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

Proceeding	92055460
Party	Plaintiff The Hackett Group, Inc.
Correspondence Address	JOHN CYRIL MALLOY III MALLOY & MALLOY PL 2800 SW THIRD AVENUE MIAMI, FL 33129 UNITED STATES fferreiro@malloylaw.com, litigation@malloylaw.com
Submission	Plaintiff's Notice of Reliance
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Signature	/Francisco J. Ferreiro/
Date	06/17/2013
Attachments	Second Notice of Reliance.pdf(1490576 bytes)

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

In the matter of Registration No. 3,878,276
For the mark "HACKETT CONSULTING"

THE HACKETT GROUP, INC.,	)
Petitioner,	)
vs.	) Cancellation No. 92055460
HACKETT CONSULTING,	)
Registrant.	)

PETITIONER'S SECOND NOTICE OF RELIANCE

COMES NOW Petitioner, the Hackett Group, Inc. ("Petitioner") and, pursuant to 37 C.F.R. §2.120(j) and §2.122, hereby introduces the following documents into evidence, true copies of which are annexed hereto as Exhibits 35-37:

A. Printed and Electronic Publications

Pursuant to 37 CFR §2.122(e) and *Safer, Inc. v. OMS Investments, Inc.*, 94 USPQ2d 1031 (TTAB 2010), Petitioner intends to rely on the following publications available to the general public via the internet. These materials are relevant to show the similarity in trade channels and services offered by Petitioner and Registrant and the likelihood of consumer confusion between the parties' respective marks.

35. "Developing your Brand: The Power of Benchmarking", http://www.resourcenation.com/blog/developing-your-brand-the-power-of-benchmarking/3171/, published December 28, 2008, dated June 17, 2013.

36. "Image, Awareness, Preference Branding and Benchmarking Marketing Research Studies by Market Street Research", http://www.marketstreetresearch.com/capabilities/solution-awareness.htm, dated June 17, 2013.

37. "Marketing Strategy - Four Best-Practices for Renovating Your Brand", http://www.marketingprofs.com/9/best-practices-for-renovating-your-brand-geyer.asp, published March 24, 2009, dated June 17, 2013

Dated: June 17, 2013

By:/Francisco J. Ferreiro/

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document has been served on the following by mailing said copy on June 17, 2013 via E-mail and First Class Mail, postage prepaid to:

Matthew H. Swyers, Esq.
344 Maple Avenue West, Suite 151
Vienna, Virginia 22180

By: /Francisco J. Ferreiro/
Francisco J. Ferreiro

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board, web site, www.uspto.com, this 17th day of June, 2013

By:/Francisco J. Ferreiro/

EXHIBIT 35

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Developing your Brand: The Power of Benchmarking

Posted by Romana Mirza (http://www.resourcenation.com/blog/author/rmirza/) on December 22, 2008 in Marketing (http://www.resourcenation.com/blog/category/marketing/) [0 Comments (http://www.resourcenation.com/blog/developing-your-brand-the-power-of-benchmarking/3171/#comments)]

This is our third and last installment in this DIY Series on Developing your Brand. This three-step approach will help you define your brand if you have limited resources to consult the outside expertise of a brand strategist. In the first posting (http://www.resourcenation.com/blog/developing-your-brand-where-to-start) we talked about where to start. How do you begin to define a brand and where you find the definition for your brand? In the second posting (http://www.resourcenation.com/blog/developing-your-brand-don%E2%80%99t-forget-the-competition) we looked at how an analysis of your competition can help you develop a clearer message around who you are and how you are different. In this final step we'll look at how benchmarking can help you discover an edge or an approach that reflects at you offer authentically and differentiated from everyone else in your industry.

ou need help with branding for your company, visit Resource Nation's marketing experts p://www.resourcenation.com/landing/blog/online-marketing).

enchmark is a standard by which something is judged. In this last phase you'll learn more about your brand by chmarking brands outside your industry. Here we begin to look to standards that are upheld by other brands that admire to see what you can learn from them. Whether a tennis racket manufacturer, clothing designer, a soap npany or a car company, these brands can teach you something.

process will require you to look at their websites, note the language they use to speak to customers, figure out t you like about how they present themselves to you and take note. Similar to what you did in the competitive ew make note of three key elements: content, visual language and the emotion.

