CANNABIS: THE NEW LIFESTYLE BRANDS
By: Weston Anson

From Massachusetts to California, and from Victoria, BC to Gander, Newfoundland; cannabis products are now legal for recreational consumption. It’s also legal in a number of other countries including the Netherlands, Chile, Uruguay, Venezuela and Australia. Cannabis brands are moving up and down the Americas and across the Atlantic and Europe. Beyond that, marijuana and other cannabis products have been part of the social fabric of multiple countries for decades. If branded properly, cannabis has the potential to become a lifestyle brand, embodying similar values and interests of a wide group into licensed products.

REVIEW OF 60 YEARS OF LIFESTYLE TRENDS AND BRANDING

Over the last 60 years various lifestyle trends have come and gone. Some have made major impacts on branding and licensing, while others have popped up for a few years and then disappeared. Some examples of lifestyle trends over the past several decades are the following:

- Action sports
- Athletic wear
- Travel
- Grunge
- and many others

Some of these trends had a brief, but intense, impact on popular culture, such as grunge in the 1990s. Others, like action sports, have lasted decades and have spawned popular brands such as Redbull, GoPro, and Nike. Although cannabis is just beginning to branch out into different product markets, it is positioned to be a long-lasting lifestyle trend. Cannabis is a diverse product which can be consumed in various forms -- baked, eaten, put in medicinal creams, inhaled or ingested in many variations. Therefore, it should be branded to fit many different lifestyle markets.

What we’re looking at in this article is a different sort of trend in lifestyle brands. One that appears to be here to stay for the long-term and is embedded in many cultures.

UNIVERSAL GLOBAL LIFESTYLE

Few new lifestyle trends come along that, from the beginning, appear to have the potential to provide branding and licensing opportunities which stretch ahead many years. It has been rare for lifestyle phenomena to come along and be truly multi-generational, where teens and adults are all participating at the same time. Few lifestyle branding and licensing trends have come along that are multi-cultural. And finally, few branding and lifestyle trends have appeared that are truly multi-geographic in their appeal. Cannabis is a multi-product line which holds great appeal in every major licensing market.

MAJOR ISSUES IN THE CANNABIS LIFESTYLE CATEGORY
Cannabis lifestyle branding and licensing issues are categorized into three areas: legal, marketplace fragmentation, and cannabis as a commodity. First and foremost is the legal and regulatory environment at the State, the provincial, the Federal, and the cross jurisdictional levels are substantial. Whether it’s in the U.S., where each State is making its own legal decisions, or whether it’s intellectual property management issues, where a federal trademark for a cannabis product cannot yet be registered, there are many variables, and coordination between jurisdictions is complex.

Second, the marketplace is highly fragmented. There are thousands of growers, and many hundreds of distributors. Scale has not yet been achieved in any of the major markets around the globe. However, scale will come with time. There are not yet any global brands that have moved into this marketplace, but this is changing.

Third, and most importantly in some ways, is the fact that cannabis is a completely undifferentiated commodity product. Cannabis companies must depend on branding and technology to highlight the perceived difference in customer delivered value.

**CANNABIS IS A HIGHLY FRAGMENTED PURE COMMODITY BUSINESS**

To the consumer, marijuana and hemp products are absolute commodities. Cannabis is similar to gravel or corn, it all looks the same to the average person. However, the resultant end products come in many forms:

- Loose product (“flower”) sold in grams or partial ounces; which also includes what’s known as pre-rolls or joints
- Vaping products such as vape pens -- preloaded with liquid or wax
- Edibles of all types, including premeasured jelly cubes, cookies, candies, chocolates and other products that have a pre-determined amount of THC, or CBD contents
- CBD product mixtures used primarily for medicinal products or to treat people with various illness
- Oils, creams, rubs and ointments
- Pharmaceutical and medicinal products, some of which are finally being legalized in the United States at the end of this calendar year

Constant research is going into the cultivation and processing of marijuana and other cannabis products. Research into growing, hydration, and lighting, techniques and processes, which improve the efficiency, quality and intensity of the end product, are constantly being tested. As a result, there are numerous patented processes, as well a great amount of technical know-how and trade secrets that are being created due to the intense research. However, in the end, cannabis is still essentially an undifferentiated commodity product from the consumer’s point of view, and if businesses want to achieve any amount of market share, they will need to differentiate their products via branding and brand building.
BRANDS ARE IMPERATIVE, AND BRAND EXTENSION/LICENSING IS A NECESSITY

First, certain issues stand in the way of building national brands, at least in the U.S.. Primary among the blockades to brand building is the fact that you cannot register a federal trademark for a cannabis product itself; however, you can apply a common law trademark to the cannabis product.

