Measuring the Value of Trademark Distinctiveness: Evidence from the Market for Bordeaux Wines[*]

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Abstract

The market value of distinctive trademarks is a fundamental assumption of both trademark law and marketing theory. However, there is little empirical evidence underlying this assumption. We examine the relationship between brand dissimilarity and market prices in the context of the Bordeaux wine market. Using a unique dataset covering thousands of wines and their associated prices and professional ratings, we find that brand distinctiveness is related to higher wine prices. We further show that this relationship persists across the wine quality spectrum with both lower quality and higher quality wines benefiting from dissimilar marks. Finally, we show that while there is a dissimilarity price premium for lower quality wines, producers who invest in higher quality wines are rewarded with an even greater premium for dissimilar names in absolute dollar terms.

Keywords: Trademarks, Branding, Distinctiveness, Wine, Bordeaux, Similarity, Marketing

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I. Introduction

Branding is a central feature of modern economies, and firms spend billions of dollars each year developing their brands. Having an appealing brand, whatever that may mean, is considered essential to contemporary commerce. Further, protecting a brand from misuse or confusion by competitors is also viewed as essential, and firms spend heavily on trademark lawyers to protect their brands.

At the heart of these views is the belief that, all else being equal, the best brands are ones that are distinctive from—i.e. different than—other brands. Unique brands are generally thought to be more valuable than commonplace ones (Emmer, 2019), and federal trademark law imposes legal liability on a brand name that is too similar to an existing brand (*Polaroid Corp. V. Polaroid Elecs. Corp.*, 1961; 15 U.S.C. § 1052(d)). However, the belief that dissimilar brand names are superior to commonplace ones has generally been treated as a matter of faith in both marketing theory and trademark law. Prior empirical work on trademark value has focused on the substantive features of marks, such as whether they incorporate "hot" naming conventions (Cooper et al., 2001, 2005). Other research has studied how the overall stock of trademarks affects firm value (Krasnikov et al., 2009; Nasirov, 2020). To our knowledge, no study has examined the effect of differential distinctiveness on trademark value. Some experimental research delves into how consumers perceive trademarks (Beebe et al., 2022, 2023; Buccafusco et al., 2016). And there are of course innumerable surveys created for purposes of litigation, but these do not tend to make generalizable claims about trademarks and branding (Diamond & Franklyn, 2014). This leaves trademark law resting on virtually no empirical grounding about how producers and consumers treat brands.

Indeed, such empirical research is difficult to perform in large part because of trademark law itself. U.S. trademark law generally prohibits one firm from choosing a brand name that is too similar to an existing firm's brand name, thereby preventing the proliferation of brands with highly similar names. This substantially limits the degree of natural variation in brand names, which in turn inhibits researchers' ability to study the effects of similar or dissimilar names.

To overcome this empirical hurdle, we look abroad to a large ($4 billion) (Valeria Tenison, 2023) and culturally significant market where the creation of brand names was not initially governed by modern trademark law: Bordeaux wine. The Bordeaux region includes thousands of wineries that sell variations on the same basic product, a blend of traditional grape varietals such as Cabernet Sauvignon and Merlot (Lewin, 2009). But while the wineries all sell similar products, the prices they command vary from single digits to thousands of dollars per bottle. The Bordeaux wine market is an especially rich ground for studying linguistically distinctive brands, because almost all wine brands (which are typically just the name of the chateau producing the wine) were adopted hundreds of years ago. This is important for three reasons. First, modern trademark law didn't operate in 18th and 19th century France, so many brands are highly similar to others. Second, as a matter of tradition, producers are resistant to adopting new brands. This means that brand names tend to be static over time. Third, the availability of wine ratings data makes it possible to simultaneously account for variations in a brand's name similarity as well as its quality. These features give us a dense market of homogeneous products at very different prices and considerable variation in brand name similarity.

