3

NAMES WE ALL KNOW

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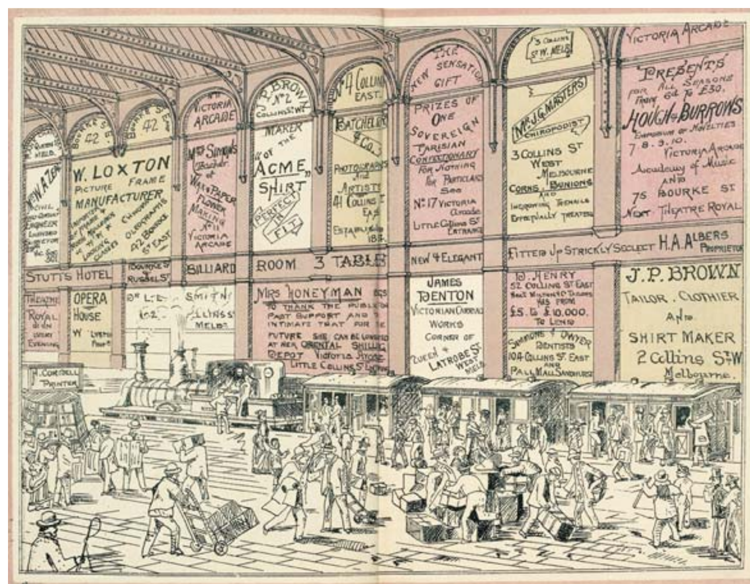
In 1606, when Willem Jansz sailed along the shore of the Gulf of Carpentaria, his vessel *Duyfken* would certainly have been flying the trade mark of the Vereenigde Oostindische Compagnie—the Dutch East India Company. Over the next thirty-seven years, the distinctive VOC brand was shown along two-thirds of the coastline, from Cape York to Ceduna and the southern half of Tasmania—an accidental premonition of the ubiquity of commercial brands in Australian life.

Two centuries later, the British colony in Australia was a penal settlement, lacking the commercial enterprise and discretionary incomes for brand names to be important. As the colonies became increasingly free and enterprising—and the convict element diminished in importance—a society of enthusiastic consumers developed, and trade marks became strikingly prominent. If you could go back to the late nineteenth century you would see them everywhere—on large, sometimes colourful labels, in newspaper and magazine advertisements, painted on the sides of buildings and plastered over railway stations and other public places.



A railway station in 1877. Brand name awareness has been an important factor in Australia's consumer culture for a century and a half.

You might recognise a few familiar ones: on bottles of wine and beer, as newspaper mastheads, on shop hoardings and the brass plates outside insurance offices and on the spines of books, for instance. But you would see a lot more that were soon to die out. The depression of the 1890s carried off hundreds of Australian brands, in a general ruination of commercial and financial institutions. Many others disappeared in corporate amalgamations and takeovers and plenty more simply lacked the consumer appeal that makes a great and enduring brand.

Most of the familiar trade marks of today come from the last hundred years. After Federation, free trade between Australian states encouraged national product marketing, and enterprises tended to grow and amalgamate. In colonial times industry had been carried on by multitudes of firms and workshops, most of them small in comparison with the huge factories of Europe and America. They often relied on their innovative methods and products to make up for the economies of scale that they lacked.

A common sight around Australia until the 1980s.

The twentieth century brought national and international brands in place of local ones. The transition is still going on, however, as trade marks associated with places or states battle for survival against nationwide names. Local department stores and breweries, for instance, are many fewer now, but not gone entirely, while local newspapers remain strongly dominant in their markets.

AMP
Australian Mutual Provident Society

A lot of the best known brands are associated with innovative products and business methods. Sometimes an invention has been given a trade mark and gone on in its own small way to change our lifestyles. In 1923 the Hoadley company launched Violet Crumble and Fred Walker's Cheese Co. launched Vegemite. Both were new ideas that changed people's habits and became household names. In 1928—the year Aeroplane Jelly appeared—the first Speedo swimming costumes went on the market. Speedo has had ownership changes, but the brand has always been associated with ingenuity in swimwear. Driza-Bone is another clothing label that represents originality as well as quality and style. R.M. Williams remains a household name because of its association with a type of boot that was new in the market and well timed. Defender, released in 1937, was the first product to exploit the fatal attraction that metaldehyde has for snails. Resources giant BHP (now BHP Billiton) owes its success largely to technological innovations and original research.

Above: *Some of today's brands have been with us since colonial times. AMP has only had four basic trade marks since its foundation in 1849.*

Below: *Many Australian brands owe their high profile to the innovative nature of the product.*

NEW NAMES FOR NEW PRODUCTS

When an excitingly innovative product is well made and marketed in large numbers to people who are really glad to have it, a household name is often born. Australia has plenty of these, hallmarks of a way of life and tributes to the ingenuity of its people.

MORTEIN

This is not a brand name that pulls punches. It was coined by Mr and Mrs J. Hagemann—a German and his French wife—building on the French and Latin word for death. The Hagemanns released Mortein in the 1870s, not long after settling in Australia. From then till now Mortein's proprietors have stressed death in their packaging and labelling and earned the unfailing appreciation of a population beset by flies and other insects.

The first Mortein was a powder for sprinkling, but in the 1920s Mr Hagemann introduced a puff dispenser and a fluid for spraying. Mortein's high profile today is largely the work of Bill Graham—managing director, from the 1940s till 1969, of the company that owned the brand. Graham released new and related products, including aerosol Mortein in 1953. He advertised vigorously on radio, in the press, and (from 1956) on television. In 1957 he launched the first campaign featuring Louie the Fly—Mortein's immortal cartoon victim.

As well as stressing death, Mortein's promoters have consistently focussed on user safety. Graham is said to have drunk a glass of it when appearing before a government inquiry. (He lived, but the practice of drinking Mortein is not recommended.) In competition with formulae brought into the market from overseas, Mortein scores well for deadly effectiveness, relative harmlessness to humans and not leaving a residual stink—all testaments to judicious research and development.

In 1969 the British company Reckitt and Colman bought out the makers of Mortein. Its history since then is an example of how foreign multinational ownership is not always bad for Australia. Because of Mortein, Reckitt and Colman concentrated almost all its pesticide research and development in Australia. The company markets Mortein in Asia and other Australian made products in other parts of the world.

