350 New York NEW YORK 10271
Attorney of Record	Sandra Edelman
Prior Registrations	1469489;1749086
Type of Mark	TRADEMARK
Register	PRINCIPAL

Live/Dead Indicator LIVE

EXHIBIT B

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Mar 5 03:10:42 EST 2014

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 10 out of 10**

TSDR | ASSIGN Status | TTAB Status ***(Use the "Back" button of the Internet Browser to return to TESS)***

Typed Drawing

Word Mark	**WORLD TRADE CENTER**
Goods and Services	IC 042. US 100. G & S: ASSOCIATION SERVICES -- NAMELY, FOSTERING AND PROMOTING WORLD TRADE AND INTERNATIONAL BUSINESS RELATIONSHIPS. FIRST USE: 19610300. FIRST USE IN COMMERCE: 19610300
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73622458
Filing Date	September 26, 1986
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	September 22, 1987
Registration Number	1469489
Registration Date	December 15, 1987
Owner	(REGISTRANT) WORLD TRADE CENTERS ASSOCIATION, INC. CORPORATION DELAWARE 420 LEXINGTON AVENUE SUITE 518 NEW YORK NEW YORK 10170
Type of Mark	SERVICE MARK
Register	PRINCIPAL-2(F)
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080219.
Renewal	1ST RENEWAL 20080219
Live/Dead Indicator	**LIVE**

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Mar 5 03:10:42 EST 2014

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 10 out of 11**

TSDR | ASSIGN Status | TTAB Status ***(Use the "Back" button of the Internet Browser to return to TESS)***

Typed Drawing

Word Mark	**WTC**
Goods and Services	IC 042. US 100. G & S: association services; namely, fostering and promoting world trade and international business relationships. FIRST USE: 19680417. FIRST USE IN COMMERCE: 19680417
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74278551
Filing Date	May 21, 1992
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	November 3, 1992
Registration Number	1749086
Registration Date	January 26, 1993
Owner	(REGISTRANT) World Trade Centers Association, Inc. CORPORATION DELAWARE 60 East 42nd Street Suite 901 New York NEW YORK 10017
Prior Registrations	1469489
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130201.
Renewal	2ND RENEWAL 20130201
Live/Dead Indicator	**LIVE**

EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Trademark Applications of
World Trade Centers Association, Inc.

Serial Nos.:	85/473,613 (WTC, Cl. 18)	)	Evin L. Kozak, Esq.
	85/473,617 (WTC, Cl. 16)	)	Trademark
	85/474,746 (WORLD TRADE CENTER, Cl. 16)	)	Examining Attorney
	85/474,748 (WORLD TRADE CENTER, Cl. 18)	)	
	85/527,008 (WORLD TRADE CENTER, Cl. 9)	)	Trademark Law
	85/527,029 (WTC, Cl. 9)	)	Office 116
	85/527,100 (WORLD TRADE CENTER, Cl. 14)	)	
	85/527,119 (WTC, Cl. 14)	)	

REPORT OF GEORGE MANTIS

I. BACKGROUND AND PURPOSE OF THE STUDY

The United States Patent and Trademark Office ("USPTO") has refused registration of eight intent-to-use applications for the marks WORLD TRADE CENTER and WTC filed by Applicant World Trade Centers Association, Inc. ("WTCA"), including Application Serial No. 85527100 for WORLD TRADE CENTER (the "Mark") in Class 18, based on the alleged failure of the Mark to function as a trademark. Specifically, the Examining Attorney contends that the Mark can not indicate a single source of goods because it calls to mind and is inseparable from the events of September 11, 2001 and because of third party sales of merchandise memorializing the September 11 terrorist attack that are similar to the goods identified in the applications at issue.

I am aware that the trademarks WORLD TRADE CENTER and WTC are the subject of incontestable registrations in Class 42 for association services to foster world trade and international business relationships, based on commercial use of the marks in connection with these services dating back to 1968.

At the request of Applicant's counsel, I conducted a study to assess whether the Mark is capable of functioning as a trademark on a representative sampling of goods from the Class 18 application for the WORLD TRADE CENTER Mark, specifically, backpacks, fanny packs and tote bags. As described in greater detail below, the study evaluated the extent to which potential consumers perceive the name WORLD TRADE CENTER, when used on those goods, as originating with or authorized by a single source, in comparison to two other registered trademarks – BOSTON MARATHON and LOUISIANA STATE UNIVERSITY – as well as two common generic names – CROSS-COUNTRY RACE and STUDENT UNION.

II. SUMMARY CONCLUSIONS

WORLD TRADE CENTER is capable of functioning as a trademark for WTCA for backpacks, fanny packs and tote bags. This conclusion is based on results of the study showing that 37.7% of respondents associate that name with a single source for these

goods and 25% of the respondents identify that source as WTCA or the entity that owns the WORLD TRADE CENTER mark for trade center buildings and related association services. This is very similar to the level of single source identification for the mark BOSTON MARATHON, which is currently registered in Class 18 for similar goods. Further, WORLD TRADE CENTER is capable of functioning as a trademark even though the mark is also associated with a tragic terrorist event.

III. QUALIFICATIONS

I am the President of The Mantis Group, Inc., a marketing research and consulting firm located in Chicago, Illinois. For over forty years, I have designed, executed, and reported on surveys conducted for consumer and industrial product and service firms. I have conducted surveys designed to address a variety of business issues and have provided survey research for judicial and regulatory proceedings. I have been qualified as an expert on survey research, and the surveys I have designed and conducted have been introduced in evidence and relied upon by The Trademark Trial and Appeal Board ("TTAB") and courts of many jurisdictions, including:

Hershey Co. v. Promotion in Motion, Inc., Civ. Act. No. 07–1601 (SDW)(MCA), 2011 WL 5508481 (D.N.J. Nov. 7, 2011)

U.S. Polo Ass'n, Inc. v. PRL USA Holdings, Inc., 800 F.Supp.2d 515 (S.D.N.Y., 2011)

First Nat. Bank in Sioux Falls v. First Nat. Bank South Dakota, SPC, Inc., 655 F.Supp.2d 979 (D.S.D. 2009)

7-Eleven, Inc. v. Mark D. Morrison, Opposition No. 91154687 to application Serial No. 76360248 (T.T.A.B. June 2, 2008)

March Madness Athletic Ass'n, L.L.C. v. Netfire, Inc., 310 F. Supp. 2d 786 (N.D. Tex. 2003)

Carl Karcher Enterprises Inc. v. Stars Restaurants Corp., 35 U.S.P.Q.2d 1125 (T.T.A.B. 1995)

Miles Laboratories Inc. v. Naturally Vitamin Supplements Inc., 1 U.S.P.Q.2d 1445 (T.T.A.B. 1986)

I hold a Bachelor of Science Degree (B.S.) from Carroll College, a Master of Business Administration (M.B.A.) from Indiana University, and a Juris Doctor (J.D.) from Illinois Institute of Technology, Chicago-Kent College of Law.

IV. HOW THE STUDY WAS CONDUCTED

A. The Survey Universe

Included in this survey are responses from two hundred and four (204) individuals recruited from an Internet panel hosted by Decision Analyst, Inc. The interviewing was conducted between December 27, 2013 and January 15, 2014. The survey was comprised of two parts. The first part consisted of the introduction and screener.[1] Respondents were told to be completely honest and not to guess when answering questions. Respondents were then asked screening questions to ascertain whether they were qualified to participate in the survey.

Included in the survey were individuals 18 years of age or older who:

1. within the last three months purchased, or within the next three months were likely to purchase, backpacks, fanny packs or tote bags;
2. understood and agreed to instructions such as taking the survey in one session, not consulting with another individual or any material and not copying or disclosing any information seen in the survey; and
3. used a traditional desktop computer or laptop computer to complete the survey to ensure that respondents had a display large enough to sufficiently view the screen shots shown.

I selected backpacks, fanny packs and tote bags for the study because they are representative of the goods identified in WTCA's Class 18 application to register the WORLD TRADE CENTER mark and are sufficiently similar to each other to be grouped together in a single screening question.

As is typical in survey methodology, excluded from the survey were individuals who may have special insight about the subject studied and those who required but did not have

[1] The Screener and Questionnaire are attached as Exhibit A.

eyewear present. Thus, additional screening questions identified the following individuals who were not included in the study:

1. individuals who were employed, or had a family member who was employed, by an advertising agency, sales promotion firm, public relations firm, or a marketing research organization, and

2. if they normally wear eyeglasses or contact lenses when using a computer, but did not agree to wear them for the survey.[2]

B. Sample Composition

Because the applications for registration at issue are not restricted to any class of purchaser or channel of trade, demographics for the general population of the United States were used to screen for potential respondents. For the first day of interviewing, Decision Analyst, Inc. was instructed to screen approximately an equal number of men and women in each of five age groups. Based on this investigation, age and gender quotas for completed interviews were established, resulting in a survey sample based on qualification rates. (See Exhibit B for age and gender distribution of completed interviews).

C. Survey Format and Questioning

I am not aware of any survey design generally accepted by the USPTO or TTAB to evaluate whether a name or designation is capable of functioning as a trademark. However, because the ground of refusal articulated by the Examining Attorney is based on the conclusion that WORLD TRADE CENTER is incapable of identifying a single source of the goods in the applications at issue, I designed a "Teflon"-style survey in accordance with the methods and format for genericness surveys endorsed in the seminal case of *E. I. DuPont de Nemours & Co. v. Yoshida Int'l, Inc.,* 393 F. Supp. 502 (E.D.N.Y 1975), and also accepted as proof of secondary meaning in *March Madness Athletic Ass'n, L.L.C. v. Netfire, Inc.,* 310 F. Supp. 2d 786 (N.D. Tex. 2003). I believe this study design, as described in detail below, provides highly relevant data on whether the

[2] Additionally, as a quality control measure to ensure that only actual people, as opposed to a computer program, took the survey, respondents were asked to provide the solution to a math problem, e.g, "what 2 + 2 equals."

name WORLD TRADE CENTER, when used on backpacks, fanny packs and tote bags, will be perceived by consumers as originating with, or authorized by, a single source, and thus is capable of functioning as a trademark.

In accordance with the "Teflon" format, in addition to the test name, WORLD TRADE CENTER, respondents were questioned about four control names. Two of the names are registered trademarks – BOSTON MARATHON, which is registered in Class 18 for fanny packs and tote bags, based on use in commerce since 1988 – and LOUISIANA STATE UNIVERSITY, which is registered (along with its LSU acronym) for a wide variety of merchandising items, including Class 18 goods.[3] The remaining two names, STUDENT UNION and CROSS-COUNTRY RACE, are common generic names that relate to more than one university facility or running event, respectively, and thus correlate to the control trademarks selected for the study. The use of controls such as these provides a basis to evaluate respondents' ability to distinguish between a trademark and a common generic name, and provides data on the relative single-source identifying capability of WORLD TRADE CENTER in comparison to two other marks registered for similar goods and merchandising items.

After answering the screening questions to ensure that respondents were part of the relevant universe of potential consumers of the goods, the second part of the survey was presented to qualified respondents who were questioned about each of the five names. The names were presented in random order to prevent any order bias.

In order to track the legal standard for determining whether a name has source-identifying significance as a trademark, questioning used to measure secondary meaning was adopted. Specifically, the first question was designed to ascertain whether the Mark points to a single source of goods.

> "Do you associate the name (NAME) when used on backpacks, fanny packs, and tote bags with only one company or organization as the source of these products, more than one company or organization or don't you know or have an opinion?" (Question 1)

[3] See BOSTON MARATHON, Reg. No. 1,832,708; LOUISIANA STATE UNIVERSITY, Reg. No. 3,161,850; LSU, Reg. No. 1,331,940; LSU & Design, Reg. No. 3,260,053; and LSU TIGERS, Reg. No. 4,089,446.

Respondents who answered "only one company or organization" in Question 1 were asked two follow-up questions:

> "With which company or organization do you associate the name (NAME)?" (Question 2)
>
> "What if anything, can you tell me about (RESPONSE TO QUESTION 3)

The purpose of Questions 2 and 3 was to ascertain which single source the respondents were thinking of, even if they could not identify that source by its correct name. This is consistent with the single anonymous source rule for trademark significance, in which a name can be deemed to function as a trademark if it signifies the same single source of goods whether or not consumers know or can accurately identify the name of that source.

For those respondents who answered "more than one company or organization" or "don't know/no opinion" in response to Question 1, a further question about source-identifying significance was asked, since some consumers may believe that goods that are made by more than one company or organization are in fact authorized or sponsored by only one source[4]. Accordingly, these respondents were asked:

> "Do you associate the name (NAME) when used on backpacks, fanny packs, and tote bags as being authorized or sponsored by only one company or organization, more than one company or organization, or don't you know or have an opinion?" (Question 4)

Again, consistent with the single anonymous source rule for trademark significance, respondents who answered "only one company or organization" in response to Question 4, were asked two follow-up questions to ascertain which single source the respondents had in mind:

> "With which company or organization do you associate the name (NAME) as authorizing or sponsoring these products"? (Question 5)
>
> "What if anything, can you tell me about (RESPONSE TO QUESTION 6)?"

[4] For example, see the verbatim answers of Respondent 153 for WORLD TRADE CENTER and Respondent 21 for LOUISIANA STATE UNIVERSITY in Table 2 below, who expressly refer to a single source authorizing permission to use a mark by multiple users.

The survey concluded by asking respondents to acknowledge that they followed the initial instructions given for taking the survey. As an additional quality control measure, respondents were asked to provide a description of the main topic of the survey.

E. Development of the Survey Instruments and Coding of Data

I developed both the Screener and the Questionnaire described above. Once Decision Analyst, Inc. provided The Mantis Group with the data, I coded and tabulated the responses.

V. SURVEY RESULT

Shown in TABLE 1 below are the compilation of one company/organization responses to Questions 1 and 4. Of the 204 respondents surveyed, a total of 77 or 37.7% said they associate WORLD TRADE CENTER with only one company or organization as the source of backpacks, fanny packs and tote bags in response to Question 1 or associate these products as being authorized or sponsored by only one company or organization in response to Question 4. That level of single source association is just slightly lower than the 40.2% of one company/organization responses for BOSTON MARATHON, although both WORLD TRADE CENTER and BOSTON MARATHON were lower than the 58.8% one company/organization responses for LOUISIANA STATE UNIVERSITY.

TABLE 1

ONE COMPANY/ORGANIZATION RESPONSES

Question 1 "Do you associate the name **(NAME)** when used on BACKPACKS, FANNY PACKS and TOTE BAGS with only one company or organization as the source of these products, more than one company or organization, or don't you know or have an opinion?"

Question 4 "Do you associate the name **(NAME)** when used on BACKPACKS, FANNY PACKS and TOTE BAGS as being authorized or sponsored by only one company or organization more than one company or organization, or don't you know or have an opinion?

	TOTAL	Response to Question 1	Response to Question 4
WORLD TRADE CENTER	77 37.7%	71	6
LOUISIANA STATE UNIVERSITY	120 58.8%	105	15
STUDENT UNION	34 16.7%	29	5
BOSTON MARATHON	82 40.2%	72	10
CROSS-COUNTRY RACE	32 15.7%	26	6
RESPONDENTS	204		

Not all of the respondents who initially said only one company or organization in response to the test and control names in Questions 1 and 4 may have the same single source in mind.

Accordingly, to determine which single source the respondents had in mind, I analyzed the information provided by respondents to follow-up Questions 2, 3, 5 and 6. Shown on TABLE 2 (pages 14-37), are the verbatim responses to these questions for each of the five names.