Brand name similarity (or dissimilarity) might matter for numerous reasons, and those reasons might vary for different actors within the industry. For example, wineries on the upper end of the quality spectrum might benefit from having linguistically distinctive brands because consumers will be able to locate their products more easily. If a winery with a linguistically distinctive brand invests in improving the quality of its product, consumers who want to purchase the wine won't be confused or fail to remember which wines they liked or read about. By contrast, wineries at the bottom end of the quality spectrum might not want to stand out from the crowd. Especially in a market like Bordeaux, where tradition and prestige are important and connected, wineries making lower quality wine may benefit from having a name that is more similar to the names of its high-quality neighbors.

Using data on name similarity, price, and quality, we are able to study these hypotheses empirically. We find that mark linguistic distinctiveness is related to higher wine prices. We further show that this relationship persists across the wine quality spectrum, with both lower quality and higher quality wines benefiting from linguistically distinctive marks. Finally we show that, while there is a dissimilarity price premium for lower quality wines, producers who invest in higher quality wines are rewarded with an even greater premium for having linguistically distinctive names in absolute dollar terms.

More generally, our research has potentially significant implications for how we understand the harms of trademark infringement. While we cannot prove causality, our results suggest that the market value of both high-quality *and low-quality* products can be diminished when competitors crowd their linguistic space. One likely culprit is consumer confusion. Another possibility is brand dilution. These findings suggests that courts and commentators should think of trademark infringement not merely as a bilateral phenomenon—Is Firm A infringing Firm B's trademark?—but as a multilateral one. As each additional trademark crowds the linguistic space of an existing mark, the value of all of those marks diminishes. The result is a type of harm to consumers that the law should be invested in policing.

II. The Perceived Value of Linguistic Distinctiveness

Both the marketing literature and trademark law agree that one of the most valuable features of a brand is its distinctiveness (Alserhan & Alserhan, 2012) (Dwivedi et al., 2018; McKenna, 2007). According to leading marketing scholars, "differentiation is the key to a strong brand, more so than esteem, relevance, and knowledge" (Aaker & Joachimsthaler, 2012, p. 263). And trademark law exists, at least in part, to ensure that a brand's differentiability isn't impaired by confusing or blurring uses of the trademark by a firm's competitors (Beebe, 2004a). The strong assumption in both of these fields is that brand distinctiveness (or uniqueness, difference, specialness, etc.) is enormously important in commercial markets.

As it turns out though, outside of a rare and limited example (Alserhan & Alserhan, 2012), these assumptions have virtually never been tested. Part of the reason, we believe, is that trademark law has done its job and prevented markets from being flooded with confusingly similar brands. Thus, researchers haven't found markets with a broad diffusion of both similar and dissimilar brands to study. Yet one such market does exist—the market for Bordeaux wine. Various historical features have created a massive and valuable market with brand names that range from unique to identical.

In this Part, we first elaborate trademark law's assumptions about the value of brand distinctiveness and dissimilarity. We then introduce the market for Bordeaux wine and its branding idiosyncrasies. Finally, we establish testable hypotheses about the validity of the law's assumptions.

A. Brand Dissimilarity, Brand Value, and Trademark Law

Firms are repeatedly admonished to choose unique, memorable brands for their products so consumers can form associations with them. And when they do, trademark law rewards them with legal protection against others who might undermine those associations. While marketing research and trademark law are motivated by different concerns, they both stress the value of a brand or mark's dissimilarity (Keller, 2002). Unfortunately, neither field has been particularly coherent in its account of this.

In any product market, there will be terms that are obviously central to its semantic core and terms that are obviously highly distant from its semantic core (Hemel & Ouellette, 2021). Consider the market for portable beverage coolers. Because these products keep things cold, terms that have some association with coldness are close to the core of the market's linguistic space—think of IGLOO, POLARBOX, and POLAR BEAR brand coolers. Here, the cognitive relationship between the product's function and its brand name is immediately apparent. Other terms, where the relationship between function and name is less apparent, such as YETI, are further from the market's core linguistic space. Finally, brand names like COLEMAN or STANLEY, with no semantic or aural connection to the product, are distal from the core linguistic space.