FOSTERS

"Can of Fosters in my hand
—symbol of my native land"
—Northern Territory folksong

Every so often a brand is so powerful that it rips away, leaving the product in its wake. For over a hundred years, Fosters Lager has been an emblem of Australia, celebrated in verse and song, commemorated in the names of racehorses and boats, proclaimed in poster art and cinemas. A vigorous television advertising campaign in the 1980s, which called it "Australia's beer that grew and grew", taught us that it is enjoyed all around the world.

But until the 1970s Fosters could not be obtained in most parts of Australia and most Australians hadn't tried it. It had risen to fame in Melbourne in the 1890s, as one of the first products of newly introduced European brewing technology. It was perhaps the most successful of the clear lagers that steadily replaced the thicker English and colonial style ales—of which Coopers is the last widespread survivor.

Foster's was one of the Melbourne brewers that linked up in 1907 to form the massive Carlton and United Breweries. The big reputation of Fosters Lager survived the amalgamation, but until thirty years ago its distribution was limited by the "beer line"—an imaginary line running through the Riverina. Honouring a gentleman's agreement with Sydney brewers, Carlton and United could not send its beer any further into New South Wales.

Tooths was the Sydney brewery which challenged Carlton and United's monopoly south of the "beer line". Its strategy failed and the venerable Tooths brand was later acquired by the makers of Fosters.

A breach of the agreement by New South Wales brewer Tooths heralded a beer war. Although Fosters was not the most popular beer south of the beer line, Carlton and United was convinced that its great renown would make it the most popular choice in new markets.

And so, as tastier Victorian beers surged into New South Wales, kegs of Fosters filled the pubs, Fosters ads filled the screen, the whole company even changed its name to Fosters. But Australian drinkers didn't like Fosters as much as other Carlton and United beers. To this day, the trade mark is more popular than the product.

Fosters today is strongly conscious of the heritage value of the old Carlton and United brands, of which there are many dating back to the nineteenth century. Although the trade marks continue to evolve, the historic character of Fosters and other trade marks is carefully preserved. In 2003 the company began promoting the old "Empire" brand to its younger customers, even though it had lain dormant for decades.

Overseas Fosters has won perhaps the widest recognition of any Australian branded product. Fosters beer has a significant market share in Britain and Western Europe, North America and East and South-East Asia. It is brewed locally for these markets under careful control from Australia. People there tend to think of it as the quintessentially Australian beer, and sometimes overseas visitors to Australia are surprised to discover the variety of other beers that attract local preferences.

QANTAS

Not many airlines have been flying longer than eighty years. When Qantas took to the skies in November 1920, there were quite a few operators already in business, but only one of its predecessors—Holland's KLM—has survived.

Qantas's start was certainly a modest one. With a single aircraft, it went into the scenic flights and air taxi business. Two years later it began flying a regular route, though hardly the world's most important: Charleville to Cloncurry in western Queensland.

A "Super-Constellation" aircraft—the type introduced by Qantas on the world's first regular round-the-world-service.

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1944

1947

1968

1984

Top: *The original Qantas office in Longreach, Qld.*

Right: *Qantas popularised Australian tourism to South East Asia.*

All along, the peculiar name—which stands for Queensland and Northern Territory Aerial Services—was a publicity asset. It must have seemed unduly modest in 1934, when Qantas joined with Britain's Imperial Airways to form Qantas Empire Airways. In this joint venture Qantas was to fly the Brisbane–Singapore part of the first regular Australia-to-Britain mail and passenger service.

By then, people had already been pronouncing the six letter acronym as a two syllable name for years. Wherever Qantas went, the name was a handy identifier. In the post-war period, when Qantas's route network spread over five continents, airline policy and promotion ensured that the familiar name was one of the best known to global travellers. Reports from the USA in the 1970s indicated that some Americans believed that "Qantas" was the word for a sleepy arboreal marsupial, correctly known as the koala. Qantas television advertising at the time had been featuring a disgruntled koala complaining about the airline's popular and frequent service.

Nowadays the animal associated with Qantas everywhere is the kangaroo, because of the famous flying kangaroo trade mark displayed most prominently of all on the tails of Qantas aircraft. The Qantas kangaroo was inspired by the old Australian penny—the ubiquitous large brown coin effectively replaced by the one-cent piece in 1966. The obverse depicts a kangaroo in a circle very like the one painted in red on the tails of Qantas planes. Company folklore reports that the decision to adopt the penny kangaroo was made in the cockpit on an international flight. Since then it has featured in an evolving series of trade marks, sometimes with wings added, sometimes without.

After World War II the Commonwealth Government bought Imperial Airways out of Qantas, and the network and fleet grew rapidly. In 1958 it established a "round-the-world" route with two Super-Constellation aircraft flying around the Earth in opposite directions. This route survived into the jet age but was eventually abandoned.

The Commonwealth "two airlines policy" kept Qantas out of the domestic market until 1993, when it bought Australian Airlines, the government-owned domestic carrier. Since then Qantas has increased its share of the Australian market, which it now dominates domestically and internationally.

VEGEMITE

In 1922 at the company's test kitchen in Melbourne, Fred Walker Cheese Co. chief chemist Cyril Callister had invented Vegemite using vegetable extracts and brewers yeast from Carlton and United. The name Vegemite was adopted in 1923 after a national naming contest, though who proposed it is not recorded.

In 1926 Walker's decided to scrap the name Vegemite because consumers were choosing imported Marmite. The producers of the new Australian spread were sure their product was better in taste and quality; marketing was the problem and the trade mark was considered a flop. In a pun on "Ma might", Vegemite was then relaunched as "Parwill".

The Parwill brand did not succeed in drawing strong public support, and after a brief experiment the company decided to revert to Vegemite. Since then, as a brand, Vegemite has gone from strength to strength. In the 1930s the British and Australian Medical Associations endorsed Vegemite for its nutritional properties. During World War II it was rationed to ensure adequate supplies for the troops. So essential did Vegemite become to military defence in general that one day during a strike in the 1970s the Melbourne factory had to be reopened long enough to replenish Army supplies.