As shown in TABLE 2, responses are grouped into two categories for the test name and each of the two control trademarks. In the first category are WORLD TRADE CENTER RESPONSES, BOSTON MARATHON RESPONSES or LOUISIANA STATE UNIVERSITY RESPONSES, which I defined as responses that accurately identify or describe the organization or single source that owns or authorizes the use of those trademarks, even if respondents could not provide the correct name for that entity.

For example, for WORLD TRADE CENTER, I categorized as a WORLD TRADE CENTER RESPONSE Respondent 47, who correctly named "World Trade Center Association" as the single source; Respondents 5 and 38, who named WTCA's licensee, the Port Authority of New York/New Jersey; Respondent 115, who said "whomever is managing the WTC;" and Respondent 153, who said "World Trade Center" in response to Question 5 and ". . . I would assume they outsource products from multiple sources, but have a single entity that oversees the purchase of marketing products." I also counted many respondents who gave single source responses to either Questions 1 or 4 and then provided follow-up answers to Questions 2, 3, 5 or 6 that reasonably confirmed they were thinking of whomever owns the mark for the complex of buildings destroyed on 9/11 (whether they thought that was the U.S. government, the Port Authority of New York, or the building developers themselves). The important criterion in my evaluation of the follow-up questions 2, 3, 5 and 6 was whether I could reasonably determine which particular entity the respondents had in mind, even though they may have described that entity in different ways.

Likewise, for BOSTON MARATHON RESPONSES, I counted Respondent 47, who correctly identified the "Boston Athletic Association" as the owner of the BOSTON MARATHON mark; Respondent 159, who said "A Boston org. supporting the yearly race in Boston;" as well as the many individuals who mentioned the Boston race that had been the subject of a terrorist attack in 2013. I also counted the respondents who gave city of Boston responses, since these respondents clearly had in mind the entity that operates the famous annual Boston marathon race, even if they were not sure who that entity was or whether it was a governmental or private organization.

Similarly, for LOUISIANA STATE RESPONSES, I counted respondents who said LSU (e.g., Respondents 13 and 14); the State of Louisiana (e.g., Respondent 39); or gave responses that described the particular university they had in mind by referring to its football or basketball team, its mascot or geographic location (e.g., Respondents 18, 36). Again, these were all counted as identifying the same single source, even though the respondents might not have used the correct name for that single source.

The second category is OTHER RESPONSES, which I defined as ambiguous responses or responses that identify a specific source inconsistent with the actual entity that owns or authorizes the use of the trademarks, or responses such as no/more than one/ never heard of the source. With respect to the two control common generic names, responses are grouped into two similar categories: SINGLE SOURCE RESPONSES, defined as responses that identify a single, albeit anonymous source, and OTHER RESPONSES.

TABLE 2 is summarized below, which presents the one company/organization responses initially given in response to Questions 1 and 4, but adjusted to exclude those respondents who gave OTHER RESPONSES to the follow-up questions 2, 3, 5 and 6. As such, the proportions shown in the Table 2 Summary below reflect the number of respondents who in fact associate the mark used on backpacks, fanny packs and tote bags with a single, even if anonymous or imperfectly named, source that in fact is the entity that owns or authorizes the use of that mark.

SUMMARY

ONE COMPANY/ORGANIZATION RESPONSES
Adjusted Total Based on Responses
To Questions 3, 4, 5 and 6

WORLD TRADE CENTER	51 25.0%
LOUISIANA STATE UNIVERSITY	95 46.6%
STUDENT UNION	21 10.3%
BOSTON MARATHON	51 25.0%
CROSS-COUNTRY RACE	20 9.8%
RESPONDENTS	204

The use of controls provides a basis to evaluate whether the proportions shown above are meaningful. A significantly greater number of respondents associated LOUISIANA STATE UNIVERSITY and BOSTON MARATHON with only one company/organization compared to STUDENT UNION and CROSS-COUNTRY RACE. This demonstrates a threshold ability to distinguish between a trademark and a common generic name and confirms the overall validity of the survey results.

The adjusted totals in Table 2 also provide useful information about the relative strength of the single source-identifying trademark significance of the three non-generic names studied for backpacks, fanny packs and tote bags: LOUISIANA STATE UNIVERSITY, BOSTON MARATHON and WORLD TRADE CENTER. As noted above, BOSTON MARATHON has been registered in Class 18 for fanny packs and tote bags based on use in commerce since 1988, and LOUISIANA STATE UNIVERSITY and its LSU acronym have been registered in many different product merchandise classes, including Class 18, based on use in commerce since the early 1980's. It is notable that even though the WORLD TRADE CENTER Mark has not yet been used commercially on

backpacks, fanny packs and tote bags, it has a similar level of single source trademark significance as BOSTON MARATHON, which has been used on such goods for more than 25 years (37.7% vs. 40.2%) and an identical adjusted level of 25% single source identification. While the adjusted single source-identification strength of the BOSTON MARATHON and WORLD TRADE CENTER marks is lower than the 46% for LOUISIANA STATE UNIVERSITY, none of the three exceed 50%, and the 25% level certainly demonstrates the capability of the WORLD TRADE CENTER name to function as a trademark for the goods tested.

Further, the responses to Questions 2, 3, 5 and 6 for both WORLD TRADE CENTER and BOSTON MARATHON marks provide additional relevant information regarding how consumers perceive a mark for an event or institution that was marred by tragedy.

When asked "what if anything, can you tell me about BOSTON MARATHON," many of these respondents call to mind the tragic event of April 15, 2013. For example, respondents gave reasons for identifying BOSTON MARATHON such as:

- "It is a famous marathon. Also, tragedy stuck there this year with the bombing."
- "Boston Marathon bomb race."
- "The bombing, so sad."
- "Pipe bomb."
- "A really big marathon and now, unfortunately, the Boston Marathon bombing."
- "The Boston Marathon became a popular name just recently when a bomb was planted and some runners got injured."
- "It is an annual event held in Boston, MA. Last year they had a bombing during the race and two young men were found to be the terrorists."

Similar responses were provided with respect to WORLD TRADE CENTER:

- 911 tragedy. One previous attempt to bomb WTC. Now a memorial.
- NYC and the attack.

- The buildings that were destroyed in New York.
- Knocked down on 9/11/01 by terrorists.

Responses such as these clearly demonstrate that a trademark can have a dual function, that is, it can serve as a source indicator for goods and services as well as identify a thing such as an event or institution, even if tragic circumstances have come to be associated with that event or institution.[5]

CONCLUSION

The study results show that the WORLD TRADE CENTER mark, which has been used and registered for many years in connection with association services, is capable of functioning as a trademark for WTCA for backpacks, fanny packs and tote bags, even though Applicant WTCA has not yet commenced commercial use of the mark on these goods. This conclusion is supported by the 37.7% of respondents who said that the goods originate with or are authorized by a single source, and the 25% of respondents who identified WTCA or the same single entity that owns the mark for the World Trade Center buildings and related services as the single source. This is about the same level of association for the BOSTON MARATHON mark, which has been registered and used commercially on fanny packs and tote bags for many years. Moreover, the level of single source identification for the WORLD TRADE CENTER mark for the Class 18 goods tested co-exists with, and is not undermined by, the additional association of this mark with tragic terrorist events.

Date: 3/5/14

George Mantis

GEORGE MANTIS

[5] On an analogous level, respondents in the study also associated the LOUISIANA STATE UNIVERSITY mark with what the University is famous for in a positive way, e.g., being a premier public university with great football and basketball teams. These associations co-exist with the source-identifying significance of the name LOUISIANA STATE UNIVERSITY when used on backpacks, fanny packs and tote bags.

TABLE 2

Question 3 "With which company or organization do you associate the name (NAME) as the source of these products?

Question 4 "What, if anything, can you tell me about (RESPONSE GIVEN IN Question 3)?"

Question 5 "With which company or organization do you associate the name (NAME) as authorizing or sponsoring these products?

Question 6 "What, if anything, can you tell be about (RESPONSE GIVEN IN Question 5)?"

WORLD TRADE CENTER

World Trade Center Responses (51 Respondents)

Respondent ID		
2		
	3	World Trade Center.
	4	It was demolished by airplanes that were flown into it on September 11, 2011 by terrorists. There is now a memorial in its place.
4		
	3	World Trade Center.
	4	911 tragedy. One previous attempt to bomb WTC. Now a memorial.
5		
	3	Port Authority of NJ/NY.
	4	Runs World Trade Center along with bridges, tunnels and port of NJ/NY.
9		
	3	The Trade Center itself.
	4	Destroyed in 2011 and rebuilt since.
16		
	3	World Trade Center.
	4	It is a school.
18		
	3	World Trade Center.
	4	It was demolished by terrorists some years back and a lot of people lost their lives as a result.
21		
	3	World Trade Center.
	4	Don't know much about it.
22		
	3	The building that was hit by airplanes on 9/11 tragedy.
	4	The two buildings of the WTC complex was hit by the terrorist.
31		
	3	New York State Government.
	4	They run all public sectors of NYC.
32		
	3	World Trade Center.
	4	The World Trade Center is an iconic building in downtown New York City so products with its name and logo would only represent the particular building.

35

3 The same company.

4 That is could be by the same company or organization that originally built the Center. and is showing support to all the victims' families.

36

3 World Trade Center.

4 Sight of the most significant terrorist attack on US soil.

37

5 US Government.

6 When I think of the World Trade Center, I think about the US government and all the tragedies that happened on September 11, 2001.

38

5 Port Authority of New York.

6 It delivers transportation to NYC and I believe it was the World Trade Center spot and gift shops associated to the name.

42

3 World Trade Center/Ground Zero.

4 Any products associated with this in my mind are related to 911, WTC or Ground Zero.

46

3 New York

4 Overpriced city run for the greater glory of rich, white America.

47

3 World Trade Center Association

4 This is a group of building and businesses in lower Manhattan, New York. I admit I don't know much about this.

48

3 NYC.

4 It is the largest city in the US and it was bombed by terrorists.

54

3 World Trade Center

4 There was terroristic attack on 9/11/01 that killed many in New York orchestrated by Osama Ben Laden and Al Qaeda.

55

3 I cannot think of one.

4 I am not sure what company or organization is associated with the World trade Center.

62

3 The World Trade Center in NYC.

4 Nothing much. It is a series of office buildings located in New York City which have been attacked by terrorists several times.

63

3 The World Trade Center.

4 It's the World Trade Center. It can have many products.

64

3 World Trade Center.

4 I don't think of it as a brand. It is a place initially I think of the tragedy on 9/11, then my thoughts move on to the memorial. Rarely do I recall the rebuilding.

66

3 WTC.

4 It is a historical place.

68

3 The World Trade Center itself.

4 I think it's not a brand but the building itself and the businesses are currently operations and will operate there in the future.

75

3 World Trade Center.

	4	A building in New York New York that was part of the 9/11 terrorist attacks. Many people were killed. The World Trade Center attack was part of a coordinated attack that happened almost simultaneously.
79		
	3	WTC.
	4	NYC and the attack.
82		
	3	City of New York.
	4	911 occurred there of course. World Trade Center bombings and the financial capital of the world.
83		
	3	9/11 Memorial.
	4	Established to commemorate the memories of victims of 9/11 and help their families.
87		
	3	WTC.
	4	The WTC in New York was bombed and destroyed in Sept. 2011.
92		
	3	World Trade Center.
	4	The buildings that were destroyed in New York.
97		
	3	The World Trade Center.
	4	A new construction in New York City being built on the site of the original World Trade Center which was destroyed by terrorists.
115		
	3	Whomever is managing the WTC.
	4	Nothing at this point. Since the catastrophe, I have not seen any articles focused on who actually owns the property and what was/is erected on it.
116		
	3	World Trade Center.
	4	Plane crash.
129		
	3	World Trade Center.
	4	I know it as the buildings that were attached on 9/11 and there is a memorial where one of the towers stood.
130		
	3	The World Trade Center building.
	4	The World Trade Center was destroyed in the horrific attacks on 9/11 and was restored with the recent memorial building. That is what I associated with the World Trade Center despite it most likely being flawed.
131		
	3	WTC.
	4	They make backpacks and other products.
133		
	3	The actual World Trade Center.
	4	The World Trade Center in New York in the middle of Manhattan, known to all the world. Recently rebuilt.
141		
	3	Trade center.
	4	They do international trades.
153		
	5	World Trade Center
	6	Not much about the organization behind it. But I know they have built a monument in its place. I would assume that they outsource products from multiple sources, but have a single entity that oversees the purchase of marketing products.

163

3 The Trade Center Towers that fell. They're being rebuilt.
4 The towers that were hit by a couple planes in America. Well 10 yrs. or more later, it's being reconstructed as we speak.

171

3 The World Trade Organization, New York City.
4 New York City, 9/11 World Trade Center Building Memorial.

172

3 World Trade Center.
4 Knocked down on 9/11/01 by terrorists.

173

3 NYC.
4 The World Trade Center that was in New York City.

178

5 WTC Commission
6 I don't know anything about them.

180

3 Willis.
4 Surpassed by WTC.

185

3 WTC.
4 It fell.

188

3 World Trade Center.
4 It was a big center of progress in NYC.

189

3 New York.
4 911 and remembering.

200

3 World Trade Center.
4 Located in New York.

203

3 World Trade Center.
4 The World Trade Center was destroyed in the September 11, 2001 terrorist attacks.

Other Responses (26 Respondents)

8

3 None.
4 Nothing.

19

3 Central High School
4 We promoted remembrance of 9/11 in my high school for students who had parents or any other family relatives living or working near the scene of the incident.

24

3 NYSE.
4 Not much.

32

5 Visa.
6 It is nice.

52

3 Liberty One.
4 It it's a corporation for profit and other things.

74

3 Panama Jack.

	4	They have sunglasses, backpacks, sun tan lotion, clothing.
80	5	Wall Street
	6	Stock exchange.
85		
	3	None.
	4	No answer
89		
	3	The UN.
	4	I know the UN is isolated from the World Trade Center, but the idea of globalization and global trade that the World Trade Center is built upon reminds me of the same intentions and goals of the United Nations.
94		
	3	Terrorists.
	4	Bombings.
96		
	3	wcc.
	4	Organization for wild life.
99		
	3	Geico.
	4	It's my car insurance company.
110		
	3	Airports.
	4	I think of airplanes and airports when I hear of the World Trade Center.
111		
	3	Unsure.
	4	I have never heard of this as a brand.
119		
	3	DC.
	4	Where the government is run.
120		
	3	Not sure.
	4	No answer.
125	3	Chase.
	4	It's one of the largest banks.
132		
	3	Retail.
	4	Consumer products.
135		
	3	Fundraising.
	4	I associate it with fund raising organizations.
157		
	3	911
	4	Worst tragedy in USA history.
158		
	3	Unknown.
	4	Never heard of a company that produces items under World Trade Center.
159	3	Stock exchange.
	4	Window on the daily economy of the country.
181		
	3	Don't know.
	4	I don't know anything of World Trade Center.