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Content:
Read what your favorite brand says about their product on their website and/or in their brochures. Hear what they have to say on TV or in radio ads. Note their language. Is their message focused on their customer "we meet your needs" or on their product "we have the highest quality…". Understanding the content of their message will give you clues to how you may approach your brand. If your favourite brands, outside your line of work, focus on customers then perhaps the way you communicate your message should do the same.

Visual Language:
Take note of how your favorite brands present themselves visually. Are TV commercials fast-paced with dark and metallic colors? Are print ads on bright white backgrounds with bold text? Are websites filled with movement and color? Take a look at two or three of your favorite brands from different industries, like a food company, a sports equipment company and a chocolate company. What is similar about their visual language? Note these similarities; it may inform how you want to present your brand to the world. If the visual language is very different for each then note what parts of it you like the most. Perhaps you like the vivid colors in one and the wide open space in another. Then, ask yourself why do I like these visual cues in this context? A pattern will certainly emerge.

Emotion:
Noting emotion is really about how you feel, not what you think they want you to feel but how you really feel. This is where authenticity rings true. As you engage with your favorite brands think about how you feel. Do you feel trust, power, speed, confidence, luxury, serenity, or energized? What kind of feeling is the brand eliciting in you? Take a moment to note which of those feelings you want for your customers. A respected market researcher, Frank Luntz said "80 percent of our life is emotion, and only 20 percent is intellect" – focus on the emotion it is what drives us.

Often when the vision for an organization is being held by more than one person, a team or a committee it is difficult to get agreement on where to go. When I was hired to head up the brand revitalization effort for a large office furniture manufacturer, based in the US Northeast, I used this benchmarking strategy to coach the management team through a visioning session that would help to define precisely what they wanted for their brand. This company manufactured office furniture that appealed to the broadest customer base. It was not elite high-end furniture but it did offer a design and functionality that was loved by a majority of the marketplace. The problem was that the marketplace felt this brand was getting stale. In order to help the management team create a vision for the brand they could believe in we looked for a company outside of our industry that also appealed to the masses and offered nice design but had a brand that customers were drawn to. We chose Kenneth Cole, a brand that was known by the management team and admired by all. Kenneth Cole provides the latest designs to a majority of the marketplace and they're appealing to the market. Just what we wanted to accomplish for our brand. We benchmarked their approach, language, even stores to get inspiration for what we could do with our brand. Having a benchmark in mind kept our entire brand

revitalization team focused on a singular vision. In the end we accomplished the mission. In the years following the brand revitalization the manufacturer experienced growth that exceeded expectations and developed a loyal following of customers who are in anticipation of future product launches.

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EXHIBIT 36

Capabilities

Solutions

- Awareness and Image Studies
- Market Feasibility and Competitive Intelligence
- Product Testing and Pricing Research
- Market Segmentation
- Purchase Decision Dynamics
- Customer & Employee Satisfaction and Loyalty Studies
- Political Polling

Methodologies

- Focus Groups
- Representative Telephone Surveys
- Email Surveys
- Mail Surveys
- Intercept Interviews
- Internet-Based Research
- In-Depth Interviews

Awareness, Image, Branding & Benchmarking Marketing Research Studies

Companies use aided and unaided awareness, image and branding marketing research studies to gauge the extent to which consumers are familiar with and have positive opinions about their products or services. In many industries, companies with the highest awareness levels also capture the largest market share.

What Is Awareness?

Awareness level measures whether consumers know about and are familiar with a company, organization, product, or service.