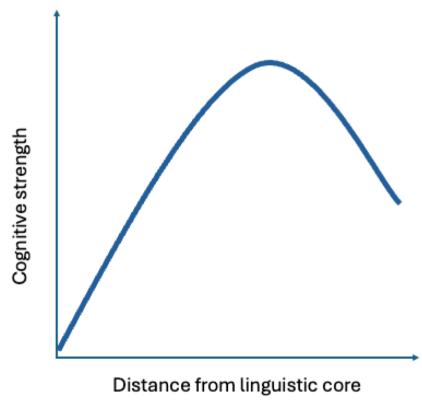
When firms select brand names for their products, they face a challenge. Choosing a brand that is close to the market's linguistic core makes it easy for the brand to communicate product features to the consumer. Consumers who see POLARBOX branded coolers will easily understand what the product does. They're also more likely to remember the product's name, because its name and function are closely connected (Keller et al., 1998; Kohli et al., 2005). But precisely because of these benefits, the market's core linguistic space is likely to be crowded with other brands (Beebe & Fromer, 2018). Consumers may struggle to differentiate POLARBOX from POLAR BEAR branded coolers. When the core linguistic space is congested with similar brand names, firms will struggle to stand out and their investments in quality will be dissipated by confusion among their competitors (Hemel & Ouellette, 2021).

Of course, the opposite risks and benefits exist for terms that are far from the market's core linguistic space. Consider the cooler brand DAUSROOB.[4] As far as we can tell, this term has no semantic or aural connection to coolers. Thus, while there is no risk that consumers are likely to confuse the firm's products with those of its competitors, there is also little reason to believe that consumers will easily remember it in the first place.

[4] https://www.amazon.com/DAUSROOB-Rolling-Insulated-Leakproof-All-Terrain/dp/B0CT33G2ZT/

Consequently, the most valuable brands will be those that maximize some function of closeness to the market's semantic core and distance from competitors' brands—the latter of which will typically require some degree of distance from the market's semantic core. The ideal point will likely differ from brand to brand and from market to market depending upon a variety of factors, including the level of congestion within the market, the suitability of product attributes as brand names, or any number of other considerations. For some firms in some markets, the relationship between brand's strength and its distance from the linguistic core might take the shape of an upside down U, as in Figure 1:

Figure 1: Dissimilarity and Cognitive Strength



On the x-axis we plot distance from a market's linguistic core. The further to the right on this axis, the further the brand name is from the linguistic core. On the y-axis we plot the brand's cognitive strength—the ability of consumers both to associate the brand with the firm and its products and to distinguish the brand from its competitors. As distance from the semantic core increases, a brand name becomes more dissimilar from its competitors and thus faces less confusion from similar marks. At the same time, increasing the distance from the semantic core increases the difficulty that consumers will face in relating the brand to its firm and market (Hemel & Ouellette, 2021). Figure 1 is meant to illustrate the idea that for some firms in some markets, maximum brand strength—and, thus, value—will likely occur at some middle-ground point of brand uniqueness.

Trademark law reflects something of this tradeoff in its doctrinal rules about mark validity. Because trademark law is concerned about the risks of confusion and congestion that arise if many firms adopt marks close to the linguistic core, the law incentivizes firms to choose more distant marks (Buccafusco et al., 2023). It does this by allowing firms to immediately claim trademarks in suggestive, arbitrary, and fanciful trademarks, which are further from the linguistic core, while it limits trademarks on descriptive terms, which are closer to it.

Importantly, whether a firm is more concerned about proximity or distance may depend on its place in the market, and especially its innovativeness. If a firm is innovating and investing substantial resources into improving its products' quality, it likely believes that it can compete successfully on quality. For example, if a winery upgrades its vineyards or builds a winemaking facility to improve the quality of its wines, it hopes that when consumers experience the improved wines, they will return to the company for future purchases. But the ability to win consumers on the basis of quality depends on consumers remembering which wine they tasted and enjoyed. If other brands are linguistically similar, they may be able to free ride on those investments and the concomitant improvement in quality. Consumers might not remember whether the wine they liked was Butter Chardonnay, Buttery Chardonnay, Butternut Chardonnay, Bread&Butter Chardonnay, or Buttercream Chardonnay.[5]

But not every firm is innovative, and, hard as this may be to believe from the marketing literature, not every company wants to stand out (Humphreys & Carpenter, 2018). Consider, for example, the tens of thousands of Chinese restaurants in the U.S. that are selling more-or-less generic American Chinese food. These restaurants might rationally choose names closer to the core of the linguistic market (e.g. Golden Dragon, Hunan Garden, China Express) (Ferdman & Ingrham, 2016). Picking a name like "A Single Pebble" might be great if you're trying to establish a world-class Chinese restaurant (Sheldon & Hoke, 2025), but it's not so great if you're trying to signal to people that they can find comforting American Chinese classics such as Egg Foo Young and General Tso's Chicken.