182

3 High quality business

4 Nothing really.

190

3 The Illuminati.

4 I believe that this was an inside job and that we will never hear the truth. They were located in NY.

195

3 I meant to choose multiple organization.

4 I chose the wrong answer on the prior question.

LOUISIANA STATE UNIVERSITY

Louisiana State University Responses (95 Respondents)

2		
	3	Louisiana State University.
	4	It is down south in Louisiana. I believe it is a large university.
3		
	3	LSU.
	4	University in LA.
4		
	3	LSU.
	4	Good football team. Shooting there?
5		
	3	State University System.
	4	Nothing.
9		
	5	LSU.
	6	A large southern university.
11		
	3	Louisiana State University
	4	Nothing. The name suggests it is for backpacks from that university.
13		
	3	LSU.
	4	Not familiar with.
14		
	3	LSU.
	4	They are the Tigers.
16		
	5	Louisiana State University.
	6	It is located in Louisiana.
18		
	3	Louisiana State University.
	4	I think that it has a good football team.
21		
	5	The University.
	6	Louisiana State University licenses "official" merchandise but there could be other companies that use its name after getting permission.
22		
	3	The state University of Louisiana state.
	4	I don't have any particular knowledge about the school.
24		
	3	State college.
	4	Nothing.
31		
	3	Louisiana State University.
	4	It's a public university in the state of Louisiana.
32		
	3	Louisiana State University.
	4	The Louisiana State University is a public university in Baton Rouge, Louisiana.
35		
	3	The same one, Louisiana State University.
	4	That it is a university that is expanding and growing by not only offering educational classes but also offering educational products.

36

3 Louisiana State University
4 It's a state university in Ruston. LA mascot is the bulldog.

37

3 Louisiana State University.
4 Nothing.

38

3 Louisiana State University.
4 Nothing.

39

3 The state of Louisiana.
4 It's a southern state where New Orleans is located.

42

5 The school/university, LSU.
6 Don't know much about it.

44

3 Louisiana state.
4 Nothing else.

46

3 State of Louisiana.
4 KKK run state used by big oil to rake over the environment.

47

3 Louisiana State University.
4 This is a college in Baton Rouge, LA and has a decent football team.

48

3 LSU.
4 Mediocre school with a good football.

54

3 LSU Tigers.
4 Great college football team from Louisiana.

60

3 Louisiana State University.
4 It's a university in Louisiana.

62

3 LSU, the school.
4 These are the stupidest questions ever. It is a school in the SEC. They usually have a good football team and it is a fun place to visit.

64

3 Louisiana State University.
4 I only know it as one of the largest state universities in Louisiana. I know nothing of their academic programs or campus life.

65

3 University.
4 Retail outlet for college age students.

66

3 LSU.
4 It has great NCAA teams.

67

3 State of Louisiana.
4 Not much. Large natural disaster devastated the state and I am sure that the lottery is one way they can try to gain some extra capital to fix infrastructure.

75

3 Louisiana State University.
4 LSU is the premier public university in the state of Louisiana. They are famous for their football program. They also excel in basketball but not to the extent that their football program has reached. I don't know anything about their academic standing.

78		
	3	University.
	4	Good in sports.
79		
	3	LSU.
	4	It's a 4-year university.
82		
	3	LSU, the school and its history.
	4	Great football teams. Charles Barkley played there. Great Civil War library.
86		
	2	Louisiana State University.
	4	LSU has fantastic football traditions.
87		
	3	LSU.
	4	University in Louisiana, very well known for football.
89		
	3	Louisiana State University.
	4	It's a public university within Louisiana, probably good at sports (football).
90		
	3	Louisiana University.
	4	Nothing. I just know the name.
91		
	3	LSU.
	4	It is a college.
92		
	3	LSU.
	4	A state college that is in Louisiana.
95		
	3	Louisiana State University.
	4	It sounds like a school.
97		
	3	Louisiana State University.
	4	College in Baton Rouge, Louisiana. Pretty good football team.
98		
	3	Louisiana State.
	4	Louisiana State is the state university of Louisiana.
102		
	3	LSU.
	4	It is a university.
103		
	3	Louisiana State University.
	4	Other than it being a school, I don't know anything about it.
107		
	5	Louisiana State University.
	6	It is a college that has apparel accessories and other items for sale with the Louisiana state logo on them.
111		
	3	LSU.
	4	It is a university.
112		
	3	Louisiana State University.
	4	I'm unfamiliar with this university.
113		
	3	LSU.
	4	It is a college.

115

3 The university itself.
4 Nothing. I've never been there nor do I know anyone who attends there.

116

3 Louisiana State University.
4 Has a good football team.

117

5 Tigers.
6 They are an institution.

118

3 LSU.
4 College football, university.

130

3 Louisiana State University.
4 It's in Louisiana.

131

3 University.
4 The Louisiana State University College.

133

3 The actual university.
4 I don't know anything about it.

138

3 Louisiana State University.
4 Their colors are purple and yellow and their mascot is a tiger.

140

3 The University.
4 It is a school in the South. LSU Tigers.

141

3 State University.
4 It's a college.

144

3 The college Louisiana State University.
4 It's in Louisiana.

146

3 Louisiana State University.
4 SEC Tigers, purple and yellow.

148

3 LSU
4 It is a university college and my guess is that they sell products such as backpacks with their name on it.

150

3 Louisiana State University.
4 No answer.

151

3 The college LSU.
4 The actual college of LSU, football and sports teams, less miles and Bengal tigers.

153

5 LSU.
6 A university again. I assume they source their products from multiple companies but would think LSU has a single entity that purchases (decides) what and from where they will be purchasing their products to be labeled LSU (official LSU gear) Of course there will be knockoffs.

154

3 Louisiana State University.
4 Don't know much about the university but I would think of it if I saw this on any merchandise.

157
3 LSU
4 University.
158
3 Louisiana State University.
4 It's a school in Louisiana.
161
3 The university.
4 College kids attend there. I did not think universities were allowed to have sponsors.
163
3 College University.
4 Is a school of education in Louisiana.
168
3 Louisiana State University.
4 It's a university.
169
3 Louisiana State University.
4 It is a university in that state.
171
3 Louisiana State University.
4 Louisiana university, college, New Orleans, football.
172
5 Louisiana State University.
6 Major university.
176
3 College.
4 Louisiana State University, the university in Baton Rouge, LA.
177
3 Louisiana State University.
4 University.
179
3 LSU.
4 It's a state college in Louisiana.
180
3 LSU
4 Good football.
182
3 Louisiana state college.
4 I know nothing about this college.
184
3 LSU.
4 LSU is a state funded university in Louisiana. This is the extent of my knowledge on the subject.
185
3 The university of the state of LA.
4 It is located somewhere in Louisiana.
188
3 LSU.
4 It is a college in Louisiana.
189
3 College.
4 A really good school.
190
3 LSU.

	4	It's a big college in Louisiana. I think that their mascot is a tiger and their colors are purple and orange.
193		
	3	Louisiana State University.
	4	It is the university that creates and manufacturers these items.
194		
	3	LSU.
	4	Don't know anything about LSU.
195		
	3	LSU.
	4	Large school in the SEC. Average academic school but highly competitive football program and decent basketball program.
196		
	3	LSU Apparel.
	4	It's their fan clothing store.
197		
	3	Louisiana State University.
	4	I know little other than LSU has a formidable football team.
199		
	3	University of Louisiana.
	4	Nothing.
200		
	3	Louisiana State University.
	4	University for students.
202		
	3	Louisiana State University.
	4	It is a college in Louisiana.
203		
	5	Louisiana State University.
	6	I know it's a large state university located in Louisiana with a popular sports following and large number of students, both graduate and undergraduate.

Other Responses (25 Respondents)

8		
	3	None.
	4	Nothing.
10		
	3	College.
	4	Colleges always have some type of bag with the name on it.
20		
	3	Nike.
	4	Nike is a key sponsor in NCAA athletic programs. Louisiana State University has a very good athletic program and they are sponsored by Nike (If I remember correctly.)
25		
	3	Not sure.
	4	Nothing.
26		
	5	North Face.
	6	They make coats, backpacks, etc.
41		
	3	Nike.
	4	They make items for colleges like LSU.
49		
	3	Jansport.
	4	They make backpacks for students of all grade levels.

52		
	3	Louisiana Co.
	4	It's located in the southern part of this land.
57		
	3	Adidas.
	4	Well they sponsor lots of sports equipment.
58		
	3	Nike.
	4	They are a huge brand of all products. Shoes, clothing and being associated with many professional sports.
88	3	NCAA.
	4	Athletic association of college sports
100		
	3	CBS sports.
	4	That they offer a wide array of college merchandise/clothing.
109		
	3	NCAA
	4	It's the licensing agent for college sports.
114		
	3	NCAA.
	4	College organization.
120		
	5	NCAA.
	6	It is the National College Athletic Association.
128		
	3	The school.
	4	I do not know.
132		
	3	Education.
	4	Learning for students.
134.		
	3	No answer.
	4	No answer
137		
	3	University.
	4	Quality.
142		
	3	REI.
	4	They are all about the outdoors.
162		
	5	None specific.
	6	I can't think of a specific company the university is associated with.
165		
	5	Tulane.
	6	It's a great school.
173		
	5	Insurance,
	6	It is expensive.
186		
	5	Dicks.
	6	Sporting.
204		
	3	Nike.
	4	They sponsor many colleges and provide them with lots of apparel for their athletes.

STUDENT UNION

Single Source Responses (21 Respondents)

12		
	3	Samsonite.
	4	Samsonite is the elite purveyor of luggage and luggage accessories. Sturdy, stylish and very much appreciated for high quality, especially in luggage, backpacks, laptop cases.
15		
	3	The Chinese Cub.
	4	It's what Its name is. The Chinese Club.
19		
	5	RIT.
	6	Rochester Institute of technology is a private university located within the town of Henrietta in the Rochester, New York metropolitan area. RIT is composed of nine academic colleges including the National Technical Institute for the Deaf.
29		
	3	Not sure.
	4	I cannot think of a name of the organization I associate this product with academic colleges, including the National Technical Institute for the deaf.
32		
	5	Student Union.
	5	The products feature school logos to represent the school
65		
	3	OLD NAVY
	4	They sell his and hers clothes and accessories in many different styles and sizes.
66		
	3	College.
	4	It is a school.
82		
	3	School/college.
	4	Student Union would be where you can obtain books, school backpacks, logos, clothing,
92		
	5	Collegiate.
	6	A company that works with schools all over the country. etc. of your respective school.
94		
	3	School.
	4	Nothing.
116		
	3	Student Union.
	4	Good organization.
122		
	3	Kansas University.
	4	It's a college. When I think of the student union, I think of Kansas University.
131		
	3	Student Union.
	4	They put the name on products.
141		
	3	Union.
	4	I guess it's a union group for students.
145		
	3	University of Utah.
	4	Alumni and gift for donation.

161
3 The Students' Union.
4 Students have a right to fight for equal rights and have their voices heard.
166
5 Some union of students.
6 No answer.
168
3 University.
4 I associate a student union with my local university.
179
3 A school.
4 Normally you see student union when dealing with post high school student organizations.
191
3 Student Union.
4 Youth oriented, carrying products.
198
3 I don't know.
4 I would assume that only one company would produce products for this organization. Which company, I don't know. I just feel it would be exclusively produced by one company.

Other Responses (13 Respondents)

9
3 Colleges.
4 Most colleges have student unions and that is the only time I see a connection.
24
3 Unsure.
4 Not sure.
44
3 Not sure.
4 I don't know.
77
3 Not sure.
4 None.
88
3 Do not know.
4 I have no idea of who the maker is.
104
3 Unsure.
4 Again, I am not aware of the brand presented.
106
3 A college's student union.
4 Unsure. I don't know of any company that uses Student Union on backpacks. I thought it was just a term used for someone who was in their college's student union.
113
3 Not sure.
4 None.
132
3 None.
4 None.
137
3 Good.
4 Quality.

154		
	3	College campuses.
	4	I think of the student union groups that are at colleges.
160		
	3	I don't know.
	4	I am unsure.
189		
	5	Students.
	5	A good resource.

BOSTON MARATHON

Boston Marathon Responses (51 Respondents)

3		
	3	Marathon race.
	4	Institution for many years.
4		
	3	Boston Marathon.
	4	It is a famous marathon. Also, tragedy struck there this year with the bombing.
5		
	3	Boston Marathon Organizers.
	4	Group who has been running the marathon for decades.
9		
	3	The marathon race.
	4	Yearly race held in Boston.
18		
	3	Boston Marathon.
	4	It is a race that is held in Boston yearly.
21		
	3	City of Boston.
	4	That it sponsors the race/marathon.
31		
	3	I do not know.
	4	I do not remember the name. Only that the Boston Marathon is owned by one private company.
32		
	3	Boston Marathon.
	4	The Boston Marathon is a marathon held annually in or around Boston, MA so the totes would feature its logos to promote the Boston Marathon.
34		
	3	City of Boston.
	4	Boston tea party, start of Revolutionary War.
36		
	3	Boston Marathon.
	4	It's a marathon.
45		
	3	Boston Marathon.
	4	Nothing. I think that they make their own gear.
47		
	3	Boston Athletic Association.
	4	This group has all kinds of information regarding the Boston Marathon. There is detailed information for the runners including training information, dates, tips, etc.
48		
	3	Boston.
	4	It is the city that was bombed by terrorists during the marathon.
60		
	5	City of Boston.
	6	It's near New York, home of the Tea Party.
61		
	3	Boston Marathon.
	4	Bombing.
62		
	3	The Boston Marathon.
	4	It is a race located in Boston. It is one of the most famous races in US history and was the site of an attack in 2012.

63
3 Boston Marathon.
4 It's a race in Boston. It's held every year. It's 26 miles and difficult.

64
3 Boston Marathon.
4 I know it as one of the most prestigious marathon events in the world and that it is held annually in April.

68
3 The actual Boston Marathon.
4 It's the organization that operated the Boston Marathon.

75
3 Boston Marathon.
4 It is an annual event held in Boston, MA. Last year they had a bombing during the race and two young men were found to be the terrorists.

79
3 Boston Marathon.
4 The bombing, so sad.

83
3 Boston Marathon.
4 Popular marathon in which a lot of people train for. After the events of last year, it is now also related to the resilience of the Boston community.

87
3 The Boston Marathon for runners held once a year.
4 It is held in Boston, MA once a year. This year it was marred by two brothers who set off bombs.

92
3 Boston Marathon.
4 Boston Marathon organized by Boston for runners.

98
3 The Boston Marathon.
4 A race run every year in Boston.

111
3 Boston.
4 It is in Massachusetts.

113
5 Boston runners.
6 They run a marathon.

116
3 Boston Marathon.
4 Pipe bomb.

118
5 Boston Marathon.
6 No answer.

126
3 Boston.
4 Where they planted explosives in back packs.

131
3 BM.
4 They have back packs, fanny packs, and tote bags.

133
3 Boston, MA.
4 The Boston marathon is very well known and exclusive to Boston, MA.

134
3 Boston strong.
4 No answer.

148

3 Boston Marathon.

4 The Boston Marathon became a popular name just recently when a bomb was planted and some runners got injured.

151

3 The Boston Marathon race.

4 It's the actual marathon race in Boston.

153

3 Boston Marathon.

4 A really big marathon and now, unfortunately, the Boston Marathon bombing.

154

3 The Boston Marathon, the run.

4 It is 26 miles long. It ends in Boston, MA. Is a great way to raise money for causes, very fun day spent watching runners and socializing with friends. This year the race was bombed, why we will probably never know but our city is amazing and has stayed strong throughout.