Unaided awareness is the extent to which consumers think of a company or product on a top-of-mind basis. For example, we might ask, *"When you think of companies that provide these kinds of products, which first come to mind?"*

Aided awareness is the extent to which consumers who know about a company or product are familiar with that company or product. For example, we might ask, *"How familiar are you with this company? Would you say you are very familiar, somewhat familiar, or not familiar?"*

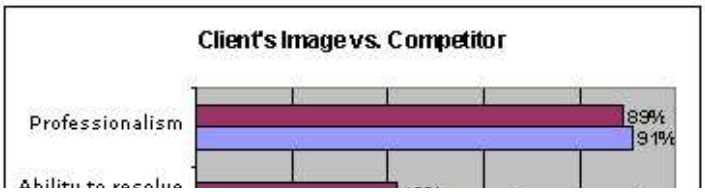
What Is Brand Image?

Brand Image includes the totality of consumers' opinions about, experiences with, and attitudes toward a company or organization and their brand as compared with that of competitors. Market Street Research often measures a company's brand image by asking consumers, decision-makers, or key markets to rate the company and its competitors on factors they consider important, such as:

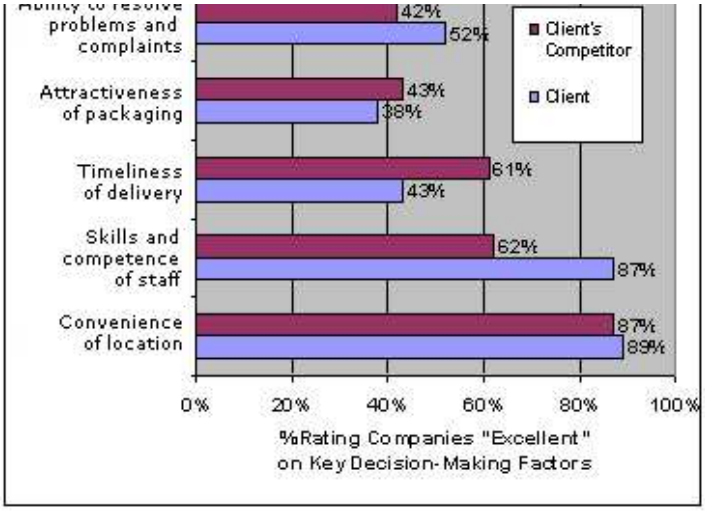
- Overall reputation
- Quality and appeal of products or services
- Convenience (location, hours, etc.)
- Sales and marketing effectiveness
- Customer service
- Delivery
- Timeliness
- Costs
- Resolution of problems and complaints

How Are Awareness and Brand Image Measured?

Market Street Research uses a combination of qualitative and quantitative research methods to measure **awareness** and **brand image**. For example, we might begin with focus groups or one-on-one interviews with key decision-makers to identify important factors within a particular market that may influence whether people are familiar with a company or organization, how they decide which product or service they will purchase or use, and the emotional and rational components of the brands of the major competitors in the industry.



We then use **qualitative research** results to design and



conduct representative **quantitative research** surveys - most frequently telephone surveys - within our clients' current geographic market areas to determine with a high degree of accuracy how well-known our clients brands are and how people perceive them as compared with competitors. We might limit the survey to our clients' existing markets, or include potential markets, giving our clients a good sense of the resources they may need and the steps they must take to effectively enter new markets.

Regardless of industry, companies and organizations use **awareness**, and **brand image marketing research studies** to inform their key operational and marketing decisions. Our clients use our results to guide decisions about overall mission, current and future goals, staffing, product and service design, delivery means, and marketing, communications, and public relations efforts.

Benchmarking

What is Benchmarking? Benchmarking is following up an image, awareness and preference study with an identical or similar research effort after some predetermined interval to measure any changes in awareness and image that have occurred since the last study was performed.

Typically, organizations conduct benchmarking studies at intervals of between 18 and 24 months, depending on the nature of the business, the rapidity of changes in the operational environment, competitive forces, or any crisis or other issue that the organization has experienced that may have affected perception of the organization in the minds of its constituents, customers, prospects or internal staff.