In addition to bunching around the linguistic core of a market, it is also possible that firms might wish to bunch around the names of other leading firms. If one firm acquires a strong following and reputation for quality, other firms could conceivably benefit from choosing brands that are linguistically similar to the leading brand. In some cases, they might acquire market share from confused consumers who think they are purchasing the leading brand; in others, they might be able to free ride off of the leading firm's reputational halo.

Thus, firms face a theoretical tradeoff when choosing brands. The closer they are to the core of the linguistic space, the easier it will be for consumers to remember their names and associate the brand with its products. That linguistic core can be based around descriptive features of products (e.g. the buttery Chardonnays) or it can be based around naming conventions that consumers associate with a product category (e.g. Napster, Grokster, Friendster or Spotify, Shopify, Employify). But proximity can also lead to confusion, if too many firms choose names that are similar to each other. That confusion threatens to dissipate profits and dilute the value of investments.

Trademark law, for its part, pushes firms towards brands that are further from the linguistic core by making it easier for firms with unusual names to obtain protection (Buccafusco et al., 2023). And once they obtain it, trademark law guards the linguistic space around marks to prevent confusingly similar uses that undermine firms' goodwill and profit. Accordingly, trademark law has historically provided legal remedies against uses of a firm's mark that would confuse consumers about the source of goods. For example, if a competitor of Tide laundry detergent began selling a product called "Tyde," consumers might be confused into thinking the latter was the former (or was associated with it). But trademark law also provides legal remedies against non-confusing uses of a firm's mark when the use would "blur" the mark's distinctiveness, making it stand out less from the crowd of other marks. For example, General Motors would be able to prevent the sale of Cadillac

[5] Especially after a few glasses.

ibuprofen, even consumers might not think that GM made the drug (Heald & Brauneis, 2010). In this respect, trademark law is particularly focused on a mark's *distinctiveness from* other marks (Beebe, 2004a).

But trademark law's treatment of "distinctiveness" is itself messy, in part because the term applies to two different concepts. On one hand, because trademark law is concerned with the ability of marks to signal relationships between products and producers, a word can only qualify as a trademark if it is *distinctive of* the producer who uses it. That is, the word must be able to distinguish the products of one producer from those of other producers. While the term COCA-COLA is a distinctive mark of the beverage firm headquartered in Atlanta, GA, the term COLA is not, because it is used by many firms that produce cola, pop, soda, or whatever it's called.

On the other hand, often what matters to firms and their branding consultants is that the trademark be *distinctive from* other marks—in other words, that it be linguistically dissimilar from other marks (Beebe, 2004b; Fromer, 2011; Ouellette, 2014). As discussed above, many firms will prefer brands that are linguistically dissimilar from those of their competitors in order to increase name recognition and brand recall. MR. PIBB, for example, is distinctive from virtually all of its competitors, but COCA-COLA, because it shares the "cola" root term, is not as distinctive from competitors like COCA COLLA, CLUB COLA, AFRI COLA, and LAVA COLA.

Trademark doctrine sometimes conflates these two senses of distinctiveness. For example, trademark law assumes that a mark that is linguistically unusual (distinctive from) is, in fact, functioning as an identifier of source (distinctive of).[6] That may or may not be true. Trademark law also treats linguistically unusual marks as "strong" marks relative to linguistically common marks, even though a highly unusual mark may not have especially strong associations with the underlying brand in consumers' minds (Beebe & Hemphill, 2017).