157

3 Bombing.

4 Boston Marathon.

159

3 A Boston org. supporting the yearly race in Boston.

4 Cannot think of a specific company.

163

3 Boston.

4 Marathon ran in Boston MA.

171

3 Boston Marathon.

4 Boston Marathon bomb race.

176

3 Race.

4 The Boston Marathon race that takes place.

182

3 I think of the Boston Marathon bombings.

4 Some dumb kid decided to place an explosive at the finish line of the Boston Marathon killing and hurting many people.

188

3 Boston Marathon.

4 It is the biggest marathon in the United States and very well respected.

189

3 Boston

4 It is a race.

190

3 The city of Boston.

4 I know that the marathon is a big event every year. The last one that took place was marred by some jackasses who decided to terrorize people with a bomb. Usually the Kenya runners win the event.

191

3 Boston Marathon.

4 Running gear.

193

3 Boston city.

4 It is the government of Boston and it is they who organize the event.

194

3 City of Boston.

4 Largest city in MA, on water, known for its universities, its freedom trail, its hay market.

200

3	State of Boston.
4	An eastern city in state of Massachusetts.

202

3	Boston Marathon.
4	Don't know much about company information. I just know it was a tragic bombing.

Other Responses (31 Respondents)

14

3	Races.
4	Running.

17

3	Adidas.
4	It is nice.

23

5	REI.
6	They are an outdoors equipment place,

28

5	Not sure.
6	Nothing.

39

5	None.
5	No.

40

3	Nike.
4	They make athletic wear and shoes and clothes people would wear when competing in the Boston Marathon.

41

3	Columbia.
4	They make backpacks and totes.

46

3	Bombing.
4	Used by Chechen nuts.

52

3	Marathon.
4	They run marathons of some sort.

55

3	Running.
4	This is a race of running marathon.

59

3	None.
4	No answer.

66

3	Running event.
4	It is for runners.

67

3	Nike.
4	It's a sporting goods company that makes apparel and sporting goods. They also sponsor lots of sporting events.

70

3	Nike.
4	They have great athletic products.

73

3 Not sure of company but some form of running shoe company.
4 None.

76

3 ING.
4 It is a banking institution that has sponsored many marathons in different cities. (Boston, NYC, San Francisco) and was recently acquired by Capital One.

78

3 Ameritrade.
4 Stocks.

81

3 Don't know.
4 Don't know.

91

3 Nike.
4 It is a shoe and athletic apparel company that sponsors lots of sporting events.

109

3 None in particular, just the event.
4 Just the race itself.

121

3 North Face.
4 They have backpacks, coats and sport-related equipment.

125

3 Rockland Fox.
4 They offer the best in high quality tote bags and luggage.

130

3 Boston Marathon Race.
4 I just associated Boston Marathon with the event, not any business or corporation. Perhaps I would associate it with Livestrong or something active like Nike.

132

5 Running event.
6 Marathon.

141

3 Runners.
4 They run marathons.

164

5 Boston.
6 State University.

165

5 Nike.
6 It's a great athletic brand and a huge sponsor of sporting events.

170

5 Adidas.
6 Quality brand accessories.

179

3 No idea.
4 I don't know what company it is. I figure that it would be athletic company who is primarily sponsoring the event.

186

3 I don't know.
4 Nothing.

187

3 Sports.
4 And I think that is the most applicable.

CROSS-COUNTRY RACE

Single Source Responses (20 Respondents)

3		
	3	Voxo.
	4	Sporting equipment maker.
12		
	3	The North Face.
	4	In my area it is high fashion and worn by athletes of any outdoor winter sports like skiers. I see the brand highly prized by college aged men and women. I have worn their Denali hooded jackets for a long time and find them very warn. I see why the skiers and snowboarders appreciate them.
19		
	3	RIT.
	4	I'm on the track team of RIT, Rochester Institute of Technology is a private university located within the town of Henrietta in the Rochester, New York metropolitan area. RIT is composed of nine academic colleges including the National Technical Institute for the deaf.
26		
	3	Under Armor.
	4	The best apparel company associated with sports.
46		
	5	Nascar.
	6	A bunch of rednecks watching crazy nuts race across a circle.
48		
	3	High school.
	4	It is where I ran cross country races.
51		
	5	Ragnar relay.
	6	It has races across the country and they raise money for charity.
55		
	3	Cross-country bike race.
	4	People from around the world participate.
66		
	5	NCAA.
	6	They legislate teams.
72		
	3	Nike.
	4	A brand that markets lot of different sports wares and accessories.
73		
	5	Olympics.
	5	None.
92		
	3	United States.
	4	Government funded race.
95		
	3	Cross Country Race.
	4	Nothing.
112		
	3	Nike.

	4	Makes good shoes.
116		
	3	Nike.
	4	Makes good shoes.
121		
	3	North Face.
	4	They sell backpacks, coats and other sports equipment.
142		
	3	Nike.
	4	Sporting goods company. Shoes, clothing.
165		
	3	Nike.
	4	It's a popular sports/athletic brand.
173		
	5	College.
	6	No answer.
177		
	3	5K.
	4	Run.

Other Responses (12 Respondent)

22		
	5	I don't know.
	6	I have no ideas of the details regarding cross-country race.
104		
	3	Unsure.
	4	Based on the name given, I was under the impression that this was the brand's name. although I was not positive of the answer.
132		
	3	Sports products.
	4	Running, T-shirts, mugs.
137		
	3	Race.
	4	Good.
141		
	3	Racers.
	4	I guess they race.
144		
	3	I don't know.
	4	I'm guessing Cross Company race is made up of one company that makes back packs.
155		
	3	Racing items.
	4	Nothing.
163		
	3	All cross country organizations will suffice, not just one organization.
	4	All cross country organizations will suffice, not just one organization.

164

3 Don't know.
4 Don't know about that.

167

3 Skin.
4 Good.

169

3 Not sure.
4 I am not sure what company it would be.

187

3 Sports.
4 And I think that is the most applicable.

EXHIBIT A

SCREENER

Dear (firstname):

Thanks for agreeing to complete this brief screening questionnaire. Your account will be credited ___ Points within two weeks once you complete this screener.

Your individual answers will be anonymous and strictly confidential of course. Once you answer all questions on a page, please click on the "Continue" button.

Please be completely honest and do not guess when you answer the following questions.

PAGE BREAK

S1. In what state do you live? {Choose One State From The Drop-Down Box Below}
Outside U.S.— TERMINATE.

PAGE BREAK

S2. Are you....? {Choose One Answer}

1 Male
2 Female

PAGE BREAK

S3. In which of the following categories does your age fall? Choose One Answer)

S3_1 Under 18
S3_2 18 to 24 years
S3_3 25 to 34 years
S3_4 35 to 44 years
S3_5 45 to 54 years
S3_6 55 or older

MUST BE 18 OR OLDER AND PROVIDE AGE

PAGE BREAK

S4. Which of the following best describes the device you are using right now to access the Internet? (Choose One Answer)

S4_1 A traditional desktop computer
S4_2 A laptop computer
S4_3 A tablet computer
S4_4 A television-based browser or television set-top box such a WebTV)
S4_5 A game station such as Sony PlayStation 2, Microsoft X-Box, or Sega Dreamcast
S4_6 A mobile phone
S4_7 Other

MUST ANSWER CODE 1, 2 or 3 in S4, OTHERWISE TEMINATE

PAGE BREAK

S5. In the past three months, have you purchased any of the following products? (Choose One Answer On each Row Below) (RANDOMIZE ORDER)

	PRODUCTS	Yes	No	Don't Know/Don't Remember
S5_1	Sunglasses or sunglass cases	1	2	3
S5_2	Jewelry or key rings	1	2	3
S5_3	Address books, calendars or day planners	1	2	3
S5_4	Backpacks, fanny packs or tote bags	1	2	3

PAGE BREAK

S6. In the next three months, are you likely to purchase any of the following products? (Choose One Answer On each Row Below) (RANDOMIZE ORDER)

	PRODUCTS	Yes	No	Don't Know/Don't Remember
S6_1	Sunglasses or sunglass cases	1	2	3
S6_2	Jewelry or key rings	1	2	3
S6_3	Address books, calendars or day planners	1	2	3
S6_4	Backpacks, fanny packs or tote bags,	1	2	3

TO QUALIFY MUST ANSWER CODE 1 IN S5_4 and/or S6_4.

PAGE BREAK

S7. Do you or any members of your household currently work for an advertising agency, sales promotion firm, public relations firm or marketing research organization? (Choose One Answer) (RANDOMIZE ORDER OF YES/NO ANSWER ALTERNATIVES)

S8_1 Yes

S8_2 No

S8_ 3 Don't know/Not sure

(MUST ANSWER CODE 2 IN S7, OTHERWISE TERMINATE)

PAGE BREAK

S8. Do you normally wear eyeglasses or corrective lenses when using a computer? (Choose One Answer) (RANDOMIZE ORDER OF YES/NO ANSWER ALTERNATIVES)

S8_1 Yes

S8_2 No

S8_ 3 Don't know/Not sure

(IF CODE 3 in S8, TERMINATE)

PAGE BREAK

S9. (ASK IF CODE 1 IN S8) Will you please wear them for the remainder of this survey? (Choose One Answer) (RANDOMIZE ORDER OF YES/NO ANSWER ALTERNATIVES)

S9_1 Yes

S9_2 No

S9_ 3 Don't know/Not sure

MUST ANSWER CODE 1 IN S9, OTHERWISE TERMINATE

PAGE BREAK

SURVEY INSTRUCTIONS

Before continuing with this survey, please carefully read the following instructions:

1. Please take the survey in one session.
2. While taking this survey, please do not at any time open any other windows or tabs on this computer or any other computer.
3. While taking this survey, please do not at any time use any hand-held electronic device, such as a PDA, or any mobile phone.
4. Please do not view any other written material or electronic devices while taking this survey.
5. Please do not consult or talk with any person while taking this survey.
6. Please do not disclose to any party or copy or download any information that you will see in this survey.

PAGE BREAK

S10. Do you understand the above instructions and agree to follow them? {Choose One Answer} (RANDOMIZE ORDER OF YES/NO ANSWER ALTERNATIVES)

S10_1 Yes

S10_2 No

S10_3 Don't know/Not sure

MUST ANSWER CODE 1 IN S10, OTHERWISE TERMINATE)

PAGE BREAK

QUESTIONNAIRE

Now I would like to ask you a few questions about some names used on various products.

Your individual answers will be anonymous and strictly confidential, of course. Once you answer all of the questions on a page, please click on the "Continue" button.

PAGE BREAK

ROTATE ORDER IN WHICH THE FOLLOWING FIVE NAMES ARE PRESENTED

WORLD TRADE CENTER
STUDENT UNION
CROSS-COUNTRY RACE
LOUISIANA STATE UNIVERSITY
BOSTON MARATHON

Q1. Do you associate the name (NAME) when used on backpacks, fanny packs and tote bags with only one company or organization as the source of these products, more than one company or organization, or don't you know or have an opinion? (RANDOMIZE ORDER OF ONLY ONE/MORE THAN ONE)

1 Only one company or organization

2 More than one company or organization

3 Don't know/No Opinion

PAGE BREAK

(ASK IF CODE 1 IN QUESTION 1)

Q2. With which company or organization do you associate the name (NAME) as the source of these products?

(Please Type Your Answers In The Box Below. Please Be Specific And Include Details)

PAGE BREAK

Q3. What, if anything, can you tell me about (INSERT RESPONSE TO QUESTION 2)?

(Please Type Your Answers In The Box Below. Please Be Specific And Include Details)

PAGE BREAK

(ASK IF CODES 2 OR 3 IN QUESTION 1)

Q4. Do you associate the name (NAME) when used on backpacks, fanny packs and tote bags as being authorized or sponsored by only one company or organization, more than one company or organization, or don't you know or have an opinion? (RANDOMIZE ORDER OF ONLY ONE/MORE THAN ONE)

Only one company or organization..... 1

More than one company or organization..... 2

Don't Know/No Opinion..... 3

(ASK IF CODES 1 IN QUESTION 4)

Q5. With which company or organization do you associate the name (NAME) as authorizing or sponsoring these products? (Please Type Your Answers In The Box Below. Please Be Specific And Include Details)

Q6. What, if anything, can you tell be about (INSERT RESPONSE TO QUESTION 5) (Please Type Your Answers In The Box Below. Please Be Specific And Include Detail

REAPEAT QUESTION SEQUENCE FOR THE REMAINING NAMES

Q7. At any time during this survey did you do any of the following:. {Choose One Answer For Each Row Below} (RANDOMIZE ORDER)

		YES I Did	NO I Did Not	Don't Know/Don't Remember
Q7_1	Opened another window or tab on this computer?	1	2	3
Q7_2	Used another computer?	1	2	3
Q7_3	Looked at or used any hand-held electronic device, such as a PDA, tablet computer, or any type of mobile phone?	1	2	3
Q7_4	Viewed any written material (other than this survey) or consult or talk with any person?	1	2	3
Q7_5	Copied or downloaded any information you saw in this survey?	1	2	3

(MUST ANSWER CODE 2 FOR ALL FIVE QUESTIONS, OTHERWISE DO NOT COUNT TOWARD QUOTA)

For quality-control purposes, please tell us the main topic of this survey.
(Please Type Your Answer In The Box Below.)

EXHIBIT B

RESPONDENT DEMOGRAPHICS

GENDER	
Male	98 48.0
Female	106 52.0
AGE	
18 to 24 years	46 22.5
25 to 34 years	57 27.9
35 to 44 years	47 23.0
45 to 54 years	30 14.7
55 or older	24 11.8
RESPONDENTS	204 100.0%

EXHIBIT D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Trademark Applications of
World Trade Centers Association, Inc.

Serial Nos.:	85/473,613 (WTC, Cl. 18)	)	Evin L. Kozak, Esq.
	85/473,617 (WTC, Cl. 16)	)	Trademark Examining
	85/474,746 (WORLD TRADE CENTER, Cl. 16)	)	Attorney
	85/474,748 (WORLD TRADE CENTER, Cl. 18)	)	
	85/527,008 (WORLD TRADE CENTER, Cl. 9)	)	Trademark Law Office
	85/527,029 (WTC, Cl. 9)	)	116
	85/527,100 (WORLD TRADE CENTER, Cl. 14)	)	
	85/527,119 (WTC, Cl. 14)	)	

REPORT OF DR. ERICH JOACHIMSTHALER

CREDENTIALS

1. I am the founder and Chief Executive Officer of Vivaldi Partners Group, a strategic consulting firm with a focus on building strong brands and businesses through our expertise in strategy, marketing and innovation. Vivaldi Partners Group is headquartered in New York with offices in Munich, Hamburg, Zurich and London.

2. I have been a professional in the brand and marketing field for more than twenty years and have provided expert brand and marketing advice to a diverse set of clients in North America, South America, Europe and Asia, in industries ranging from automotive to consumer packaged goods, retail, professional services, hospitality, healthcare, technology, telecommunications and financial services, among others. I have worked for clients in virtually every area relevant to building strong brands. I have led academic research on brand management, and I have created brand strategies and assessed the value of brands and their potential for development in several hundred situations.

3. I have published numerous articles and two books on marketing strategy and building strong brands. My book, *Brand Leadership: The Next Level of the Brand Revolution*, which I co-authored with David A. Aaker, was published by The Free Press in 2000 and has been a top seller among books on brands over the years. It was also republished by Pocket Books in 2010. My other book, *Hidden in Plain Sight: How to Find and Execute Your Next Growth Strategy,* was published by the Harvard Business Press in 2007, and was awarded the 2008 Berry Book Prize for Best Book in Marketing by the American Marketing Association. I have published extensively in academic journals on a range of marketing topics including brand building, strategic brand growth, marketing science, quantitative research and survey methodology issues. These journals include the *Harvard Business Review, Journal of*

Marketing Research, Journal of Marketing, Journal of Consumer Research, and *Sloan Management Review*.