Kraft Foods' purchase of Vegemite was completed in the 1950s. The new proprietor took early advantage of a fledgling advertising medium with its now famous "happy little Vegemites" TV campaign based on a 1954 radio song. Fifty years later, the optimistic jingle still runs at times through the minds of most Australians—whether they like it or not—thanks to Kraft's policy of re-running the old ads from time to time. Like this advertising, the trade mark and presentation of Vegemite have changed relatively little over the decades due to the striking qualities of the brand.

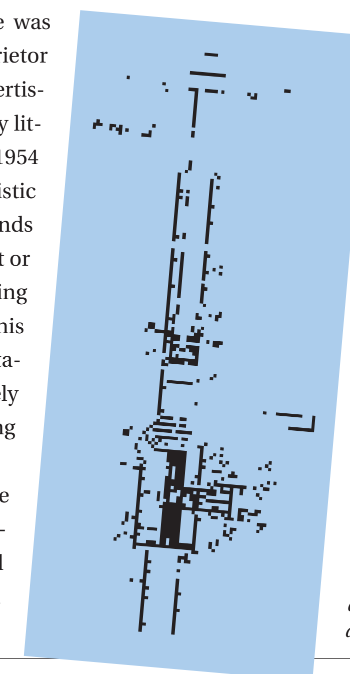
Vegemite is exported to airline offices and Australian diplomatic missions to help relieve distressed Australians overseas. A guest house in Turkey promises "Vegemite breakfasts" in order to lure customers with the craving. But Australian innovation is so far ahead with this brand and product that, even after eighty years, the rest of the world has not caught up. American food chemist Professor J.P. Collman includes Vegemite in his book *Naturally Dangerous*, describing it as a product similar in appearance to used chewing tobacco which repels the uninitiated, as does its taste and smell. Australians, most of whom are introduced to Vegemite in their childhood, crave its flavour, but people of other nationalities seldom taste it more than once.

HILLS

Before World War II several clever people had designed and promoted rotary clothes hoists but they never caught on. Australian families hung their washing on long lines, slung between timber posts. Half way along, each line was usually held up by a forked length of sapling, known as a clothes prop.

These arrangements did not impress the wife of Adelaide mechanic Lance Hill. When his military service ended in 1945, she prevailed on him to make her something more convenient. Mrs Hill was rewarded with a clothes hoist she could easily crank up, to catch wind coming over the fence, and which would turn so she could stand in one place with her laundry basket. Hills hoists were made of stout galvanised piping, with a crown-and-pinion winding mechanism inside. Later the Hills company patented a hydraulic cranking mechanism.

Lance Hill's father was a crucial participant. He helped finance Lance and his brother-in-law, Harold Ling, to set up a new company. And in the early days—when they mainly sold to neighbours—he pushed the delivery wheelbarrow around each Tuesday. The Hills hoist came at exactly the right time. Quality design and manufacture, as well as astute marketing and branding, ensured that the new brand name became inextricably



Left: *The basic concept may not have been original, but Lance Hill's business was genuinely innovative. This drawing of an improved hoisting mechanism accompanied a patent application of 1954.*

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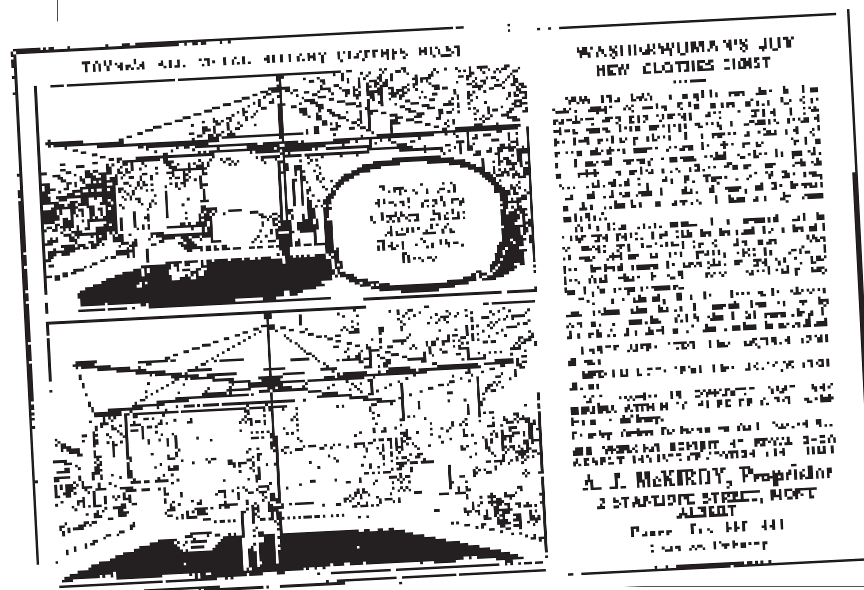
Above: *Hills hoists were soon so popular that the family business needed specialised premises and equipment.*

Below: *Gilbert Toyne's patented rotary clothes hoist, advertised in Melbourne in 1929. The Hills hoist, released after the War, was very similar, but timing and management have made the Hills brand synonymous everywhere with rotary clothes hoists.*


WASHERWOMAN'S JOY
NEW CLOTHES HOIST
A. J. McKIRDY, Proprietor

attached to the old invention. A rotary clothes hoist is a Hills hoist in the mind of every consumer.

The average Australian suburban home has four Hills products—a clothes hoist, of course; perhaps a Hills wheelbarrow, a Hills television aerial and a Hills ladder. The company is constantly involved with innovative products—simple things like the Galaxy ladder leveller, complex systems such as the over-the-horizon radar (see page 81), partly developed by Radio Frequency Systems, an inventive firm part-owned by Hills. The Hills company manufactures building materials, play equipment, equipment for housework and gardening and advanced communications gear. Innovations and quality make the products appealing, but there is no denying that the genial associations of the ubiquitous Hills hoist name opens many doors to them.

VICTA

In 1951, Sydney university student Garry Richardson began mowing lawns to make money over the Christmas holidays. Power mowers in those days were designed like motorised push mowers, with cylinder mounted blades striking stationary blades to cut grass the way scissors do.