As a consequence, the marijuana business will have to build their brand by constructing a ring of federal trademarks circling the common law trade name on the cannabis products. This ring of trademarks often entails other categories such as Class 25 Clothing, Classes 9 and 16 Publishing and Paper Products, Class 18 Leather Goods; as well as registration in Service Classes 35, 41, 44, 38 for Retail establishments and/or Health and Wellness Centers, and/or the establishment of websites, blogs and social media environments.

The second most important issue is that cannabis is legalized on a State by State basis. In the U.S., it’s incumbent on the State legislators and/or voter referendums in the various states to legalize marijuana. Today, we have approximately 29 states that have legalized personal or medical use, and that number is positioned to grow after elections in November 2020.

The core of brand building is to have your common law trademarks on your actual cannabis products and then to use the other federal trademarks, duplicative of the common law trademark, licensed to third parties. The licensees can then make other products like apparel, smoking paraphernalia, cosmetics, or other services like health centers, and operate social media sites. This demonstrates how to build a brand in the cannabis industry.

DIVERSE LIST OF SPECIALTY BRANDS HAVE ENTERED THE GAME

Because federally registered trademarks cannot be used directly on cannabis products, the brands and trademarks currently in the market have been developed from scratch or are offshoots of existing high-profile personalities. Generally speaking, there are three types of brands: those that were home grown specifically for this market and generally were early entrants in the illegal cannabis business; those that were specially developed for the cannabis market and groomed for niche marketing within that market place; and iconic brands and personalities that have transferred some of their brand equities to the cannabis market place.

In the first group, we look at three examples:

1. **Wana Candy** which began in Colorado and quickly became the largest selling brand of candy soon after marijuana was legalized in 2010. Since then Wana has licensed their brand and related accessories into Oregon and Nevada. It is also actively seeking licensees in California and Maryland, according to news reports.

2. **GPharma**, an early entrant in the cannabis business, based in Central California; they’ve been operating since 2013. The GPharma brands include GPharma, GS tik, as well as sub brands for their vaping business, and the chocolate, tea and pretzel business. Their brand licensing model includes an element of technology licensing along with the use of the brands and trademarks. The company sees Maryland, Colorado and Nevada and other states as future licensees.
3. **KURVANA** is an example of a federally registered trademark used as an umbrella mark for a family of products including **Tand**, a mark used on cannabis oil. **Ascnd** is the mark used on vaping products, as well as **Kpen**. Kurvana has entered the expanded market place by using an umbrella trademark and brand which is federally registered, but which in and of itself, is not used on any marijuana products.

The second group of trademarks are those which have been developed specifically and with forethought for the cannabis market. Some of these are best represented by the brands developed by Canopy Growth (see more details below) which include the DNA brand, the Tweed brand, and the Spectrum brand. Each of these were designed to appeal to a specific segment of the cannabis consumer market and each has been positioned within the market in terms of pricing and product offerings such that they’re not cannibalizing each other’s sales or market niche.

Finally, the third group of brands are what I call the Iconic Brands. Brands that are sponsored by famous celebrities such as Willie Nelson, Cheech and Chong and Snoop Dog.

For example, Willie Nelson has a line of product called Willie’s Reserve, as shown in the photo above. His products range from pre-packaged chocolates and vape devices, to a range of smoking accessories and wearables. The products are sold under two brand names: Willie’s Reserve and Annie Nelson’s.

Cheech and Chong have registered trademarks in multiple classes over the years including clothing, accessories, herbs and medicines, smoking accessories, paper goods, and a number of service classes. The logo is the classic picture of Cheech and Chong. Their brand recognition is high as is their success in cannabis merchandise.

Snoop Dog has recently entered the market with his brand, Leaf. This trademark has been registered in a couple of classes specifically related to cannabis, such as smoking accessories. In turn, Calvin Broadus, who is Snoop Dog in real life, has licensed the mark for use by Canopy Growth in Canada on cannabis products and has built quite a niche brand.

However, with the exception of these iconic brands and a few others, the branding/licensing/extension efforts are still in an early phase within the cannabis market place. And without question, the room to build brands is virtually unlimited at this point in the history of that industry.

**BRANDING, LICENSING AND BRAND AFFINITY/Loyalty**

The two most important questions that need to be asked in this review of cannabis are:
1. Is there brand loyalty in the business?
2. How much of the business is attributed to brand loyalty, and how much of overall sales are brand driven?