4. I have held faculty positions at the Darden Graduate School of Business Administration at the University of Virginia, the University of Southern California, the University of Houston, and IESE (Instituto Superiores de la Empresa) in Barcelona, New York, London and Munich. IESE is one of the leading global business schools offering MBA and executive education programs and ranks among the top ten global business schools by *The Financial Times* and *The Economist.*

5. In 1979, I received my Economics Degree from the Hochschule Giessen-Friedberg, Germany. I received my Ph.D. in Business Administration, with emphasis on statistics and marketing, from the University of Kansas in 1985, where I also received my Master's Degree in Science, with emphasis in quantitative methods, in 1981. I wrote my doctoral thesis on statistical and methodological issues in survey research.

6. In 1988, I completed a Postdoctoral Fellowship at the Harvard Business School. I am a member of the American Marketing Association, and the European Society for Opinion and Marketing Research.

7. My full credentials, resume and publications are included in the appendix.

BACKGROUND AND SUMMARY

8. The applicant, World Trade Centers Association, Inc. (hereafter "WTCA") has filed eight applications for registration of the trademarks WORLD TRADE CENTER and WTC for use on products it intends to offer in the future, in International Classes 9, 14, 16 and 18 (the "Applications"). The Applications cover such goods as cameras, cell phone cases, mousepads

and sunglasses (Class 9); bracelets, clocks, key rings and ornamental pins (Class 14); calendars, address books, booklets in the field of business and posters (Class 16); and backpacks, fanny packs, tote bags and umbrellas (Class 18) (hereafter, the "Merchandise").[1]

9. I understand that the United States Patent and Trademark Office ("USPTO") has refused registration of the Applications based on the alleged failure of WORLD TRADE CENTER and WTC to function as trademarks by indicating a single source of goods. This conclusion is based on the USPTO's contention that WORLD TRADE CENTER and WTC call to mind and are inseparable from the events of September 11, 2001, and also because of third-party sales of various items memorializing the September 11 terrorist attack that are similar to the Merchandise identified in the Applications. I further understand that the USPTO has also rejected WTCA's argument that the WORLD TRADE CENTER and WTC marks have become distinctive of the Merchandise based on WTCA's prior registrations for, and longstanding use of, the marks for association services in the field of international trade and business relationships, on the ground that WTCA has not shown a sufficient relationship between the registered services and the Merchandise identified in the Applications.

10. Against this background, I have been engaged by attorneys for WTCA to opine, based on my expertise in the creation and development of brands in the marketplace, on the creation and growth of WORLD TRADE CENTER and its acronym WTC as brands; the brand identity symbolized by these two designations; and the ability of WORLD TRADE CENTER and WTC to function as brands for the Merchandise identified in the Applications. I will also opine as to why the intended sale of the Merchandise is directly related to the brand identity

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[1] "WORLD TRADE CENTER" applications: Serial Nos. 85/474,746, 85/474,748, 85/527,008, and 85/527,100 and "WTC" applications: Serial Nos. 85/473,613, 85/473,617, 85/527,029, and 85/527,119

already created for the WORLD TRADE CENTER and WTC marks for association services and how the future sale of the Merchandise is part of a well-established method for expanding the reach and value of the brand.

11. In order to form my opinions, I have reviewed, considered or relied upon the following:

a. WTCA's registrations for WORLD TRADE CENTER, Reg. No. 1,469,489, and WTC, Reg. No. 1,749,086;

b. WTCA's eight Applications for WORLD TRADE CENTER and WTC that are currently on appeal;

c. Portions of the file history for Application Serial No. 85/473,613, including: the Office Action issued by the USPTO on February 10, 2012; the Office Action Response submitted by WTCA on August 9, 2012, which includes the Declaration of Scott Richie as Exhibit A (the "Richie Declaration"); the Office Action issued by the USPTO on September 6, 2012; WTCA's Request for Reconsideration filed on March 4, 2013; and the Office Action issued by the USPTO on October 15, 2013;

d. The Report of George Mantis detailing a consumer perception survey conducted in December 2013 and January 2014;

e. Media articles and information made available publicly on WTCA's website, www.wtca.org, and those of member WORLD TRADE CENTER facilities,[2] as well as information and material publicly available on other websites such as

[2] For example: Arkansas - arwtc.org; Boston - seaportboston.com; Denver: wtcdenver.org; Harrisburg - wtccentralpa.org; Montana - mwtc.org; New York – wtc.com; Philadelphia - wtcphila.org; New Orleans – wtcno.org

baa.org, cnbcnews.com, nyc.gov, panynj.gov, and umt.edu;

f. Journal articles, books, and academic literature, including my own and my colleagues' work on advertising, and branding and marketing strategy (a detailed list of these references is provided in the appendix); and

g. My education, specialized training, skill, knowledge, previous work and experience as an academic and as a consultant.

Summary of Opinion

12. Based on my review and analyses, it is my opinion that:

a. WORLD TRADE CENTER and its acronym WTC represent a well-defined brand centered around the promotion of global trade and international business. These two marks function as part of the brand and its identity for a range of products and services, including the Merchandise identified in the Applications.

b. Over the past decades, there has been a deliberate and strategic effort to create and maintain a set of conceptual associations around the WORLD TRADE CENTER and WTC marks as a brand, both nationally across the United States, and globally around the world. Substantial marketing efforts and investment have been poured into this branding effort by WTCA and its members since the late 1960s, long before September 11, 2001. Currently, there are 47 WTCA members licensed to operate WORLD TRADE CENTER facilities in the U.S. alone. Many play a significant role as city landmarks, some have played a part in the revitalization of local communities, while others have affiliations with local or state universities. WORLD TRADE CENTER and its acronym WTC stand for

far more than the 'twin towers' building complex in New York City that existed prior to September 11, 2001, or the September 11, 2001 attack itself.

c. Consequently, "WORLD TRADE CENTER" and its acronym "WTC" are able to function as trademarks for the Merchandise identified in the Applications.

d. Further, the brand significance of "WORLD TRADE CENTER" and "WTC" for the Merchandise will not be destroyed by media coverage and historical content about the September 11 terrorist attacks, nor by use of the words "World Trade Center" or its acronym "WTC" to identify the context of items sold to commemorate the attack.

e. Finally, the WORLD TRADE CENTER and WTC marks, when used on the Merchandise, serve to enhance the awareness and strength of the WORLD TRADE CENTER and WTC brand.

DETAILED ANALYSIS

I. How Brands Are Created

13. I will start by outlining several well-accepted notions of brands and branding, as these are fundamental to determining whether or not WORLD TRADE CENTER and WTC are brands and consequently, whether or not WORLD TRADE CENTER and WTC are capable of functioning as trademarks with respect to the Merchandise identified in the Applications. These concepts of branding are drawn from the foundational academic theories within the field of marketing, many of which have been developed by industry-leading practitioners and academics such as Kevin Lane Keller, David A. Aaker, and myself over the course of the past

several decades.

14. At its simplest, a brand stands for a set of associations or characteristics in consumers' minds. In my field, there is a popular adage: "a product is developed in the factory; a brand is created in the consumer's mind." Metaphorically speaking, a brand can be viewed much like a box in a person's mind. As the person receives information about a brand (positive or negative), he/she files it away in the mental box labeled with the name, logo or symbol of the brand.[3] After repeated exposure to or experience with a brand, the person will have information or perceptions about the brand stored in this box.

15. Today, academics, marketers, advertisers and others who help build and manage brands conceptualize a brand as having two key components: the tangible and the intangible. The tangible components or physical manifestations of a brand may include names, logos, images or designs. The more important components of the brand, however, and those that give it meaning and create the most economic value, are the intangible components, which include thoughts, images, attributes, associations, feelings, emotions and experiences. When these components are brought together in a unique manner, the brand develops a consistent and meaningful set of associations that together, result in a coherent whole, or *gestalt*.[4] The brand develops meaning for consumers, and has value.

16. Traditionally, brands are commonly associated with consumer products such as soda (e.g. Coca-Cola), or body care and skincare products (e.g. Dove and Neutrogena). However, brands could include services (e.g. Google is a brand), organizations (e.g. The Red Cross is a brand), buildings (e.g. Rockefeller Center is a brand), causes and their associations

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[3]David A. Aaker, *Building Strong Brands,* (NY: The Free Press, 1996)
[4] David A. Aaker, *Building Strong Brands,* (NY: The Free Press, 1996)

(e.g. The World Wildlife Fund is a brand), rock bands (e.g. The Beatles is a brand), sports teams (e.g. Manchester United and the New York Yankees are brands), or cities, states, regions or countries (e.g. Las Vegas is a brand).[5]

17. In the rest of this report, I will outline my analysis of the creation and development of the WORLD TRADE CENTER and WTC brand, how the WTCA has developed the tangible *and* intangible components of a brand as a coherent whole, and the role that the Merchandise will play in furthering the strength of the WORLD TRADE CENTER and WTC brand.

II. The Role of a Brand on Products and Merchandise

18. A strong brand contributes real value to its owner – in fact, a company's or organization's brand is in many cases its most valuable asset. The value and importance of a brand as a business asset is widely recognized within the business and academic communities, with numerous studies on this topic having been published in journals and the business media. These include my firm's study on the world's leading growth brands as well as influential brands published in *Forbes*,[6] to *Bloomberg Businessweek's* Top 100 Global Brands study, which estimates the leading brands by financial value, or *Forbes'* Fab 40 World's Most Valuable Sports Brands ranking.[7]

19. Within the world of real estate development, a building or development with a strong brand name is in a much stronger position than one with a new, yet unknown name that

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[5] For a discussion on this, see Kevin Lane Keller, *Strategic Brand Management*, Third Edition, Chapter 1

[6] Kurt Badenhausen,"Brands Branching Out," *Forbes*, June 16, 2005; and "Subway, Target and Google are Top Brands for Social Currency", *Forbes*, March 12, 2013

[7] See http://www.forbes.com/sites/mikeozanian/2013/10/11/the-forbes-fab-40-the-worlds-most-valuable-sports-brands-2013-2/ accessed on March 2, 2014

has to be promoted and publicized from scratch. This is why property developers use or license well-known brand names for use on their properties, such as the name "Trump" from the Trump Organization. For real estate developers, having a well-known brand name on their building helps them to attract tenants or buyers for their commercial office or retail space. These developers or building owners are able to charge higher price premiums for their properties, and they benefit from higher lease take-up rates as opposed to unbranded properties. In a similar vein, for the 47 WORLD TRADE CENTER members across the United States, the WORLD TRADE CENTER and WTC brand provides them with a valuable asset for their properties or developments.

20. For an organization and brand owner like the WTCA, there are many different ways to build a brand. Brand-building touchpoints and activities could include anything from having flagship physical buildings (where the brand name is prominently displayed on the building's exterior) to websites, media articles, trade show and conference participation, and branded merchandise.[8] (I provide more details on this in Sections III and IV below.)

21. Specifically, branded merchandise is one way of building a brand. Branded merchandise comprises the practice of licensing, which occurs where a brand name or logo is licensed for use on various products, sometimes on types of goods that are distinctly different from the products or services originally offered under the brand.[9] Brand licensing is widespread, and it is a widely accepted business practice for companies to license their brand names to third parties for use on various types of products or merchandise in the categories that

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[8] Erich Joachimsthaler and David Aaker, Building Brands Without Mass Media, *Harvard Business Review*, January 1997

[9] See Kevin Lane Keller, Strategic Brand Management (Third Edition), page 304, Chapter 7: Leveraging Secondary Brand Associations to Build Brand Equity. See also Frank E. James, "I'll Wear the Coke Pants Tonight; They Go Well With My Harley-Davidson Ring", *Wall Street Journal*, 6 June 1983

are of the type identified in the Applications.

22. Like the WTCA, associations or organizations that have used branded merchandise as a brand-building vehicle include Greenpeace (which has branded mugs and buttons);[10] Smithsonian Institution (which has branded logo wear and accessories like T-shirts, mugs and tote bags available at its various museums and institutions);[11] American Red Cross (which has branded tote bags, backpacks and various apparel items);[12] and Amnesty International (which has clothing, bags and stationery),[13] just to name a few.

23. Beyond associations and organizations, it is also common for buildings like the Empire State Building to license their brand names.[14] Further examples include the Rockefeller Center name, which is registered as a trademark for a wide variety of merchandise, including some of the goods identified in WTCA's Applications,[15] Radio City,[16] Radio City Music Hall,[17] and the Chrysler Building.[18]

24. This practice of licensing serves several strategic purposes: firstly, it is a cost-effective promotional strategy to raise brand awareness and increase brand exposure with consumers in the marketplace. Effectively, the branded merchandise acts as a marketing or

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[10] Official Greenpeace International store, online: http://www.cafepress.com/greenpeace

[11] Smithsonian LogoWear, online: http://www.smithsonianstore.com/clothing-accessories/smithsonian-logowear/; http://www.cafepress.com/smithsonian?utm_source=smithsonianstore.com&utm_medium=referral&utm_campaign=category_page

[12] American Red Cross store, online: http://www.redcrossstore.org/shopper/category.aspx?LocationId=299

[13] Shop Amnesty International, online: http://shop.amnestyusa.org/Bags-AmnestyGear/b/3387419011?ie=UTF8&title=Bags

[14] See the Empire State Building's official website and its "Licensing and Partnerships" webpage http://www.esbnyc.com/licensing.asp

[15] Registration Number 3,194,828, covering mugs, hats, t-shirts, sweatshirts and Christmas tree ornaments.

[16] Registration No. 2,517,636, covering cups; mugs; drinking glasses; candle holders; posters; holiday ornaments made of wood, plastic and bone; holiday ornaments made of glass and porcelain Christmas ornaments made of wood, plastic and bone.

[17] Registration No. 1,220,903 covering tote bags.

[18] Registration No. 2,759,301, covering post cards.

promotional medium, helping to increase a brand's marketplace awareness among consumers through its increased marketplace presence on the branded merchandise. At the same time, purchasers and users of the branded merchandise also get to display their affiliation with or loyalty to the brand, or to show their support for the brand by buying merchandise that has been authorized or approved by the brand owner. Finally, the brand licensor gains access to a new revenue and profit pool without shouldering all of the associated manufacturing, marketing, sales and inventory costs.

25. As noted above, branded merchandise, while serving as a marketing and promotional tool, can be entirely different in kind from the goods or services associated with the underlying brand. A good example of this phenomenon is the branded merchandise of New York University (NYU), one of the largest private universities in the U.S. with approximately 50,000 students.[19] NYU branded merchandise items include mugs, umbrellas, duffel bags, tote bags, and backpacks.[20] These items are adorned with either one or a combination of the following word marks and graphic elements: "NEW YORK UNIVERSITY," the acronym "NYU," NYU's logo with a runner and an upheld torch, or a stylized torch as a graphic element.

26. Through all its various branded merchandise items, NYU achieves high visibility both on and off campus, including beyond New York whenever someone wears or uses NYU merchandise anywhere in the world. These merchandise items are available to members of the public who are not necessarily associated with the brand NYU in any direct way – one does not have to be an NYU student or NYU faculty member to wear an NYU t-shirt for example.