Just such a mower belonged to Mervyn Victor Richardson, Garry's father, who regretted lending it every time he had to help his son load the heavy contraption. So he set to work building the Victa 14—a lighter, cheaper power mower of the old cylinder type. He built his mowers at his suburban home after work and demonstrated them to customers on his own lawn.

The 1950s Victa mower relied on superior quality and design to dominate the lucrative lawn mower market. Like "Hills", the Victa brand became synonymous with its product. The National Museum in Canberra displays it amongst other emblems of Australian domesticity.

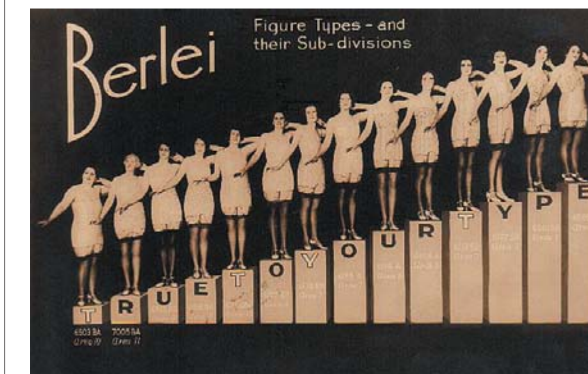
In 1952 Richardson designed and built the first Victa rotary mower. The idea was not new—several backyard inventors in the first half of the twentieth century had made rotary petrol mowers, without commercialising them. But the 1952 model was probably the best to that date, and when Mrs Richardson took it on its inaugural run, even the toughest grass seemed to melt in front of her.

Just like the Hills brand, "Victa" became synonymous with the invention. Richardson had the right product at the right time. In 1953 he had to expand and move his works to a larger shed. The following summer he had a modest factory, and Victa was becoming a household word all around Australia.

BERLEI

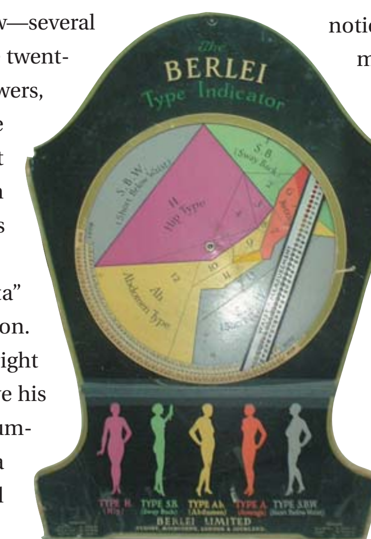
In 1910, when Fred Burley opened Unique Corsets Ltd in Sydney, underclothing was designed in accordance with conventional notions of how women should be proportioned. Then as now, real women aimed at standards set by magazine pictures and shop mannequins. But back then they could help their bodies towards perfection with corsets and other complex under-garments.

In 1919 Burley renamed the flourishing business Berlei Ltd, preparing to realise a radical vision. He believed that, instead of reshaping women to match clothing conventions,



underwear should be designed to fit the actual shape of the women. It was clear that the proportions used by designers were not those of most of his customers. He also noticed that rectifying this would be more than a matter of adjusting the conventional measurements: there are complex variations in body shape, which he wanted to allow for in garment design.

In 1926 Berlei and the University of Sydney launched a huge survey to discover the real shape of Australian women. They measured twenty-three different body dimensions on each of 6,000 ladies of different sizes, ages and backgrounds. From



Women come in different shapes and sizes—a simple message used since the 1920s to promote Fred Burley's "Berlei" trade mark. The Berlei "figure type indicator" (left) guided retailers and customers to the right choice.

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the resulting data, Burley and his designers deduced a number of anthropometric types, with minority variants. Berlei underwear from then on was manufactured to conform to the findings. Shops were supplied with Berlei's ingenious "figure type indicator"—a sort of coloured cardboard computer with pivoting cards that could be set to reflect every customer's exact measurements and classify her figure to ensure a selection that would give the best comfort and support.

For seventy-five years the 1926 data were the fullest available. But work, exercise and eating habits have been changing. Migrants have been arriving, and cultural changes have altered the ideal woman of the magazines. The shape of Australian women has changed. This is now quantified in a new anthropometric survey, completed in 2002.

Meanwhile the Berlei trade mark has maintained its prominent place, helped by innovation and advertising. In recent decades the company's most original work has been with bras: comfortable bras in larger sizes, and sports bras that minimise bounce. Berlei's research shows that a typical breast repeatedly bounces up to eight centimetres during vigorous exercise. This can cause pain and damage structural tissue—so that breasts lose shape prematurely. At elite level, if much of the energy expended by the athlete goes into making her breasts bounce, performance is impaired. A good sports bra could make a critical difference in the colour of her medal. So, as a supplier for the Institute of Sport and the Olympic team, Berlei has a particular incentive to barrack for Australia in the women's events.

Apart from the sports bra range, other recent Berlei innovations include the Booster T-shirt Bra, the Smart Bra, and the Venus booster bra in large sizes. The product range emphasises technologically advanced fabrics, minimalist styling and seaming alignments that maximise comfort.

REXONA

Alice Sheffer was the wife of the American founder of the Sheldon Drug Company, S.F. Sheffer, who came to Australia in 1902 after buying the formulae of American chemist Dr Sheldon. The Sheldon Drug Company manufactured "Dr Sheldon's Gin Pills", "New Discovery Cough Mixture" and other wonder drugs which promised to cure everything, in keeping with the tone of those days. Alice Sheffer seems to have been of a far more original turn of mind: she had the bold idea of promoting a range of personal care products that complemented one another. She had perhaps noticed the success of Helena Rubinstein's products (see page 45), and decided that a more affordable range, aimed at men as much as women, would be a commercial success.

She chose ingredients that were not only effective but smelled good and sounded impressive: oil of cade (juniper oil), oil of cloves, terebinth, bornyl acetate (from pine trees), cassia, oil of thyme, and eucalyptus. She released the Rexona range in 1908, in packaging

A pre-War roadside billboard. Competitions and roadside advertising were used heavily to reinforce the Rexona trade mark.