Our focus in this paper is on linguistically distinctive brands and marks—those that are *distinctive from* competitors' brands and marks. Throughout the paper, when we refer to brands as being "distinctive," this is what we mean. Thus, we tend to describe those brands as "linguistically distinctive." They are dissimilar to those of their competitors. Our inquiry thus relates to the law of trademark dilution and blurring, in which the value of a trademark can diminish as the linguistic space around it becomes crowded with competitors. We do not directly address whether linguistically distinctive trademarks are also distinctive of particular producers. Nonetheless, both trademark law and branding theory associate linguistically distinctive brands with higher value.

Perhaps surprisingly, however, the association between brand distinctiveness and brand value has very little empirical support. We suspect this is because trademark law has generally accomplished its task and, outside of some contexts (Beebe & Fromer, 2018; Bland, 2015), prevented substantial congestion at the linguistic core of most markets. Because trademark law allows firms to fence off the linguistic space around their brands, we tend not to see markets where many brands are clumped together. Thus, when most brands are relatively distinctive, it's hard for researchers to study distinctiveness's value. To do so, we turn to a unique market: the market for Bordeaux wine.

[6] This is trademark law's doctrine of inherent distinctiveness for arbitrary and fanciful marks.

B. The Market for Bordeaux Wine

France's Bordeaux wine region is one of the largest in the world, covering more than 250,000 acres of vineyards and producing over 150 million gallons of wine annually.[7] The vast majority of wine produced in Bordeaux is a dry blend of red grapes, principally composed of Cabernet Sauvignon, Merlot, and Cabernet Franc grapes, while about 10% of Bordeaux's production goes into dry and sweet white wines (Lewin, 2009). Wines bearing Bordeaux regional labels are subject to a variety of "appellation d'origine contrôlée" (AOC) regulations standardizing factors such as grape variety, ripeness requirements, planting density, aging, and alcohol levels (Stanziani, 2004). This standardization provides a market context in which the products bearing trademarks share a high degree of comparability.

The staggering volume of Bordeaux wine is made by an equally staggering number of wineries—more than 5000 unique wineries, most of which might make two or three different "brands."[8] Yet while all these products are made from the same basic ingredients and in the same general manner, they can command vastly different prices. Bordeaux is famous for its elite status and the expensive wines it produces. For example, Chateau Petrus can sell for over $4000 per bottle, and many other high-status wines regularly sell for hundreds of dollars per bottle upon release, with prices increasing as they age. But prices like these are far from the norm. Most wineries produce low price "table wines" that typically sell for $8-$20 per bottle (see Table 1).

The Bordeaux wine market offers a fascinating case study for measuring the value of brand distinctiveness because of the lexical density of its brand names. As we have shown in previous research, many Bordeaux chateaux share names that are identical or highly similar to their competitors (Buccafusco et al., 2021). For example, there are over 100 chateaux that use the word "croix" (cross) in their name, including three Château la Croix, two Château de la Croix, a Château Lacroix, Domaine la Croix, Cru de La Croix, Château Haut la Croix, and Vignobles Lacroix. The same is true for terms like "la tour" (the tower), "la fite" (the hill) and "bel air" (beautiful air). In fact, similarity is far more common than uniqueness—only about 28 percent of producers have names that use no words appearing in another producer's name (excluding commonly used words like "chateau").

Thus, the market for Bordeaux wines has a very dense linguistic core, is highly homogeneous with respect to basic product features (color of wine, level of alcohol, etc.), and is highly heterogeneous with respect to prices. It follows, then, that the markets for wines like Chateau Lafite Rothschild, which sell for hundreds or thousands of dollars per bottle, and for those of inexpensive table wine are rather different. While Chateau Lafite Rothschild is offering (and its consumers are seeking) an exclusive luxury product, the thousands of more modestly priced wineries offer something closer to a generic "Bordeaux" experience. Nonetheless, some of the latter use names

[7] By contrast, in Napa Valley in California, vineyards cover only about 45,000 acres and produce about 24 million gallons of wine.

[8] For example, a winery like Chateau Angelus in St. Emilion makes a *grand vin* called "Chateau Angelus," a "second" wine called "Carillon d'Angelus," and a "third" wine called "No. 3 d'Angelus."

that are highly similar to their fancier competitors, including Chateau Lafitte-Tramier ($22 per bottle), Chateau Lafitte Mengin ($14), and Chateau Lafite Monthil ($6).