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[19] New York University, campus and information, online: http://en.wikipedia.org/wiki/New_York_University

[20] NYU Bookstores, NYU Clothing and Gifts, online: http://nyubook.collegestoreonline.com/ePOS?form=index.html

Neither is there any implication that NYU -- the academic institution -- has entered the apparel business, through the mere fact of there being NYU t-shirts in the marketplace. In this instance, the NEW YORK UNIVERSITY and NYU marks serve multiple functions – they identify the academic institution itself, they constitute a visual brand identifier for the institution's core educational services and mission, and they also function as brand identifiers when used on merchandise for marketing and promotional purposes.

27. Another relevant example is the branded merchandise of New York's Fire Department (FDNY) and Police Department (NYPD). Both brand's acronyms are registered by The City of New York for use on an extensive array of merchandise that is quite different in kind from the police and fire services that have long been provided to the public under the FDNY and NYPD names.[21] This merchandising program is aimed at building distinctive brands for both NYPD and FDNY, underscoring their brand attributes of "*professionalism*", "*courtesy*" and "*respect*" for the NYPD, and "*bravery*", "*heroism*" and "*commitment*" for the FDNY, created and developed over many years in the rendering of the core policing and fire prevention activities.[22]

28. Merchandising activities for both the FDNY and NYPD are centralized in what is known as the Citywide Merchandise Licensing Program, administered by a single entity, NYC & Company, the official marketing and tourism organization for the City of New York.[23] The objectives of the program are stated as follows:

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[21] FDNY Registration No. 3,026,049 and NYPD Registration No. 3,014,363.

[22] NYC & Company (2009). NYC Licensing – Licensing Booklet 2009, online: http://nycgo.com/cms/uploadedFiles/thricenycvisitcom/assets/pdf/Licensing_Booklet_09.pdf

[23] NYC & Company (2010). Best Practice: Citywide Merchandise Licensing Program, online: http://www.nyc.gov/html/unccp/gprb/downloads/pdf/NYC_Tourism%20Marketing_CMLP.pdf

> "[...] to utilize the City's intellectual property to promote and brand the positive qualities of the City and its agencies in a manner that can be controlled and managed. The wonderful work that the NYPD and FDNY does, at tremendous risk to those performing the tasks, shines a positive light on the City and is an integral part of its branding. The licensing program seeks to bring to life these positive elements in a material form that tourists and residents can own, similar to the way a fan owns a licensed product of their favorite team."[24]

The FDNY and NYPD trademarks were registered for merchandise such as clothing and jewelry after the September 11 attack.[25] The centralized effort run by NYC & Company was deemed to be necessary to curb the sales of unauthorized FDNY and NYPD products. "After September 11, 2001, the demand for products bearing the agency's trademarks increased dramatically, as did knock offs. This underscored the need to examine the current and potential global demand for these trademarks."[26]

29. These examples demonstrate how brand-building for the FDNY and NYPD, and the use of their brands on merchandise, are no different from the brand development efforts undertaken by the WTCA for the WORLD TRADE CENTER and WTC marks, both long before and after the September 11 attack. The FDNY and NYPD merchandise represent the FDNY and NYPD brand associations of bravery, commitment, and heroism – brand attributes that existed way before the September 11 attack, but grew in prominence and stature *because of* that very event. Similarly, the brand attributes already associated with WTCA's WORLD TRADE CENTER and WTC marks before September 11, as described in the next section, can be grown and expanded with the sale of the Merchandise identified in the Applications.

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24 Ibid

25 The City of New York applied to register FDNY, Application Serial No. 76/616,821, on October 19, 2004 and NYPD, Application Serial No. 76/342,567, on November 28, 2001.

26 Ibid

III. The WORLD TRADE CENTER and WTC Brand

30. In this section, I outline my analyses and explain my determination for why WORLD TRADE CENTER and its acronym WTC is a brand, and how the brand identity for these two marks was developed.

31. The most important aspect of any brand is the fact that it has a *positioning*, which refers to what a brand stands for and aspires to be in customers' minds, encapsulated in its *brand identity system*, which refers to the coherent and consistent set of associations that are mentally linked to a brand name in consumers' minds.[27] Collectively, these describe the brand owner's aspirational vision, which consequently helps to map out how the brand is or can be developed and maintained over time.

32. A brand's positioning and brand identity system do not come about by fiat, nor are they built overnight. Brands need to be defined, planned, developed, and nurtured over time. In my work as a consultant, I have advised companies across several industries, at different stages of maturity, on how to build their brands. At the most strategic level, the development of a brand identity system as a business tool has been one of the most important developments in the field of branding. While others have referred to this concept as brand DNA, the brand print, the brand intent, a brand story or a brand foundation, my co-author David A. Aaker and I coined and used the phrase "brand identity system" because of the importance of an identity to a brand. This identity provides direction, purpose, and meaning for the brand, and is central to the brand's strategic vision.[28] In essence, a brand identity system can be composed of many different dimensions – such as product- or service-related attributes , personality attributes,

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[27] David A. Aaker and Erich Joachimsthaler, *Brand Leadership* (New York: The Free Press, 2000) Ch. 1.
[28] David A. Aaker, *Building Strong Brands* (New York: The Free Press, 1996) 68.

symbols, organizational attributes, and experiences – that together add depth, texture and detail to a brand.[29] I will now analyze these elements in this section.

33. The essence of the WORLD TRADE CENTER and WTC brand can be summed up as *promotion of global trade and international business.* Brand identity system attributes include *global presence, landmark buildings, membership network reciprocity* and *mutual cooperation.*

Promotion of Global Trade and International Business

34. The genesis of the WORLD TRADE CENTER brand was based on the promotion of global trade and international business. The 1939 World's Fair in Flushing, NY was the birthplace for the first "World Trade Center" when the International Chamber of Commerce erected a pavilion of the same name. This served as headquarters for visiting trade groups and students under the motto "world peace through world trade."[30] The idea to foster international trade was subsequently advanced through the efforts of the Port Authority of New York and New Jersey when, in the late 1950s, planning for a revitalization of Lower Manhattan began. On March 10, 1961 the Port Authority of New York and New Jersey submitted a report that laid the basis for developing a World Trade Center building complex.[31] In 1969, the not-for-profit, non-political World Trade Centers Association, Inc. was established, with the objective of establishing WORLD TRADE CENTER locations to expand and support international trade.[32]

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29 See my book David Aaker and Erich Joachimsthaler, *Brand Leadership*, The Free Press, 2000, Chapters 2 and 3

30 Port Authority of New York and New Jersey, History of the World Trade Center, online: http://www.panynj.gov/wtcprogress/history-wtc.html or The 1939 New York World's Fair, The Government Zone - Hall of Nations: World Trade Center, online: http://www.1939nyworldsfair.com/worlds_fair/wf_tour/hall_of_nations/world_trade_center.htm

31 Port Authority of New York and New Jersey, History of the World Trade Center, online: http://www.panynj.gov/wtcprogress/history-wtc.html

32 Richie Declaration ¶ 6 and the WTCA Handbook: An Operations Manual for a WTC Licensee, page 7

35. In 1970, the WTCA held its first meeting in Tokyo with 15 WORLD TRADE CENTER members: Amsterdam, Antwerp, Baltimore, Boston, Brussels, Houston, Le Havre, New Orleans, New York, Paris, Rotterdam, Tokyo, Philadelphia, San Diego and Toronto.[33]

36. The founding principles of the WTCA focused on the expansion of world trade, promotion of international business relationships and understanding among nations, and improving foreign trade for industrializing nations. Mutual assistance and cooperation among members was encouraged, and expansion of the WORLD TRADE CENTER concept to new locations was promoted.[34]

37. To achieve its founding principles, the WTCA created a set of services for its members as well as the organizations and businesses their members catered to. These services include trade support with research and information, educational programs and facilities, business clubs and exhibit facilities and trade mission programs. With an array of hotels, banks, restaurants and shops located in the various WORLD TRADE CENTER facilities around the United States and globally, both consumer and business customer needs are addressed. These facilities offer reciprocal privileges to other operating WORLD TRADE CENTER facilities worldwide. In addition, WORLD TRADE CENTER facilities across the U.S. offer training and educational curricula on international trade topics and international business skills. The WTC New Orleans, for instance, offers an International Trade Certificate program, which is approved for continuing education credit in Louisiana and Mississippi.[35] Similarly, the WTC Denver awards a Certificate in International Trade in conjunction with The Rocky Mountain World

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[33] Richie Declaration Exhibit 8 and the WTCA Handbook: An Operations Manual for a WTC Licensee, page 7

[34] Richie Declaration Exhibit 4.

[35] The WTC New Orleans International Trade Certificate (ITC) program, online: http://www.wtcno.org/international-trade-certificate/

Trade Center Institute.[36] These services are provided to a broad audience, ranging from individuals to small- and mid-sized companies as well as being offered to both members and non-members.

38. WTCA took steps to protect the WORLD TRADE CENTER and WTC marks by obtaining federal registrations in the USPTO for association services, "namely fostering and promoting world trade and international business relationships." The first registration for the mark WORLD TRADE CENTER (Reg. No. 1,469,489) was issued by the USPTO in 1987, and the second, for the acronym mark WTC (Reg. No. 1,749,086), was issued in 1993.

Global Presence and Landmark Buildings

39. I mentioned above how, as far back as in 1970, the WTCA held its first meeting in Tokyo with 15 different members from different countries present. Today, there are approximately 330 members worldwide that are licensed by the WTCA to operate facilities and services to support and expand foreign trade under the WORLD TRADE CENTER and WTC marks. They service an estimated 750,000 international organizations and businesses. In the U.S. alone there are 47 members licensed to operate WORLD TRADE CENTER facilities, of which 27 had been established ***prior*** to the September 11, 2001 event that destroyed just one of the many different WORLD TRADE CENTER building locations.[37]

40. Within the U.S., many WORLD TRADE CENTER facilities comprise landmark buildings in prominent locations, physically bringing together various businesses, shops, exhibition and convention facilities which businesses, academic institutions, tourists and the

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[36] The Rocky Mountain World Trade Center Institute, online: http://www.wtcdenver.org/wtc-institute/certificateprogram; Rocky Mountain World Trade Center Institute - Spring 2014 Training Guide, online: http://www.wtcdenver.org/Resources/Documents/Spring2014ProgramGuide_Web_Final.pdf

[37] Based on information provided to me by the WTCA

general public all benefit from. The following are just some examples:

i. The Baltimore WORLD TRADE CENTER is a city tourist landmark. In an effort to revitalize the Baltimore harbor, the planning of the building began in 1966 and the building was completed in 1977. As the world's tallest regular pentagonal building, the property is a landmark for Baltimore with high visibility for both local residents and tourists alike.[38] It also hosts the tourist attraction "Top of the World," a public observation deck and restaurant.

ii. Boston's Seaport WORLD TRADE CENTER has helped to revive and develop the Innovation District of Boston. Completed in 1986, it stands in place of the historic Boston Commonwealth Pier, which was the largest pier building in the world back in 1913.[39]

iii. The WORLD TRADE CENTER Utah is one of the more recent examples, and has had a very positive impact on the regional commercial and social community. Located in downtown Salt Lake City, Utah's WORLD TRADE CENTER was established to support the revitalization of the City Creek Center. Situated in an upscale complex comprising an open-air shopping center, office and residential buildings, it has a strong presence for local residents and visitors alike.[40]

iv. The Montana WORLD TRADE CENTER is an affiliate of the University of Montana. It is housed on the university campus and gives students the opportunity to establish academic and work-related foreign trade experience.[41] For example, the Department of Management and Marketing offers "World Trade and Commerce" as a basic requirement course for the International

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38 Pei Cobb Freed & Partners, Architects LLP, *Word Trade Center Baltimore, Maryland*, online: http://www.pcf-p.com/a/p/6603/s.html

39 Mysliwy Conlin, Linda (2013). *The World Trade Center of Greater Philadelphia*, Volume 12, Number 2 Economic Development Journal, pg 52-57;
Commonwealth Pier. Celebrating 100 Years of Innovation, online: http://www.seaportboston.com/commonwealthpier.aspx

40 Richie Declaration Exhibit 8; City Creek Center, online; http://en.wikipedia.org/wiki/City_Creek_Center

41 University of Montana, *Affiliated Organizations*, online: http://www.business.umt.edu/Organizations, Montana World Trade Center. online: http://www.mwtc.org/Pages.aspx?id=48&linkidentifier=id&itemid=48

Business Major.[42] Students can engage in a student practicum program, working as interns on research projects. Since 1998, 175 students have participated in the program.[43]

v. Likewise, the WORLD TRADE CENTER Arkansas is an affiliate of the University of Arkansas. The mission of the Arkansas WORLD TRADE CENTER caters to individuals and students - "to connect Arkansas to the world by providing international trade services to companies and individuals and by educating students in global commerce."[44]

vi. In New York, the new WORLD TRADE CENTER landmark development is under construction, with five new office skyscrapers (called 1, 2, 3, 4 and 5 WTC respectively), 550,000 square feet of retail space, a museum, a transportation hub, and a performing arts center.[45] The Freedom Tower that stands in place of the former twin towers was renamed ONE WORLD TRADE CENTER, a strategic decision made in 2009. It was explicitly acknowledged that naming the building with the WORLD TRADE CENTER brand would help to ensure easier identification and higher rentals.[46]

Membership Network Reciprocity and Mutual Cooperation

41. The other brand identity attributes of the WORLD TRADE CENTER and WTC brand are related to the WTCA's ability to offer a reciprocally beneficial membership network. The notion of a "mutual network" serves as a coherent frame for all interactions between WORLD TRADE CENTER members, the businesses they cater to, and the relationships that are established and promoted to foster trade opportunities on a global scale. Benefits of

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42 https://www.umt.edu/catalog/cat/soba/mark-print.html

43 University of Montana at Missoula, Faculty Senate: Senate Review and Recommendation2011 - 2012 - Montana World Trade Center, online: http://www.umt.edu/facultysenate/archives/CenterReviews/Centers11-12/Montana%20World%20Trade%20Center5-3-12.docx

44 World Trade Center Arkansas, *Our Mission in Action*, online: http://www.arwtc.org/

45 http://www.wtc.com/about/retail and http://www.wtc.com/about/, accessed February 23, 2014

46 n.n. (2009), Freedom Tower is out, World Trade Center is in, cnbc.com, online; http://www.nbcnews.com/id/29913195/#.UvzHqoUz19A, March 27, 2009

membership are conveyed in the WTCA's and members' communication materials and information on events and exhibitions.[47]

42. Fundamentally, a WORLD TRADE CENTER facility is only allowed to be established by a WTCA licensed member, with exclusivity for the specific city or economic region the member caters to, so as not to dilute the notion of it being a "center" of world trade.[48] In order to ensure quality, additional certification is provided by the WTCA. To be certified by WTCA, WORLD TRADE CENTER members have to comply with WTCA standards in eight categories. These include a superior level of services and facilities to be certified in the following aspects: trade information systems, display and exhibit facilities, business services, trade education services, WORLD TRADE CENTER club facilities, conference facilities, tenant services, trade technology innovations, and trade missions.[49]

43. All WTCA members have to pay an initial membership fee and annual license fees. Members are allowed to use the WORLD TRADE CENTER and WTC trademarks in connection with approved trade services and access the above described membership privileges. I understand that the WTCA has been able to raise membership fees over the years, totaling more than $67 million in membership fees since 1968.[50] The existence of such membership fees and the ability to increase these fees over time demonstrates the benefit that the WORLD TRADE CENTER and WTC brand provides to its target audiences. Membership provides the right to use the WORLD TRADE CENTER and WTC marks in association with member properties. The WORLD TRADE CENTER and WTC brand identity helps to attract more

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[47] Richie Declaration Exhibit 5 and the WTCA Handbook: An Operations Manual for a WTC Licensee.
[48] Richie Declaration Exhibit 1 and the WTCA Handbook: An Operations Manual for a WTC Licensee.
[49] Richie Declaration Exhibit 1.Also based on information provided to me by the WTCA.
[50] Richie Declaration Exhibit¶ 9-11.

tenants at higher lease prices and also increases the attractiveness for businesses and individuals to become a WTCA member.