The benefits of benchmarking are many. Primarily, benchmarking is a tool that is used to measure the efficacy of an organization's marketing, communications and advertising efforts and, as is the rationale for most image and awareness studies, to identify areas of opportunity and inform the development of ongoing strategic, operational or marketing-oriented initiatives geared towards taking advantage of the highlighted opportunities.

Rationale For Conducting Image & Awareness Benchmarking Research After a Crisis and/or Negative Press Coverage

An organization faces a number of challenges after experiencing a crisis or when confronted with negative press coverage. Certainly, these challenges have much to do with confronting the cause of the crisis or the negative exposure itself. However, the challenges also extend to managing the attitudes of all the organization's constituents. For example, in the case of a hospital, these constituents include both the residents of the area the organization serves, as these are the hospital's source of future revenue, as well as the doctors and staff of the hospital, as these are the individuals who serve as the gatekeepers and chief ambassadors of the hospital's brand in the community.

In order to confront the effect of a crisis or negative press coverage in terms of its affect on the image the the organization's constituents have of the organization, the organization must first gain a scientifically accurate understanding of the impact so as to know the nature and extent of the impact, if any. Armed with this information, the organization can then take

appropriate actions in terms of shaping its internal and external communications and marketing efforts in a targeted manner so as to prevent any further damage to the organization's image and allay any concerns of its employees, partners or internal resources. This messaging can contain information about what actions the organization is taking to ensure that, moving forward, the issues that precipitated the crisis or negative coverage will be dealt with. These communications will be directly informed by its constituents in terms of the specific information contained, and in the nuances of language used, so as to maximize its effectiveness.

The most effective means for conducting this scientific assessment of constituent's image of the organization is by utilizing quantitative marketing research in the form of a representative telephone survey. In the best case scenario, an organizations will have been in the practice of conducting this type of image and awareness research on a regular basis so as to provide a baseline upon which to benchmark any changes in attitudes that may have been affected by the recent issues the organization is dealing with. In this case, a survey instrument can be developed that both assesses the awareness of the recent issues among the organization's constituents and then measure the effect, if any, of this awareness on the aspects of image that were addressed in the previous study(ies).

The benefits of conducting this type of benchmarking assessment are multi-fold. First, if the research shows that there is indeed a problem (in terms of a negative effect the recent issues have had on the organization's image), the organization will have a road map for how to shape its internal and external communications to most effectively combat this affect. Second, the act of conducting the survey will indicate to its staff, partners and other resources that the organization is taking their concerns seriously and is just as seriously taking steps to address them. Additionally, the benchmarking effort itself can become a tool upon which to measure the efficacy of the organization's efforts to combat any slide in its image by forming the baseline in future efforts to again measure its image and awareness among its constituents.

The alternative to utilizing survey-based market research when confronting issues such as recent crisis or negative media coverage is to use the gut-based marketing approach that is often informed by fear and individual leadership's emotional attachment to the organization under fire. This approach is, by nature, hit-or-miss. In fact, if it turns out that there has been no significantly negative impact of recent issues and press coverage, a misguided gut-based approach can run the risk of creating a problem rather than solving one.

Healthcare Marketing Research

Market Street Research has a particular strength in conducting awareness and image studies for hospitals and health systems in which we analyze the experiences, opinions and preferences of residents in a hospital's or health system's market areas, segment residents based on that analysis, and assess that hospital's competitive position in the marketplace. Learn more about our expertise conducting image and awareness studies in the field of healthcare marketing research.

Please contact us to discuss how Market Street Research can help you achieve your organization's goals.

Learn more about:

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Four Best-Practices for Renovating Your Brand—Before It's Too Late

by Fred Geyer | March 24, 2009 | 12,112 views 6

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At this year's Consumer
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it expects mobile phone

Stories of marketing heroes who transform poorly performing brands never fail to enthrall us: the transformation of Dove into an empowering brand; the shift to healthier eating for McDonald's; the rebound of Hewlett Packard in the PC market.

