



MARKETING FEATURE



## Marketing Pioneering Products: Walking the Tightrope Between Enhancing Brand Equity and Committing Genericide

[By Surajit Sen Sharma]

The prospect of genericide haunts all strategists trying to market a landmark or groundbreaking product. Beverly W. Pattishall and David C. Hillard used the term “genericide” in 1985 to describe a sequence where superb brand promotion and category dominance end in legal action that declares a brand name “generic.” When genericide occurs, the brand attains such a high level of brand promotion that it loses its specific product association and consumers start referring to all commodities in its category by its brand name.

The gate opened for genericide proceedings in the U.S. with a case involving Aspirin. The bench held that if the common consumer perceived the word representing the brand name to stand for a category of products and not the particular product, then irrespective of the advertiser’s efforts to clear confusion, the brand name was generic (Kane 1991). Since then, the list of brand names that have become casualties of genericide has kept on growing; today, it includes pioneering brands like Trampoline, Escalator, Linoleum, Cellophane, Thermos, Corn Flakes, and, of course, Aspirin.

In the U.S., the Lanham Act of 1946 excludes “any common descriptive word of any article” from being registered as a trademark and, therefore, as a brand name. The 1988 Trademark Revision Act provides that the owner of a generic trademark shall lose the right to exclusive use for its own product or products. The act says, “A mark shall be abandoned when any course of conduct of the owners causes the mark to become a generic name for the goods or services on or in connection with which it is used.” Similar legislation is also present in other countries.

The legal effects of genericide prevent the marketer from reserving its brand name or its marketing message for its own product. Competitors become empowered to associate a generic brand name with their own products and destroy category

dominance by dilution. Marketing history has shown that most often, pioneering products fall prey to the phenomenon of genericide. The most-cited precedent happened in 1938 when Kellogg had to give up its right to use the term “shredded wheat” (*Kellogg Co. v. Nabisco Biscuit Co.*).

It was fear of genericide that reportedly made Xerox Corp. muse about a name change in the 90s. It is this same fear that makes Xerox run at least one advertisement per year devoted to dispelling the association of its brand name with the entire product category (Lans 1994).

Genericide can be prevented if marketers:

- Make immediate formal objections to any misuse of their trademark by anyone. Such misuse includes improper usage in the media and common-noun or verb references in dictionaries or encyclopedias.
- Run periodic campaigns to counteract consumer confusion.
- Devise the marketing mix of a pioneering product, from its very beginning, in a manner that eliminates the chance of any generic attachment to the brand name. (The marketing strategy of Microsoft Windows is a good example in this

regard. Windows definitely ran the risk of gaining generic status with respect to PC operating systems, but a carefully planned marketing strategy has kept this potential problem at bay.)

The phenomenon of genericide is often disregarded by marketers, but when it comes to entrepreneurial marketing of pioneering products, such disregard can lead to incalculable loss. Just at the moment when a consistently superb marketing mix yields the coveted target of category dominance, the associated advantages may be wiped out by genericide.

Fear of genericide has led brands like Kleenex, Rolodex, Coca-Cola, Styrofoam, Kitty Litter, AstroTurf, and Laundromat, among others, to employ intellectual property lawyers in regular battles against genericide, and such brands often adopt marketing strategies geared to put a stop to consumer confusion. Thus, a marketer of a pioneering product cannot afford to ignore this issue.

### Works Cited

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### ON THE NET

Coca-Cola  
[www.coca-cola.com](http://www.coca-cola.com)

Kleenex  
[www.kleenex.com](http://www.kleenex.com)

Kellogg's  
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