44. I understand from counsel that all of these benefits have been confirmed by management of seven regional WORD TRADE CENTER facilities, who submitted individual statements in support of registration of the WORLD TRADE CENTER and WTC marks. These individuals affirm that their facilities decided to become members of the WTCA in order to use the benefits and resources of the WTCA, including specifically a license to use the WORLD TRADE CENTER and WTC trademarks. In addition, these individuals believe that the WORLD TRADE CENTER brand signals to the world at large that the local businesses in their respective cities are interested in forging international partnerships "in alliance with the vision and values that the WTCA stands for" -- in other words, the attributes of the WORLD TRADE CENTER and WTC brand discussed above.[51]

Brand Symbols

45. Brand symbols are another important element of a brand. As I have noted in my book *Brand Leadership*, brand symbols or visual elements such as logos, symbols, trademarks, taglines, colors, brand characters, or promotional materials provide a "glue" or structure that helps meld the various elements of the brand into a coherent brand identity system, making it easier to gain recognition or recall.[52] In most cases, a brand's overall visual identity results from a combination of several visual elements. The symbol is an important cue and a shortcut for invoking all the associations associated with a brand.

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[51] Declarations describing the benefits of being a licensed member were given from representatives of WORLD TRADE CENTER facilities in Baltimore, Boston, Denver, Greater Philadelphia, Miami, Mississippi, San Diego and Utah: Richie Declaration, Exhibit 10.

[52] David Aaker and Erich Joachimsthaler, *Brand Leadership* (New York: The Free Press, 2000) 54.

46. I understand that the WTCA created a set of brand guidelines in August 2010.[53] Brand guidelines are a commonly used business tool to ensure consistent usage of a brand's name, logos or design marks in various formats. These WTCA brand guidelines cover the accepted primary and secondary color palette and formats for the WTC logo, including the globe graphic and logo type, and typography.

47. Additional visual identity elements for the WORLD TRADE CENTER and WTC brand are the graphic of an unfolded globe, which refers to the worldwide trade fostered by the WTCA, and its worldwide reach across all WORLD TRADE CENTER locations. The logo graphic, colors and name of the WORLD TRADE CENTER and/or WTC acronym are featured prominently in all formats and marketing communications of the WTCA, and are deployed by WTCA members in their regional communications.[54]

48. Using concrete examples, the WTCA brand guidelines depict the various accepted uses of WTCA's WORLD TRADE CENTER and WTC marks on stationery, such as letterheads, business cards, envelopes, brochures and power point presentation templates. A recent example of the guideline's application and enforcement is the switch of "WORLD TRADE CENTER Pennsylvania" to "WORLD TRADE CENTER Harrisburg." Based on the brand guidelines, the nomenclature of the WORLD TRADE CENTER was changed from a state as descriptor to the city name in which it is located and the region it caters to.[55]

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53 Richie Declaration Exhibit 6 & 7. These brand guidelines were most recently updated in 2013.

54 Examples for the use of the brand symbols and application of the corporate design have been accessed from the following sources: Richie Declaration Exhibit 1 & 5; World Trade Center Association, online: https://www.wtca.org; World Trade Center Denver, online: www.wtcdenver.org/; World Trade Center Kansas City, online: http://www.wtc-kc.com/network/; World Trade Center Harrisburg, online: http://wtccentralpa.org/; World Trade Center Arkansas, online: arwtc.org

55 n.n. (2013), *World Trade Center commences central Pennsylvania outreach offices*, Euclid Infotech: Banks and Financial Institution News, January 4, 2013.

WORLD TRADE CENTER and WTC Brand-Building Activities

49. The WTCA, as owner of the WORLD TRADE CENTER and WTC marks, has substantially invested in advertising, promoting and rendering services associated with the WORLD TRADE CENTER and WTC brand identity. This has averaged $1.95 million per year over the past 10 years up to 2012.[56] These promotional measures and marketing activities included trade shows, conferences, and print advertising.[57] In addition, the WORLD TRADE CENTER and WTC brand has benefitted from the activities of the various WTCA members that have promoted and invested in the brand in their respective regions, on behalf of local business partners and communities. For example, four out of the 47 WORLD TRADE CENTER members in the U.S. reported programs to promote the WORLD TRADE CENTER and WTC brand, in the amount of $3.38 million in 2011.[58] In addition, the WORLD TRADE CENTER mark is cited in media coverage across the U.S., particularly in reports on regional WORLD TRADE CENTER facilities, adding public relations value and further equity to the brand.[59]

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[56] Richie Declaration ¶ 19. This figure, which represents WTCA's worldwide activities, does not account for $2.8 million in staff and overhead expenses per year.

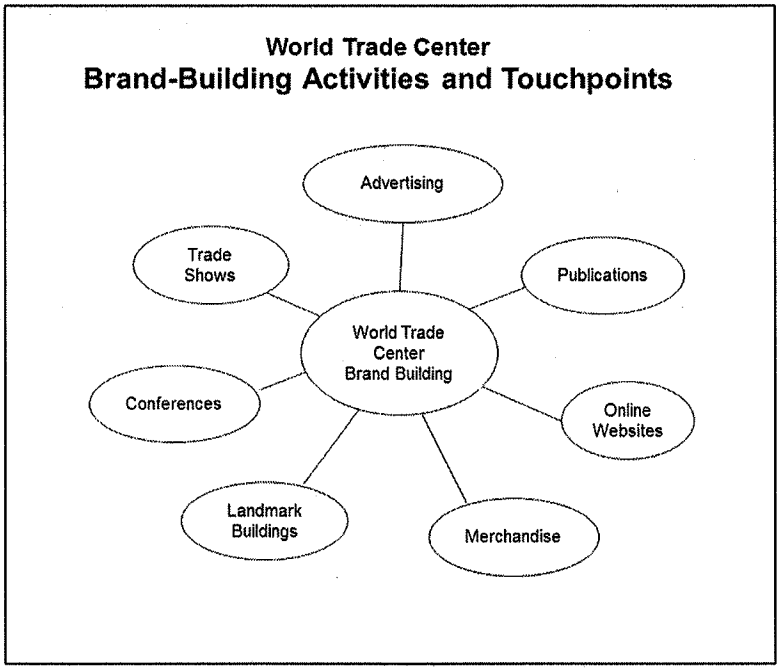
[57] Richie Declaration ¶ 21.

[58] Richie Declaration ¶ 21 and information provided to me by the WTCA.

[59] See for example, Davidson, Sean (2012), *Nonferrous scrap drives Mo. exports to record*, American Metal Market, March 4, 2012.
Peterson, Eric (2000). Global Reach – WTC Denver Opens Gate to World Trade, *ColoradoBiz,* pg 22-29
Ledden, Nicholas (2013), Q&A: Tim Nowak, Executive Director, World Trade Center St. Louis, *St. Louis Business Journal*, November 1, 2013
Mayle, Mary Carr (2012), WTC Savannah: Business Advocate of Year, *Savannah Morning News*, December 26, 2012
Mysliwy Conlin, Linda (2013). The World Trade Center of Greater Philadelphia, Volume 12, Number 2 *Economic Development Journal*, pg 52-57
n.n. (2013), Charleston region export plan to be unveiled today, *The Post and Courier*, August 1, 2013
Stech, Katy (2010), S.C. World Trade Center to regroup - Chamber takes over functions, *Myrtle Beach Sun News*, March 26, 2010
n.n. (2013), Colorado aerospace, tech firms can get export help, *The (Charleston) Post*, November 29, 2013
Sams, Rachel (2013), *Changing the game*, Albuquerque Business First, June 28, 2013
n.n. (2013), World Trade Center commences central Pennsylvania outreach offices, Euclid Infotech: *Banks and*

50. I understand that the WTCA has sold goods and rendered services associated with the WORLD TRADE CENTER and WTC brand that totaled in gross revenues of over $24 million since 2007.[60] These include the publication of books, periodicals and other literature devoted to trade issues and advice for those involved in international commerce, trade research, exhibition and education services, as well as trade mission and club services.[61]

51. Below is a diagram that summarizes the various brand-building activities by WTCA on behalf of the WORLD TRADE CENTER and WTC brand. Branded merchandise comprises one of these touch points. I will elaborate on this in the next section of my report.



Financial Institution News, January 4, 2013
Terruso, Julia (2013), Developer wants to build a World Trade Center in Camden; *Philadelphia Inquirer*, September 10, 2013
Torres, Ashley D. (2013), Abreu to unveil plans for Airport City at State of the Ports address, *South Florida Business Journal*, February 13, 2013
Wilhelm, Steve (2012), Trade group is reborn under chamber's wing, *Puget Sound Business Journal*, June 1, 2012

60 Richie Declaration ¶ 17.

61 Richie Declaration ¶ 13.

52. In conclusion, it is my opinion that WTCA has established a consistent and clear brand identity system for the WORLD TRADE CENTER and WTC brand. From its founding principles to its membership network and diverse offerings, the WORLD TRADE CENTER and WTC brand caters to a very broad and global audience. It addresses individuals, such as residents, students, or tourists as well as smaller and mid-sized businesses and entire communities.

IV. The Use of WORLD TRADE CENTER and WTC on Branded Merchandise

53. In Section II of my report, I outlined how brands can be leveraged and strengthened through branded merchandise. NYU, FDNY and NYPD serve as well-known examples of organizations or institutions that utilize merchandise as an effective brand-building vehicle, to grow visibility and awareness for their brands. Moreover, branded merchandise creates strong brand ambassadors, as purchasers and users of the branded products take pride in manifesting their affiliation and loyalty towards those brands by buying officially-authorized goods.

54. As also laid out above, the merchandising business is in most cases not actually operated by the brand owner, but most often licensed, following clear guidelines. This allows the brand owners to profit from increased brand equity and sales while not having to bear all of the risks incurred with manufacturing, inventory and cost of sales.

55. It is my understanding that the WORLD TRADE CENTER and WTC trademarks are in a situation similar to the NYU, FDNY and the NYPD trademarks when it comes to WTCA's branded merchandise strategy. The WTCA wishes to leverage the WORLD

TRADE CENTER and WTC brand by using branded merchandise as a cost effective brand-building and promotional vehicle. Just like the NYU, FDNY and NYPD examples, WORLD TRADE CENTER and WTC-branded merchandise will be identified with the WORLD TRADE CENTER and WTC brand and its owner, the WTCA.

56. Given the reach of the WORLD TRADE CENTER and WTC brand across a very broad audience ranging from business users to individuals, I would assume that the WTCA's branded merchandise would be used by all of these segments. From a brand management perspective and also from my experience as a business consultant, WTCA's efforts to leverage the WORLD TRADE CENTER brand and create greater brand awareness and strength through merchandising activities is a well-established course of action and strategy followed by owners of successful brands.

57. I understand that the USPTO has refused registration of the WORLD TRADE CENTER and WTC marks for the Merchandise identified in the Applications. I understand that the rejection was based on the assumption that the marks are incapable of being perceived as a trademark or the single source for the Merchandise in light of the 9/11 terrorist events, and because of the use of the WORLD TRADE CENTER and WTC names on many third party products and memorabilia linked to the tragic terrorist attacks.

58. In order to evaluate the USPTO's argument, I reviewed a recent study conducted by The Mantis Group, Inc. that was made available to me by WTCA's lawyers.[62] The survey is based on a representative sample of the general public of the United States. The study evaluates whether consumers would assume that a branded product originates from or has been authorized by one single source or from various sources. In this study, participants were asked

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[62] Research study on WORLD TRADE CENTER (2014), George Mantis, The Mantis Group, Inc.

for their opinion about single versus multiple sources if the following names were to appear on backpacks, fanny packs or tote bags: BOSTON MARATHON, CROSS-COUNTRY RACE, LOUISIANA STATE UNIVERSITY, STUDENT UNION and WORLD TRADE CENTER.

59. The study revealed that 38% of the participants responded that they would associate WORLD TRADE CENTER on a backpack, fanny pack, or tote bag with only one product source. In comparison, BOSTON MARATHON branded merchandise was associated with a single source by only a marginally higher share of respondents (40%).[63] In contrast, the other names, which are two common, generic terms included for comparison reasons, scored much lower: 16% (CROSS-COUNTRY RACE) and 17% (STUDENT UNION) respectively. The 38% single source perception for the WORLD TRADE CENTER brand is noteworthy, as the WORLD TRADE CENTER brand trademark, unlike the BOSTON MARATHON trademark, has not yet been used on the merchandising items of backpacks, fanny packs and tote bags.[64]

60. LOUISIANA STATE UNIVERSITY (the other brand in the set of names presented to participants in this study) was associated by 59% of participants with one single source.[65] It does not come as a surprise that this number is higher, as a university is a clearly defined and recognizable entity unlike, for example, an event such as the Boston Marathon.

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63 Actual wording of this question in the survey was "Do you associate the name (NAME) when used on backpacks, fanny packs and tote bags with only one company or organization as the source of these products, more than one company or organization, or don't you know or have an opinion?"
Answer options were:
1 "Only one company or organization"
2 "More than one company or organization"
3 "Don't know/No Opinion"

64 BOSTON MARATHON, Reg. No. 1,832,708, is currently registered in Class 18 for fanny packs and tote bags, based on use in commerce since 1988.

65 LOUISIANA STATE UNIVERSITY, Reg. No. 3,161,850, and LSU acronym, Reg. No. 1,331,940, are registered for a wide variety of merchandising items, including Class 18 goods. See also Reg. No. 3,260,053 for LSU & design and Reg. No. 4, 4089,446 for LSU TIGERS.

61. Moreover, the association of the WORLD TRADE CENTER brand with the WTCA is reflected in the results of the Mantis survey, where 25% of the study's respondents identified the WTCA, or the organization that owns the mark for the WORLD TRADE CENTER buildings and services, as the source behind the WORLD TRADE CENTER branded items. This is noteworthy since this was an open ended question in the study. This result can be compared to the BOSTON MARATHON brand (for which officially licensed, branded merchandise is actually available), which had the same 25% result (opposed to only 10.3% for STUDENT UNION and 9.8% for CROSS-COUNTRY RACE – both generic terms and only serving as comparisons in the study).

62. Based on the study's findings, I conclude that the WTCA has effectively built the WORLD TRADE CENTER and WTC brand, and that WORLD TRADE CENTER and WTC are capable of functioning as source-identifying marks for items such as backpacks, fanny packs or tote bags.

63. Further, based on my experience working in the consumer goods sector, I believe there is a reasonable basis for believing that the results for the specifically-tested goods (backpacks, fanny packs, tote bags) can be used as a good proxy for comparable categories of merchandising items that are typically sold by brand owners and are included in WTCA's Applications, such as mouse pads, sunglasses and magnets in Class 9; jewelry, watches, key rings, pins and holiday ornaments in Class 14; poster, post cards, calendars, pens and stickers in Class 16; and handbags, purses, luggage tags and umbrellas, which are included as additional goods in Class 18.