C. The Relationship Between Distinctiveness, Quality, and Price

The wine market is unfamiliar and challenging for many consumers, so much so that some marketers refer to the wine aisle as a "wall of confusion" for shoppers (Stallcup, 2005). This is particularly the case for wines from regions like Bordeaux, with many producers selling products that are often confusingly similar in their labelling choices (Buccafusco et al., 2021). This lack of variety among wine labels may pose marketing challenges. This is because brand loyalty that leads to repeat purchases is an important predictor of success in many product markets (Baldinger & Rubinson, 1996; Møller Jensen & Hansen, 2006). Building a relationship with a brand requires that consumers be able to recognize the brand and distinguish it from others on the wall of confusion (Keller, 2002; Rossiter, 2014). When this is possible, those brands are more likely to be able to capture a price premium associated with their brand, whereas indistinguishable labels are more likely to be priced as nondescript commodity goods. This leads us to our first hypothesis:

H1: Wines with linguistically distinctive names will command higher prices.

Even if we find a relationship between distinctiveness and price, however, it is possible that such a relationship could be driven by the quality of the wines. Better wines might turn out to have more linguistically distinctive names, perhaps because they are older or perhaps as a matter of random chance. It's also possible that wine names are not chosen randomly; producers of better wines might have selected more linguistically distinctive names for any number of reasons, including for the reasons we noted above—the belief that more unusual names might confer market advantages. But if more distinctive names in fact *do not* confer market advantages, any relationship we find between distinctiveness and price might be driven entirely by the underlying quality of the wines. We do not believe this will be the case, however. This leads to our second hypothesis:

H2: Wines with linguistically distinctive names will command higher prices even after controlling for wine quality.

Finally, consider the incentives and constraints wine producers and consumers face. Producers must decide whether to invest in producing higher-quality wines, while consumers must decide which wines to purchase. While the product contained within each bottle is fundamentally similar—dry red wine, made from a small set of grape types—the market nonetheless exhibits a large degree of perceived product variation (Costanigro et al., 2007). Some wines are considered higher quality—i.e. enjoyable to drink—while others are middling or even offensively bad. An entire ratings industry has evolved to help guide consumers towards wines that they would enjoy. Evidence shows that higher rated wines generally command higher prices (Amédée-Manesme et al., 2020).

As we have explained, wineries with linguistically distinctive names will likely be able to garner greater brand loyalty from customers than wineries with generic names. This is why we predict that they will be able to charge higher prices, even when controlling for quality (Hypothesis 2). But we further hypothesize that the effects of having a distinctive name will not be constant across the spectrum of quality and price. One reason is that if a wine is not particularly good, consumers will be less interested in purchasing it repeatedly. An uncommon mark, which permits consumers to remember the brand more easily, will thus have less value for low quality wineries. But among better wines, the type that might develop strong brand loyalty on the basis of quality, a linguistically distinctive mark will do more to encourage repeat purchases and thus price increases.

Another reason is that consumers who seek out higher-priced wines may have different preferences than consumers who purchase lower-priced wines. Consumers who purchase higher-priced wines are likely to care more about quality and be more likely to seek out wines with a reputation for high quality. This requires knowledge of wine brands and the wine market. It also requires being able to distinguish one winery from another by brand name. Accordingly, we expect Hypothesis 2 to be particularly true among higher-quality wines: a wine with a highly unusual name, such as Chateau Chasse-Spleen, will likely be able to command higher prices than a winery with a relatively more commonplace name, such as Chateau Belair, even when controlling for quality.[9]

On the other hand, consumers interested in purchasing lower-priced wines may care less about quality, may possess less information about wines and the wine market, and may have less discerning taste. They will be less likely to seek out wines that they remember having enjoyed, reducing the price premium associated with having an uncommon name. In fact, it's possible that wineries at the bottom of the quality distribution could benefit in some ways from having more similar names. Lower-information consumers may confuse lower-quality wines for higher-quality wines with similar names, allowing lower-quality wineries to free-ride off of the halo created by their neighbors' efforts. Lower-quality consumers are also more likely to seek out "generic" Bordeaux. If this is the case, fitting the stereotypes of the category might be more valuable than having a memorable (that is, weird) name, in the same way that Golden Dragon is a better name for a "generic" Chinese restaurant than G.58.[10]