> A LIFE FOR BEAUTY

Faces on the dry and brightly sunlit streets of Coleraine, in the sheep country of western Victoria, are frequently roughened and well tanned. This is how it was in the 1890s, with one important exception. A young Jewish lady—only 4 feet 10 inches (147 centimetres) tall—turned heads back then with her smooth and milky complexion. From her native Poland, Helena Rubinstein had brought a beauty aid that easily surpassed the best alternatives known to her neighbours—a face cream made by the chemist Jacob Lykusky. Lykusky was a friend of Helena's mother back in Cracow.

Helena was the eldest of eight daughters, born in 1871 to a Cracow egg merchant, Horace Rubinstein. She had left her native land to join her mother's brother, Louis, in Coleraine, apparently fleeing marriage to a widower favoured by Horace—although she later declared that her purpose had been to make a test of Lykusky's face cream in tropical conditions.

Helena Rubinstein's complexion helped launch her trademark range of skin care products. This portrait by Paul César Helleu is believed to represent her in 1908, the year she left Australia.

Coleraine—which is not tropical and never retained international arbiters of style and beauty for long—lost Helena Rubinstein when she had a contretemps with uncle Louis. She got work as a governess near Geelong, then as a waitress in Melbourne. In 1902, when working at the chic bohemian Winter Garden Tea Rooms, she caught the fond eye of a wealthy tea dealer, who funded a business proposal she had worked out. Other Winter Garden customers included the artist who designed the first Rubinstein product labels and the printer who printed them.

Helena went into business making a new face cream similar to Lykusky's, which she launched in 1903. Ambitiously priced at 6 shillings a bottle, Crème Valaze featured "rare herbs from the Carpathian Mountains". It promised to remove "wrinkles, lines, freckles, sunburn tan and sallowness". It was instantly popular with the smart set in Melbourne and financed the next stage of her business plan—a swank Salon de Beauté in Collins Street. Celebrity patrons, including the actress Nellie Stewart and singer Nellie Melba, boosted its reputation, and sales of Crème Valaze kept increasing. Helena promoted it with positive claims about its power to restore skin tissue.

She also observed that not all her clients stood in need of identical treatment. She had set out to restore dry skin but had to come up with new solutions for oily skin and a multitude of other visual aesthetic challenges.

In 1905 she went briefly to Europe to study skin treatment, before moving to larger, grander Collins Street premises. She brought Lykusky to Australia for a visit and the two of them worked on expanding her product range, after which she opened a Valaze Massage Institute in Sydney and a New Zealand agency.

Helena Rubinstein left Australia in 1908, leaving her business here in the hands of her sisters. Ahead lay a career of fame and wealth in London, New York and Paris; but by 1908 her most innovative achievements were complete. There was a product range, poised to carry the Rubinstein name all over the globe, and a commercial system of beauty treatment mimicking the approach of specialist medicine: clients came for expert consultation and were given prescriptions, therapy, and rather more pampering than most doctors bother with. When she made her last visit to Australia, in 1957, she had been world famous for forty years. William Dobell painted her portrait and she established the Helena Rubinstein travelling art scholarship.

In 1964 her autobiography, *My Life for Beauty*, was published. She died in New York the following year, aged in her nineties. The Helena Rubinstein brand remained one of the leading names in beauty products until the 1980s. But Helena differed from her main rivals in one important matter. While Florence Graham and Charles Revson had replaced their real names with mellifluous alternatives—"Elizabeth Arden" and "Revlon"—Helena went on badging her range with her Polish–Jewish family name.

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which strongly stressed the extended tail of the initial "R", sometimes carrying a message on it.

There were soaps, a shaving stick and shaving cream, and a Rexona ointment. The products were an instant success and by 1910 Rexona was being exported to New Zealand and South Africa. Rexona became the biggest part of the Sheldon's company's turnover. The ointment was advertised as a "Reliable Remedy for all Eruptions and Irritations of the Skin, Eczema, Pimples, Sores, Chilblains, Chapped Hands, Sciatica, Itching or Bleeding Piles, Cuts, Burns, Bruises, Scalds, Bad Legs and Stings of Insects".

Rexona's success is partly due to concerted promotion going back almost a century. Before World War II there were contests for Rexona Baby and for Miss Rexona. Outside towns, roadside billboards used to say "Welcome to [whatever town], a good Rexona Town". (They were taken down during World War II, apparently for fear that they might help invading Japanese to get their bearings.)

In 1929 the Sheldon Co. sold its Rexona business to J. Kitchen and Sons, which became part of the present owner, the Anglo–Dutch conglomerate Unilever. Rexona remains the market's leading brand of its type.

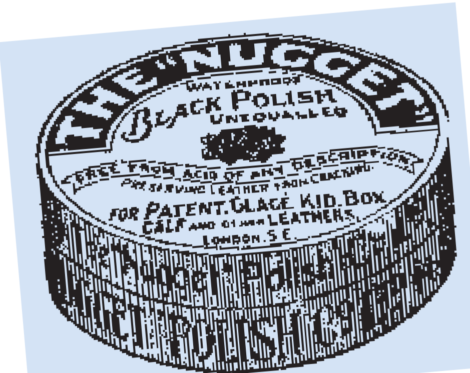
KIWI

With its New Zealand emblem, new American owner and Asian manufacturers, the Australian origins of Kiwi Boot Polish are being misted over. Amongst the popular consumer products and trade marks Australia has given the world, Kiwi is one of the most original and successful. William Ramsay and Hamilton McKellan began making boot polish in a small Melbourne factory in 1904. Their formula was new but they worked on further improvements and in 1906 they launched Kiwi. It was common enough in those days to adapt fauna into trade marks, and the subjects didn't have to be native to Australia. Another brand was Cobra Shoe Polish, which advertised through its slogan "Sun up high and Cobra here/ Rivals are from year to year".

Kiwi was a major improvement. It preserved shoe leather, could be polished to make the leather very shiny, and restored the colour. By the time Kiwi "dark tan" was released in 1908, it incorporated agents that added suppleness and water resistance. Australian-made boot polish was then clearly the world's best. Black and a range of colours became available, and exports to Britain, New Zealand and Europe began.