Those are among some recent successes. But they elicit the question: Why do brand leaders wait until their brands are at the breaking point, and at risk of joining such brands as Radio Shack, 7Up, or the GAP... for which renovation may be too late?

Unheralded marketing heroes renovate their brands while they are strong and growing. They spot changing market dynamics and address them as opportunities before they have time to develop into threats. Their reward is faster profitable growth without the negative headlines.

Here are four best-practices in brand renovation identified in our work with businesses across a range of markets.

1. Develop a holistic understanding of the brand

advertisement

A holistic, customer-driven understanding of the current brand and a vision of the brand's future are crucial to proactive renovators. Typically, a holistic view includes an understanding of the brand's heritage, personality, iconography, functional benefits, emotional benefits, and perceived value in the minds of customers, influencers, and intermediaries.

The key is to understand how each of these groups views the brand in the context of their daily lives and compared with the other things that are on their minds. This view enables proactive renovators to see opportunities to credibly extend the brand and avoid the trap of defining the brand by what the company knows how to make or offer, instead of what customers want to buy.

Crayola has managed to stay relevant despite the digital and graphics technologies that might have threatened its brand's very essence. Its understanding of the brand goes beyond the functional benefits of washable markers or erasable pencils. Crayola's brand leaders understood that colorful fun and creativity best defined its role in the lives of teachers, parents, and children; accordingly, it evolved from an art-products company to a visual-expression company. It moved from being a partner with retailers to a partner with educators, parents, and children.

Crayola recognized the danger of being perceived as traditional and has continuously updated the look and the feel of the brand in a way that stays true to its roots but is fun and creative.

Finally, its leaders have used their understanding to guide them in developing programs for the Internet, a children's magazine, interactive toys, and advanced color technologies, breaking the constraints of selling only what can be made in a crayon and marker factory.

2. Look for segment swings

By the time most brand managers spot important trends, they are already threats. That's not surprising, since it's difficult to identify the early impact of trends among the general population of brand users.

Proactive renovators spot trends early by tracking segments of the population where the impact of change is more apparent, segmenting customers in different ways to fit their businesses.

Among the common segmentation principles:

> First, they ask questions about lifestyles and general attitudes in order to gain a broader context for the role of their products and categories.
>
> Second, they are particularly sensitive to trends with the potential to cross segments—from urban to suburban shoppers, or from youth into mainstream culture, for example.
>
> Third, they proactively test alternative ways to connect their brands to important trends in order to identify opportunities to play a greater role in the lives of their customers.

Kohler is one company that is famously attuned to emerging changes in segments of the population, turning them into big business opportunities. In the process, it has been transformed into the US leader in bath and kitchen design solutions.

More than 30 years ago, Kohler spotted an emerging willingness of urban customers to spend more for high-end home designs. Herb Kohler began to advertise the Bold Look of Kohler with a differentiating focus on design that rode the wave of home investment and kitchen renovations throughout the '80s and '90s. In the early '90s, it spotted another emerging trend: the bathroom as a refuge and oasis in large suburban households. It took advantage with a line of whirlpools, Jacuzzis, and tubs, extending its reach into showers and bathroom accessories.

Most recently, Kohler has increased its emphasis on green technologies with toilets, showers, and control systems aimed at a broad audience.

3. Distinguish the underlying issues

Not every brand issue is a competitive one, but we frequently encounter brand leaders so focused on gaining advantage against a narrow set of competitors that they fail to address indirect competition or tackle customers who are questioning whether it's worthwhile to buy the category at all.

Proactive renovators are much more likely to distinguish among different types of threats and respond accordingly. Brand guru (and Prophet vice-chairman) David Aaker groups these threats as commoditization, brand lethargy, and changing customer dynamics:

> **Declining brand differentiation underlies commoditization**, which is characterized by increasing price competition, entry of low-cost competitors, and narrower margins.
>
> **Brand lethargy is often a problem for category leaders** who fall into the trap of repeating past success factors rather than updating the brand and keeping it fresh and alive.
>
> **Brand relevance underlies customer dynamics issues.** Changing technologies, lifestyle patterns, or attitudes typically cause a brand or a category to become less relevant to

peoples' lives.