Anecdotally, there is no question there is a substantial brand loyalty. One only has to observe the behavior in a California dispensary, where multiple brands and multiple products are being offered to know instinctively that there are some powerful branding and licensing platforms. The question is, how does the licensing industry and investment professionals capitalize on this new lifestyle trend?

WHAT’S NEXT – The Big Consumer Branding Machines are Entering the Game
Well now it’s finally happening! The Big Brand Boys Are in for Billions.

BIG BOYS BET BILLIONS (sidebar)
By: Pierce Urban

In June 2018, the Canadian Parliament approved Bill C-45 -- the Cannabis Act. Beginning October 17, 2018, marijuana will become legal for adults throughout Canada, with laws slightly differing between the ten provinces. It is now federally legal for anyone age 18 or above to buy or possess cannabis; though, in Ontario, British Columbia, Nova Scotia, and Saskatchewan, the age restriction is 19.

In April 2014, Canopy Growth (TSE: WEED) (NYSE: CGC) became the first publicly traded cannabis company on the NYSE and was the first to establish a relationship with Constellation Brands, an international company specializing in the branding of alcoholic beverages. In addition to Constellation Brands initial $191 million investment in Canopy Growth, they recently increased their stake by 38% in August 2018 -- with a $4 billion investment. This purchase places a value of $10.5 billion on Canopy Growth of which Constellation Brands now owns just under 50%. This strategic move is a huge step in the diversification process of Constellation Brands as millennials are reducing their consumption of alcohol. According to Nielson, “millennials (aged 18 to 34) are less likely to drink than their elders...research shows that just over half (53%) of Millennials said they consumed alcohol in the past month, compared with 65% of Gen Xers (aged 35 to 54) and 72% of Boomers (aged 55+).”

Soon, others will adapt Constellation Brands’ strategy. Molson Coors is forming a joint venture with Hydropothecary, a medical cannabis producer located in Quebec. Together, they propose to develop a non-alcoholic, cannabis-infused beverage for the Canadian marketplace. Per Bloomberg, Molson Coors has a 57.5% stake in the company. Also this year, Tilray (NASDAQ: TLRY), a medical cannabis producer, recently had an IPO and is now up over 120% to date. Tilray is the first company to legally export medical cannabis from North America to abroad.

The rules and regulations of cannabis are in a constant state of change while companies large and small rush into new, uncharted territory. California passed a handful of new laws regarding packaging and labeling. Enforced on July 1, 2018, cultivators can no longer send unpackaged cannabis products to retailers for packaging or labeling, and all cannabis products must be child-resistant. These new laws prompted dispensaries all over California to dump their current inventories to correspond with the new law. For marijuana distributors and retailers, a key success factor will be the capability to brand effectively and adapt to changing regulation.

As cannabis expands globally, many mainstream companies are increasingly interested in the untapped cannabis market. As cannabis becomes increasingly “socially acceptable,” and beer, alcohol and tobacco sales continue to decline, the number of investments & acquisitions will increase. Cannabis legalization has the capacity to impact future growth of not only large alcohol and tobacco companies, but also prominent consumer staples companies. Oh, and let’s not forget about CBD. Growth is imminent.

Just two months ago, as seen in the side bar story, Constellation Brands made a $4 billion bet on Canada’s Canopy Growth Group. Their plans are still not entirely clear, but certainly a THC infused Corona Beer, or Paul Masson Brandy infused with CBD or a new line of 90/10 CBD/THC vodka or other drinks are certainly
on their way sometime in the near future. No one knows for sure, but we certainly suspect these products are somewhere in the pipeline.

The bigger question is, now that Canada has become one open national market for branded cannabis products, and therefore branded licensed product extensions, where does it go from there? We believe that over the next five years the market will see bigger U.S. brands moving into cannabis products, in particular via licensing; using a strategy that surrounds a cannabis product with multiple federal trademark registration used on a family of licensed products.

- How long will this take? We’re not sure.
- Will it really happen? Absolutely. Without a doubt.
- How big will the market become? We don’t know.
- Will it be measured in $10’s of millions? No.
- Will it be measured in $100’s of millions? Certainly.
- Will it eventually be measured in billions of retail sales? Probably.
- How soon will all that happen? We can’t be certain.

We can be certain of this: the cannabis lifestyle is becoming deeply implanted in the North American culture. Just like the plants we all love, this lifestyle trend will grow, and differentiation through branding will be the key to sustaining a competitive advantage.