A story indicative of Kiwi's global significance is told by Jean (Gertrude) Williams, a native-born "Kiwi" who lived in Japan during the Allied occupation straight after World War II. American soldiers were then finding the dullness of their boots and shoes to be a handicap when trying to win the affections of Japanese girls.

Above: Kiwi's traditional trade mark has been modernised, and applied to a range of shoe care products. One of them provides an easy solution to scuffing of school shoes.



Right: Originally from England, Nugget was both a brand name and a household word before Kiwi.

> When the British Commonwealth Occupation Forces arrived in Japan—all with boots polished to a degree not known in the U.S. Forces—the GIs were more conscious than ever of their feet. The secret was found to rest not only in spit and polish, but in the superior Australian boot polish, a commodity which was soon exchanged with the Americans on a fluctuating basis of so many packets of cigarettes for one can of Kiwi boot polish.
>
> —*West Meets East*, vol. II, page 381.

Today, while Kiwi is an international brand, its trade marks retain their historic character and the product offers the same advantages of preserving leather and making it shine. The brand is applied to a wider range of products suited to modern demands—such as liquid leather treatments sold in plastic bottles with sponge applicators.

PART OF THE LANGUAGE

Relatively few brands can claim the special honour of becoming household names. For those that do, there is a risk of the brand becoming the commonly used name for the products of the kind they attach to. It happens sometimes on a short-term or local basis—Kiwi's rival Nugget, for instance, used to be used in some areas as a word for boot polish in general. To a limited extent Carfridge, a manufacturer of portable cooler boxes, gave its name to those items, before the Esky brand gained market dominance.

When there is only one brand for a particular product, it is more likely to be used casually to describe that product. A "cheese and vegemite" sandwich, for instance, is a common order at school tuck-shops.

When a brand name becomes a household word, it's a mixed blessing for the proprietors: on the one hand, there's no doubt their product is number one in the eyes of the consumer. But there is a risk that much of their brand differentiation from rival, sometimes inferior, products is lost. So owners of famous trade marks sometimes spend considerable effort and money to prevent the goodwill they have built up from diffusing with the general usage of their name.

In the 1960s and 70s there were small water boilers called birkos, made only by Birko, which were so widely used that the Macquarie Dictionary had an entry for "birko". Today, the company markets a wide range of products under the Birko brand and its earlier meaning as a common name for a product is disappearing.

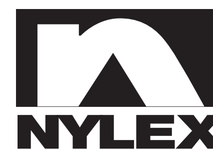
"Esky" is another well known case. The Macquarie Dictionary's listing for "esky" as a portable icebox indicates the extent to which this widely recognised brand has penetrated our language. It also lists "Esky" as a trade mark, giving recognition to the branded product manufactured by Nylex in Melbourne. Nylex works very hard through trade channels to ensure that the products of competitors are never referred to as eskies.

Esky actually began life as a trade mark for kitchen fridges made in Sydney by Malleys. That firm, when it began marketing portable coolers in 1952, branded them with the Esky trade mark. In 1959 advertisements, they added a smiling Eskimo who says "Cool, man. Cool." Being a plastics firm, Nylex began making Eskies of plastic instead of metal soon after taking over the brand. Esky's dominance—almost immediate, and sustained—is what won its place in our language and led to the deployment of Eskies in hospitals, farms, factories and laboratories as well as on picnics.

Some names go further still and, as words, take on meanings divorced from the product that bore them. One of the many small, highly innovative farm implement works in Victoria in the latter part of the nineteenth century was John Furphy's at Shepparton. Furphy was notable for making the best

Above: A twenty-first century Esky. The design and materials have changed but not the ubiquitous brand name.

Right: Claytons: The drink you have when you're not having a drink.



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Threshing on a farm in Victoria. A Furphy cart supplies water for the steam engine.

spiked rollers and for various patented improvements to the stripper. A worker who spread special lustre on the establishment was John's brother, Joseph Furphy, author of one of Australia's greatest prose masterpieces, *Such is Life*. This book was first published in 1903 under the pseudonym Tom Collins—the proverbial name for someone who starts untrustworthy stories.

Apart from *Such is Life*, the most famous product of the Furphys is the farm water cart invented by John in 1878 and turned out in large numbers from then until World War I. The carts carried the Furphy name prominently, and an advertising ditty redolent of the innovative spirit and mediocre copywriting of the 1870s: "Good, better, best/Never let it rest/Until your good is better/And your better best."

In Egypt and on Gallipoli the diggers all came to Furphy carts for their water, taking the opportunity to pass on information and, of course, misinformation. Furphy became the word for rumour and the sort of report you would have got from Tom Collins. Nowadays it is used more specifically for fabrications. Interestingly, the British word for furphy is "scuttlebutt"—originally the name of the drinking water barrel on a ship.

In the early 1980s a vigorous advertising campaign launched a non-alcoholic beverage, Claytons. "It's the drink I have when I'm not having a drink" proclaimed the actor Jack Thompson over and over again. As a product, Claytons had little effect on Australian life. But as a brand name it quickly gave us a new word for surrogate.

Some names have been amusingly perpetuated in witty colloquial expressions—"more front than Myer's" is an apt comparison of certain Australians with their country's largest shopfront. The Adelaide version is "more front than Foy and Gibson's", calling to mind a once grand but now defunct department store.

Throughout the country, if your prospects of success are dismal, people say "You've got Buckley's". However, some Victorians prefer "Your chances are Buckley's and none", inspired by the prestigious department store Buckley

and Nunn which used to stand next door to Myer's in Bourke Street.

Trade mark examiners in 1935, at Canberra's Hotel Acton, temporary office headquarters.

GETTING REGISTERED

The prominence of retailers' names in these and other figures of speech might be related to their generally long and stable tenures as familiar public institutions. Some of Australia's oldest brands belong to retail stores. David Jones has been in business in Sydney since 1838—coincidentally, the very year that Australia got its first nuns and John Reynell established his farm at Reynella in Adelaide's southern vales. Wineries, like retailers and religious orders, have a tendency to longevity. Reynella's vines did not go in till 1841 but today the Reynella label is more popular than ever. Gowings Brothers, a large menswear store that opened in George Street, Sydney, in 1878, remains there today, still selling moderately priced sensible clothing and accessories, as it always has. The name Gowings was registered as a trade mark in 1891 and is still a registered trade mark.