For decades, Coach focused on differentiating itself by handcrafting extremely durable and practical items with classic American designs in American factories. Between 2000 and 2007, it was able to accelerate brand growth from $500 million to $2.5 billion by creatively tackling leather goods' loss of relevance and lack of energy.

The company shed its handcrafted, American-made points of differentiation to leverage its core essence of classic, premium American design within the world of women's fashion accessories. It became more relevant and energetic by introducing color and fresh materials to its designs, transforming its assortment to provide a wide range of accessories and reinventing the Coach shopping experience.

Coach is the ultimate example of a proactive renovator that transformed itself into a category leader.

4. Apply the right strategies

Too many marketers think every brand issue can be solved with a new advertising and promotion campaign.

Of course, brand communication is an important component to building differentiation, energizing a brand, or building relevance. But, proactive renovators ensure that brand communications reflect fundamentally different strategies to cope with differentiation, brand energy, or relevance. One size will not fit all:

Successful differentiation in commoditized categories almost always requires finding ways to provide more emotional reasons to prefer the brand. Emotional leverage enhances consumer credibility and trust in innovations that drive big margin gains and allows the brand to eke out small, but often crucial, margin advantages in older products. Emotional bonds provide a platform to charge more despite the competition.

Staples's focus on ease (think "Easy Button") and expertise in small-business and home-office efficiency differentiates it from other superstores and lends permission to provide such value-added services as office delivery and computer repair to enhance loyalty and margins.

Reinvigorating brand energy typically requires revamping the brand's imagery. A brand image in keeping with its promise makes it more noticeable, easier to understand, and more desirable. Marketers often think that refreshing the logo and trademark imagery is sufficient; that's rarely the case. User, usage, product, and associative imagery all must be explored to truly reinvigorate a brand.

Sprite is one brand that regained energy by changing its user imagery to focus on young iconoclasts and its associative imagery to focus on the NBA.

Relevance issues demand a re-examination of the customer experience. When consumers change the ways they shop, live, or use technology, the experience must adapt.

Sometimes the adaptations include new offerings such as the salads and wraps that McDonald's has added to its menu to appeal to health-conscious women. Some adaptations encompass a comprehensive redesign of the entire experience, like Coach's store and product redesign to meet women's fashion accessory buying expectations.

* * *

These four best-practices expose one central truth: Customers must drive brand decisions.

To succeed, brand leaders must understand the brand through customers' eyes, track how different customer segments are changing, identify the different issues customers have in their lives, and link the brand to customer needs.

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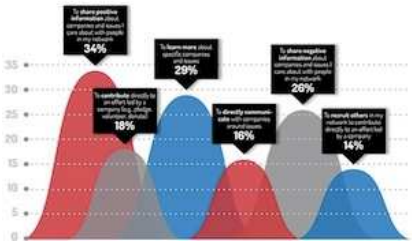

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Excellent article. However, how does one position a company who has just undergone a merger and developed a new brand - in the minds of their customer. The idea is to position the company as a "Thought Leader" - how can this be done via the Brand.

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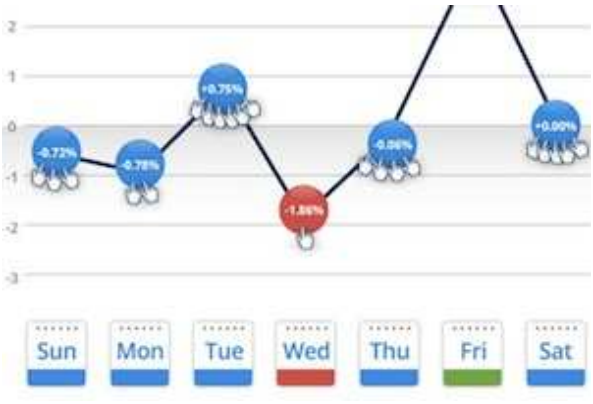

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