V. The Impact of Negative Events on a Brand

64. As the September 11 terrorist attack was cited as a reason for the USPTO's refusal of the Applications, I would like to address this issue specifically, namely, the effect of a negative or tragic event on an existing brand.

65. In the field of branding and marketing, it is not uncommon for an unfortunate or tragic event to occur to a brand. When this happens, the public may naturally associate this unfortunate event with the brand. However, it is important to remember that this alone does not override or ossify the brand's pre-event brand identity system or brand attributes. Numerous past examples have shown that, with time and continued good brand management, brands that have suffered extreme crises can recover -- and have indeed recovered -- over time.

66. Brands from AT&T to Tylenol have all bounced back from various crises.[66] ExxonMobil (previously known as Exxon prior to its 1999 merger with Mobil Oil) suffered from what is commonly known as the Exxon Valdez crisis in March 1989 when its oil tanker the *Exxon Valdez* ran aground in Alaska. The oil spill caused an ecological disaster and substantial media and public outcry. Crisis notwithstanding, the ExxonMobil brand today is ranked among the top 100 of the world's most valuable brands by *Forbes*, and valued at about $6.4 billion dollars (brand value alone).[67]

67. A more recent and comparable example is that of the Boston Marathon brand. Established in 1897, the Boston Athletic Association (the "BAA") runs the annual event. The terrorist attack that occurred during the 2013 Boston Marathon has added a new, tragic

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66 Karen Post (2011). *Brand Turnaround: How Brands Gone Bad Returned to Glory and the 7 Game Changers that Made the Difference*, Mcgraw-Hill Professional. David Aaker (2011). *When Will a Damaged Brand Come Back* http://www.prophet.com/blog/aakeronbrands/45-when-will-a-damaged-brand-come-back

67 See http://www.forbes.com/companies/exxon-mobil/ and http://www.forbes.com/powerful-brands/list/. See also http://brandirectory.com/profile/exxonmobil

association to the existing Boston Marathon brand. However, very importantly, this tragedy does not solely define what the Boston Marathon brand is about. The Boston Marathon continues to rank as one of the world's best-known road racing events. In fact, in the very next year following the terrorist attack, there was an increased field of runners for the 2014 Boston Marathon, which the BAA set to 36,000 official entrants, an increase of 9,000 runners compared to the previous limit of 27,000 in 2013.[68] *"The B.A.A. is aware of the significantly increased interest in registering for the 2014 Boston Marathon,"* B.A.A. Executive Director Tom Grilk has been quoted. *"We understand many marathoners and qualifiers want to run Boston in 2014, and we appreciate the support and patience that the running community has demonstrated because of the bombings that occurred this past Spring."*[69]

68. It is well accepted that strong brands have inherent equity that can withstand damage, even strong damage.[70] Furthermore, it is important to note that after an event, perceptions of the actual brand damage may differ from person to person, and from community to community. People react differently in situations where the negative associations are caused by the brand owner due to a management mistake (e.g. Exxon, during the Exxon Valdez incident), versus when the negative situation is caused by external forces or a third party (e.g. a terrorist event or a natural disaster). Management mistakes, in particular, can lead to a loss in reputation and erode brand equity.[71] In any case, independent of the actual underlying cause, subsequent management actions can rebuild and safeguard a brand upon the occurrence of an

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68 "Registration Now Closed for the 2013 Boston Marathon - Maximum field size for qualified runners is reached", online: http://www.baa.org/news-and-press/news-listing/2012/october/registration-now-closed-for-the-2013-boston-marathon.aspx

69 "Boston Marathon: Registration Opens September 9 for 36,000 runners", online: http://www.baa.org/news-and-press/news-listing/2013/august/boston-marathon-registration-dates-and-field-size.aspx

70 Aaker, D.A. (2011). When Will a Damaged Brand Come Back, online: http://www.prophet.com/blog/aakeronbrands/45-when-will-a-damaged-brand-come-back

71 Jennifer Aaker, J.; Fournier, S; Brasel, S.A. (2004). When Good Brands Do Bad; *Journal of Consumer Research*, Vol. 31, June 2004

unfortunate event. I have already mentioned a number of different well known cases that have demonstrated how this is possible, such as Exxon and Tylenol.

The 9/11 Event Merely Added One New Association to the Pre-Existing WORLD TRADE CENTER and WTC Brand Identity

69. As laid out above, WORLD TRADE CENTER and WTC comprise a coherent brand, with a set of attributes that is relevant to members, businesses, tourists and the general public. Importantly, the WORLD TRADE CENTER and WTC brand identity and its set of associations have been actively in use and promoted since at least the late 1960s, well before the terrorist attack in New York on September 11, 2001, and continuing through today.[72] The September 11 event may have added a new and negative dimension to the brand identity of WORLD TRADE CENTER; however, just like the case of the Boston Marathon, it is by no means the only association with the WORLD TRADE CENTER mark. As explained above, brands can and do recover from unfortunate events.

70. Further, media coverage, books, articles, and dictionary or encyclopedia entries that refer to the World Trade Center buildings in New York when recounting the historical event of the terrorist attacks (but not as a trademark for goods and services) will not destroy the brand-identifying ability of WORLD TRADE CENTER and WTC for the Merchandise identified in the Applications. I reviewed examples of some of these types of uses that were attached as exhibits to the Final Refusal of Registration of the Applications, such as excerpts from the Encyclopedia Britannica Kids and Britannica Academic Edition websites; the 9/11 Memorial website; and books entitled "Aftermath: World Trade Center Archive" or "After the

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[72] See paragraph 11.a above

World Trade Center: Rethinking New York City."[73] Use of the words "World Trade Center" in its primary sense as the name of the buildings that were destroyed on September 11, but not in the secondary sense as a trademark or brand on products bearing WORLD TRADE CENTER or WTC as marks, is not inconsistent with use of WORLD TRADE CENTER and the acronym WTC as a brand for the Merchandise, indicating that the goods come from the official owner of the marks.

71. The same conclusion applies to many of the other exhibits attached to the USPTO's Final Refusal of registration, in which the words "World Trade Center" or acronym WTC are not used on the products themselves as a brand, but rather identify the context of the items being sold, such as a coin purse with a picture of the twin towers and the date September 11; earrings that say "Never Forget Sept 11;" a luggage tag that says "Never Forgotten 9/11;" tote bags that say "9-11-01 Remember" or a magnet that depicts the American flag with the twin towers buildings in silhouette.[74] Again, these items are not using the WORLD TRADE CENTER and WTC brand on products to identify the source of the goods as the official owner of these trademarks and they do not destroy the source-identifying significance of the brand when used on the Merchandise.

72. For the WTCA, the September 11 event is but one (albeit significant) event that occurred in the past. Since then, it is important to note that the use of its WORLD TRADE CENTER and WTC marks has not remained stagnant. Since 2001, WTCA has admitted 20 new licensed U.S. members, who have established, or are in the process of developing, new WORLD TRADE CENTER facilities across the United States. These include branded

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[73] Office Action, dated October 15, 2013.
[74] Office Action, dated October 15, 2013.

WORLD TRADE CENTER facilities in Rogers, Arkansas; Charleston, South Carolina; Long Beach, California; Los Angeles, California; Savannah, Georgia; St. Louis, Missouri; and Salt Lake City, Utah. Thirteen of these 20 new members are already offering WORLD TRADE CENTER and WTC branded trade services that are benefiting communities outside of New York.[75]

73. Furthermore, as I noted above in my report, in New York, the new WORLD TRADE CENTER landmark development is in the process of being constructed, with five new office skyscrapers (called 1, 2, 3, 4 and 5 WTC respectively), 550,000 square feet of retail space, a museum, a transportation hub, and a performing arts center.[76] This new WORLD TRADE CENTER complex has received widespread press and media attention. It was the cover story and the subject of a 10-page feature in TIME magazine.[77] Its development has involved world renowned architects, artists, and urban developers, such as Santiago Calatrava, David Childs, Norman Foster, Frank Gehry, Daniel Libeskind, Fumihiko Maki, and Richard Rogers.[78] One of the new WORLD TRADE CENTER landmark skyscrapers, originally dubbed the "Freedom Tower" and now officially branded "One World Trade Center", is visible to anyone in downtown New York.

74. In summary, considering the 47 separate WORLD TRADE CENTER members across the United States (of which 20 have been established after 2001), as well as the brand new, sprawling complex currently under development in New York, the WORLD TRADE CENTER and WTC brand identity stands for far more than the September 11 attack alone. All

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[75] Based on information provided to me by the WTCA

[76] http://www.wtc.com/about/retail and http://www.wtc.com/about/, accessed February 23, 2014

[77] TIME Magazine, March 17, 2014 issue

[78] http://www.wtc.com/about/, accessed February 23, 2014

this activity since 2001 continues to rejuvenate the WORLD TRADE CENTER and WTC brand, and add new, positive associations to it.

Conclusion

75. In sum, based on my expertise in the field of brand creation and development, I conclude that WTCA has developed a well-defined brand and brand identity system for the WORLD TRADE CENTER and WTC marks. This brand and brand identity system can naturally be extended to the Merchandise identified in the Applications, following a well-established path in which brands for organizations and institutions with defined attributes are used or licensed in connection with a wide variety of products. These branded products serve as brand building, promotional and marketing vehicles for the brand owner and extend and expand the brand. Finally, I believe that the WORLD TRADE CENTER and WTC brand is not exclusively defined by the 9/11 terrorist attacks and that the marks will be able to function as trademarks for the Merchandise notwithstanding the use of these marks to refer to or commemorate the historical events that occurred at the New York City building complex in September 2001.

Dated March 13, 2014

Erich Joachimsthaler, Ph.D.

APPENDIX A
RESUME, PUBLICATIONS, AND ACADEMIC CREDENTIALS

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U.S. Citizenship and German Citizenship

Education

Post-Doctoral Research Fellow	1987 - 1988	Harvard Business School
Doctor of Philosophy	1981 - 1985	University of Kansas Business Administration Specialization: Marketing and Quantitative Methods
Master of Science	1980 - 1981	University of Kansas Marketing Research
Vordiplom	1979 - 1980	University of Frankfurt Economics
Diplom Betriebswirt	1976 - 1979	Fachhochschule Giessen-Friedberg Business Administration and Computer Science/

Doctoral Dissertation "Lp-Norm Estimation in Discriminant Analysis."
Chairs: John L. Lastovicka and Kenneth O. Cogger

Academic Experience

2004 -	Visiting Professor of Business Administration Department of Marketing, Instituto Estudios Superios de la Empresa (IESE), Barcelona
1994 - 1998	Rust Visiting Professor of Business Administration Colgate Darden Graduate School of Business Administration University of Virginia, Charlottesville
1989 - 1994	Associate Professor of Marketing Department of Marketing, Instituto Estudios Superios de la Empresa (IESE), Barcelona
1985 - 1987	Assistant Professor of Marketing Department of Marketing, University of Houston, Houston
1982 - 1984	Adjunct Professor of Management Institute of Safety and Systems Management, University of Southern California, Los Angeles
1981 - 1985	Graduate Instructor in Marketing School of Business and School of Journalism, University of Kansas, Lawrence

Work Experience

2003	Co-Founder and Managing Director, E-Edge Company, Management Development and Executive Education, New York and London
1999	Founder and Chief Executive Officer, Vivaldi Partners, New York, London, Munich, Hamburg, Zurich.
1998 - 1999	Chairman, Prophet Brand Strategy, New York and San Francisco.
1995 - 1998	Aaker-Joachimsthaler & Partners (AJ&P), Charlottesville and Berkeley. AJ&P was acquired by Prophet Brand Strategy in January of 1999.
1990 - 1994	Alza Limited - Strategic Marketing and Research Consultancy, Barcelona.

Professional Memberships

American Marketing Association (AMA)

PUBLICATIONS

A. Publications

Brand Strategy, Digital, Innovation and Marketing

"Social Currency in the B2B World: Building Strong Brands," April 2013, as covered in *Adweek*, April 2013, "Brands Make Strides in Social Media Still Lag Their Consumer Cousins, Though"

"Social Currency Impact Study 2013: What it takes to create lasting impact" as covered in *Forbes* March 2013 in the article "Subway, Google and Target are top brands for Social Currency", by Kurt Badenhausen, among others

Building a Better Business: Using Social Currency to Grow in Today's Hyper-Connected World, **MWorld,** Winter 2012-2013

Why Social Currency becomes a Key Driver of a Firm's Brand Equity – Insights from the Automotive Industry, **Long Range Planning** (co-written with Lara Lobschat, Markus A. Zinnbauer, Florian Pallas), December 2012

What's the Right Entry Point for Emerging Markets? **Harvard Business Review** insert, April 2012

DemandFirst: Wie man erfolgreich für Kunden innoviert, **Innovations-Forum: Magazin für Ideenfindung und Produktentwicklung** (co-written with Kristina Stroedter and Markus Zinnbauer), February 2012

How Brands can set the Lead in Digital Information Overflow, **Werben & Verkaufen Digital**, 2011

Decoding Demand Opportunities, **Business Strategy Review**, 2010

Von Kommunikation zu Konversation, **Virale Kommunikation**, 2009

Was bleibt nach 20 Jahren Markendifferenzierung?, **Absatzwirtschaft**, 2009

Innovationsfähigkeit Schweizer Unternehmen, **Marketing**, 2008

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Room to Grow, **Marketing Management**, 2007

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Profitable Growth Through Easy Answers, **Absatzwirtschaft**, 2006

Power Brands der nächsten Generation, **Absatzwirtschaft Sonderheft**, 2005

Profitabel wachsen mit einfachen Antworten, **Absatzwirtschaft Sonderheft**, 2005

Der Zweck heiligt die Mittel, **Absatzwirtschaft**, 2004.

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Muessen die Marken in Zukunft ihre Herkunft verleugnen?, **Absatzwirtschaft**, 2003.

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Je kleiner desto besser, **Absatzwirtschaft**, 2002.

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Methodology

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Technology, Strategy and Industrial MarketingBuying/Selling

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Sales Resource Allocation with Multiple Conflicting Objectives: An Interactive Decision Support Aid, **Decision Sciences,** 1991, with Antonie Stam and Lorraine Gardiner.

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Methodology and Consumer Behavior

Measurement Validity of VALS and a Custom Lifestyle Typology with Multiplicative Factoring of Multimethod- Multitrait Matrices, **Journal of Marketing Research**, 1990, with John Lastovicka and John P. Murry.

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B. Books & Book Chapters

Social Currency: How to build strong brands and businesses in the digitally-connected world, Digital Darwinism, 2013 forthcoming.

What is the right entry point for emerging markets: Targeting customers at the bottom or the middle of the pyramid, A white paper by Harvard Business School Analytic Services: The Asia Innovation Series, 2012

Hidden in Plain Sight: How to find and execute your company's next big growth strategy, Harvard Business School Press, 2007.

"*Strategie und Architektur fuer Markenportfolios"* in Handbuch Markenführung, Band 2, 2004, Manfred Bruhn, Gabler Verlag, Wiesbaden, with Markus Pfeiffer.

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"Nestle Buitoni: The House that Mamma Built," in *Relationship Marketing: Strategy and Implementation*, 1999, Helen Peck, Adrian Payne, Martin Christopher, and Moira Clark, Butterworth-Heinemann, Oxford, with Edward Hickman.

C. Working Papers & Teaching Notes, etc.

"The Always-On Consumer," February 2014

"Brands & Social Networks: New findings on how consumers connect with brands," February 2013

"Social Currency 2012: How brands and businesses can prosper in a digitally connected world," September 2012

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APPENDIX B
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