In pre-Federation times, registration protected a trade mark only in the colony where it was lodged. Gowings, trading only in Sydney, could live with this but it was eager for Australia-wide protection. In July 1906 when the Commonwealth Patents Office began accepting trade marks for federal registration, Gowings was one of those entered on the first day.

Aware that the Trade Marks Act 1905 would confer exclusive registering power on the Commonwealth, many firms had prepared applications to lodgement stage in advance. On the first day, 2 July 1906, 758 applications for trade mark registration were recorded, out of 4,560 processed in the initial twelve months. Gowings was no. 26. No. 1 was for an English firm, Peps Pastille Company. The first Australian trade marks on the list were numbers 7 and 8—"Henderson's Sweets" for James Henderson and Sons, of Sydney.

Now IP Australia receives over 41,000 applications annually. Many businesses have an array of model names and titles for their products and they register them all for protection. Something not always understood by the public is that registering a business name at the Business Names Office does not create the exclusive rights and protections that attach to a registered trade mark. Business owners who thought there was no need to protect their brand by registering with IP Australia are sometimes alarmed to discover that a new business or foreign company with registration seeks to stop them using their business name as a trade mark.

Once its trade mark is registered, the proprietor may display an R in a circle with it, to indicate its exclusive right. Because registration may restrict others' right to use the mark, IP Australia's trade mark examiners are careful to

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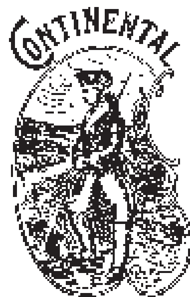
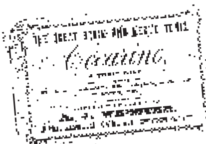
ensure that the mark is qualified for registration.

Marks may be unregisterable for a variety of reasons. A mark that is not capable of distinguishing a trader's goods or services from the same or similar goods or services of other traders in the market cannot be registered. Usually this means that marks that indicate the kind, quality, purpose or value of the product or service will not be registered. Common surnames and geographical names are usually ineligible for the same reason. Trade marks that would mislead the purchasing public about the nature of the goods or services are also not accepted.

In 2001 the Commonwealth Parliament amended the Olympic Insignia Protection Act to limit use of the words "Olympic" and "Olympiad" and their plurals, and "Olympic Games", in advertising and promotion. To use them, a business must obtain a licence from the Australian Olympic Committee, which is the statutory proprietor of the Olympic name, the Olympic rings symbol and a range of the marks based on them and other Olympic emblems including the torch.

Like use of the term "Olympic", use of European wine geographic indications such as "champagne" is tightly restricted. Specific international trade arrangements relate to the wine industry. Right now, the international community is hotly debating the question of whether or not to extend this protection to products other than wine and spirits.





IP Australia's examiners also search the register to ensure that the applicant's mark does not duplicate or closely resemble an existing registration. Because registration with IP Australia leads to protection only throughout Australia, a global search is not required. To obtain protection in other countries, applicants have to register there as well. Much of IP Australia's trade mark work is in processing applications for overseas owners. The Australian chain store Target has a red and white archery target in its trade mark. In the Balkans there is a retail chain which uses a strikingly similar logo. If the European firm came to Australia, Target's registration would impede its use of the logo.

From time to time proprietors of high-profile brands get embroiled in disputes over trade mark infringements. These are at their most costly and most likely to lead to litigation when there is a difference of opinion about whether or not particular branding constitutes an infringement. Recent examples include the claim by Arnott's that "Temp'tin" chocolate biscuits, marketed by Dick Smith's company, were an infringement of Arnott's "Tim Tam" trade mark; and a similar claim about "Carlton Cold" beer infringing Toohey's "Hahn Ice", which had been on the market earlier with very similar labelling.

The growing volume of trade in recent years over the Internet and via e-mail will lead increasing numbers of businesses to choose domain names that are easily recognisable or cleverly descriptive of their goods or services. Provided the domain name meets the general requirements for trade mark registration, it can be, or form part of, a registered trade mark. Many enterprises have already taken advantage of the opportunity to register their domain names as trade marks, while others incorporate existing brand names into web and e-mail addresses. These trends are likely to strengthen in future years.

In the last decade these new opportunities have opened up so fast that they have moved ahead of public awareness,

Olympic Games in 1956 and 2000 offered unique exclusive opportunities to Australian designers. The Olympic torch (above) displays a protected Olympic rings symbol, and the torch design is itself protected. Athletes (below) model Olympic outfits designed by Mambo for the national team in the 2000 Games.

In 2001, when BHP merged with Billiton, designers faced a special challenge. The new corporate image required a clear and simple trade mark in which Billiton's identity was not lost. But it still had to be recognisable by Australians as the mark of their largest corporation, taking advantage of a more positive profile than resource companies usually enjoy.

and business owners have sometimes been caught out. An example is the proliferation of domain names. Problems increasingly being reported in the press of late include the practice of cybersquatting and the improper use of domain names that infringe the trade marks of others.

The issues involved in such international contests are complex. They can catch Australian businesses unawares both here and overseas. IP Australia is making efforts to raise the consciousness of Australian entrepreneurs. It encourages them to think about future uses of their trade marks and domain names and to take steps to protect them now, instead of discovering too late that they cannot use their own names in ways they were counting on for the future, when their businesses expand.

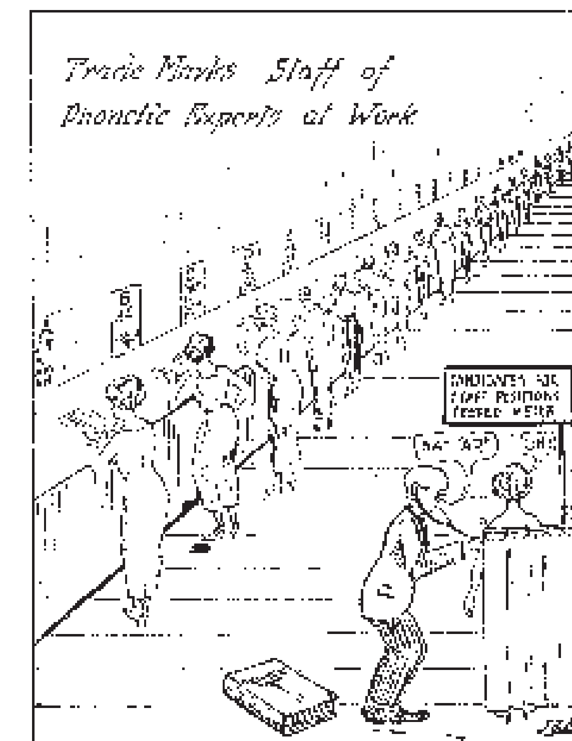
Unlike patents and registered designs, registered trade marks can be renewed indefinitely by payment of a renewal fee every ten years. Some remain on the register for many decades. In fact, though, changing fashions and styles result in a stream of new applications for old brands. The trend throughout the last century has been towards more stylised, less ornate marks than those being registered in 1906. It will be interesting to see whether the pendulum begins to swing back again, or whether some yet unknown novel direction will dominate. The current prevalence of computers and new communications systems has set marketing minds thinking along channels that would not have interested them once and could lead to a fresh, possibly less simple, visual approach to trade marks.

A ROSE BY ANY OTHER NAME

One avenue with strong potential for future exploration is opened by the wording of the Trade Marks Act itself. It provides for a letter, word, phrase, sound, smell, shape, logo or manner of packaging, or combinations of them, to be used as a trade mark.

While letters, words and logos already abound in trade marks, some of the other elements are relatively untried at present. The distinctive "ping" sound used to promote McCains food products—in conjunction with the words "Ah McCain, you've done it again"—is one of very few sound trade marks so far registered. Applications have been lodged for the AFL siren, Telstra's STD tone, and Mr Whippy's ice-cream truck melody, amongst others.

There have also been applications for an assortment of



Sounds can be trade marks too. In 1934 a cartoonist in the Patents Office imagined a big future for them.

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> WHERE ARE THEY NOW?

When a group of Sydney businessmen founded Australia's first bank in 1817 it seemed harmless enough to call it the Bank of New South Wales. It grew and prospered with the colony, but as Melbourne rose to economic primacy, its tie to New South Wales denied the venerable bank front running.

In the 1890s its parochial name suddenly proved a great advantage. A depression that hit Victoria much harder than New South Wales forced one Melbourne bank after another to close its doors. The Bank of New South Wales was seen as Australia's most secure, attracting business from all over the continent. For nearly a hundred years after that, it was the largest privately owned bank in Australia. But by the 1960s, it was having doubts about the "New South Wales" in its name. Wanting to be seen as a national and international institution, it tried a new logo, and the advertising line "You can bank on the Wales."

For some executives even nicknaming it "the Wales" was eventually not enough. When it took over a rival bank in 1981, and grew bigger than ever, they decided to drop its 164-year-old name and change all the trade marks. Ever since, the bank has been known as Westpac. An executive explained that the old name would have held the ambitious bank back. "Westpac", he said, sounded modern and international, and could be short for West Pacific.

After shedding the name that held it back, Australia's oldest and wealthiest bank was overtaken by two others, and came close to extinction in 1989. That was a temporary crisis and it is now healthy again, a solid member of the "Big Four" banks in Australia today.

Petrol retailers do not usually go in for stylish or interesting trade marks. Boring, you could call some of them. But until 1979 there was a striking exception. "Golden Fleece" was one of the large chains: one of only two nationwide brands that were predominantly Australian owned. Big Golden Fleece signs all over Australia featured a yellow merino ram on a blue background. Better still, mounted on top of each bowser was a model ram in yellow plastic or glass. Unfortunately when the H.C. Sleigh company sold Golden Fleece to the American multinational chain Caltex, all its stations became Caltex stations and every trace of the rams was swiftly removed.

The largest domestic airline in the 1950s was A.N.A. With a takeover in 1957 it became Ansett ANA. It was one of the airlines privileged in the old two airlines agreement. People used to ask "Are you flying TAA or ANA?" TAA renamed itself Australian Airlines in 1986, and later its name disappeared completely in a sale to Qantas. Meanwhile Ansett had dropped the "ANA" and was concentrating on the Ansett name and stylishly simple modern trade marks.

"Ansett's recent selection as Official Airline of the Sydney 2000 Olympic Games and membership in the Star Alliance now sees Ansett poised to take its place on the global stage." Such was the claim of the Sydney publisher Superbrands in 1999 (*Superbrands*, vol. II, p. 19). Not a very prophetic claim. A household word to generations, the grand old airline, founded in 1936, hit the ground for good in 2002, after financial calamities and a series of scrapes with regulators.

Corporate failures like Ansett's, takeovers like the sale of Golden Fleece, and image changes like Westpac's are inescapable facts of business life. But so much effort goes into building up brands that even unsentimental people notice something missing when they go.

special smells. Unicorn Products Ltd applied in 1996 to register the strong beery smell with which it had impregnated the flights of its darts. In 1998 Unipep applied to register the scent of eucalyptus as a laundry powder trade mark. There was a curious application in 1997 for the scent of musk, hand-painted over fake tattoos and other body art. More recent applications have been for the smells of lemon in tobacco and coffee in hair and suntan lotions. The melon scent of Midori liqueur was also sought for suntan lotion, shampoo and perfumes.

It's quite likely some applications will be knocked back for not being sufficiently distinctive of the products they mark. But this is no different from the position relating to trade marks of all sorts, and creative ingenuity will certainly find ways to have an increasing range of sounds and smells registered in future.

The modern use, in Australia and many other countries, of the term *trade mark* to identify a kind of intellectual property derives from the Merchandise Marks Act passed in Britain in 1862. Australian colonies introduced trade mark protection in the nineteenth century in imitation of the British model. The legislators of the 1860s had no way to foresee the opportunities that twenty-first century communications would open up, but they realised that the future might hold possibilities they could not envisage. They left their wording sufficiently open to accommodate expanding concepts of commerce. Today it is normal for business ventures, large and small, to incorporate trade mark registration in their marketing strategies and make provisions for domain names and a range of trade marks that jointly depend on an intimate link between intellectual property, brand recognition and promotional campaigns.