In other words, we hypothesize that the relationship described in Figure 1 may not hold equally for all wines. Higher-quality wines purchased by higher-information consumers will have more to gain from linguistically distinctive names that allow consumers to remember their brands and less to lose from being further from the linguistic core of generic Bordeaux. Lower-quality wines purchased by lower-information consumers will have less to gain from dissimilar names and more to lose from being distant from the linguistic core of Bordeaux. That is, the rewards to brand distinctiveness will be moderated by wine quality. This leads us to hypothesize that:

> *H3*: The price differential between linguistically distinct and linguistically similar wines will be greater for higher-quality wineries than for lower-quality wineries.

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[9] Belair means "beautiful place" in French and is the inspiration for the neighborhood of Bel Air in Los Angeles. The name Chasse Spleen means to "dispel melancholy." It was chosen when an estate was divided between heirs in order to distinguish it from its neighbors.

[10] This is the actual name of a Chinese restaurant in Morrisville, NC. The name is sufficiently obscure that one of the authors can never remember if he's visited it and even has trouble remembering that it's a Chinese restaurant.

III. Data & Methods

Our data is drawn from a proprietary dataset gathered by the website WineSearcher.com. WineSearcher.com is a search engine for wine purchasers. It collects and aggregates online wine sales prices and offers from every publicly available online web seller. We obtained from WineSearcher.com a dataset of all the Bordeaux wines represented in their database, including the name of the wine, the name of the producer, regional and sub-regional information, the vintage of the wine, the price at which the wine was first offered for sale, and the wine's average rating by professional critics (on a 100-point scale). To ensure comparable quality and completeness of data, we then subset to focus on wines from vintages from 2010–2021. Some wines are present in the data for all vintages, while others are only intermittently represented in the data. We then subset so that each unique wine is only present in the dataset once, using the first appearance of that wine in the 2010–2021 period. In total this leaves us with data on 5775 wines made by 2324 unique producers.

Prior to assessing name similarity, we clean and standardize wine and producer names to remove extremely common terms (e.g. "*chateau, domaine*") and articles (e.g. "*le, les, de").*[11] We subsequently compare the name of each wine in the dataset to the names of every other wine in the dataset to establish how similar they are. This creates just over 16 million pairwise similarity scores. For each wine, we then calculate the average similarity amongst its 10 most similar neighbors, which we refer to as "nearest-10 similarity."[12] The nearest-10 similarity demonstrates the degree to which a wine has at least some similarly named competitors. This approach better captures dissimilarity than a coarser measure such as a wine's mean similarity to all others which might appear low because it compares one wine against thousands of others while obscuring a handful of confusingly similar competitors.[13]

To test our hypotheses, we use the first offered price for a 750ml bottle within our 2010-21 time period to measure the relationship between mark dissimilarity and marketing success. We use the standardized 100-point rating to measure wine quality. We then use ordinary least squares regression to test our hypotheses.

IV. Results

[11] We follow the data cleaning practice as in Christopher Buccafusco et. al. (2021). Data preparation including the following steps for each name: 1) combine the wine name with the producer name to create a wine–producer label; 2) standardize to lower case characters; 3) remove articles (e.g. *le, la, les, de, des*), except where the article is followed by another word such that the combination of the two creates a word that exists in another wine name (e.g. keep the 'la' in 'la tour'); 4) remove the following stopwords from all names prior to similarity calculation: *chateau, haut, domaine, et, clos, fils, cave, vignobles, bordeaux;* 5) remove all punctuation, white space, and accent characters.

[12] We use Python's sequencematcher library's match ratio to measure label similarity. This reports a similarity score s ranging from 0–1, defined as: $s = 2.0*M/T$, where T is the total number of characters in both sequences and M is the character length of the longest common subsequence. This score will range from 0 where there are no overlapping characters to 1 where the names are exactly the same.

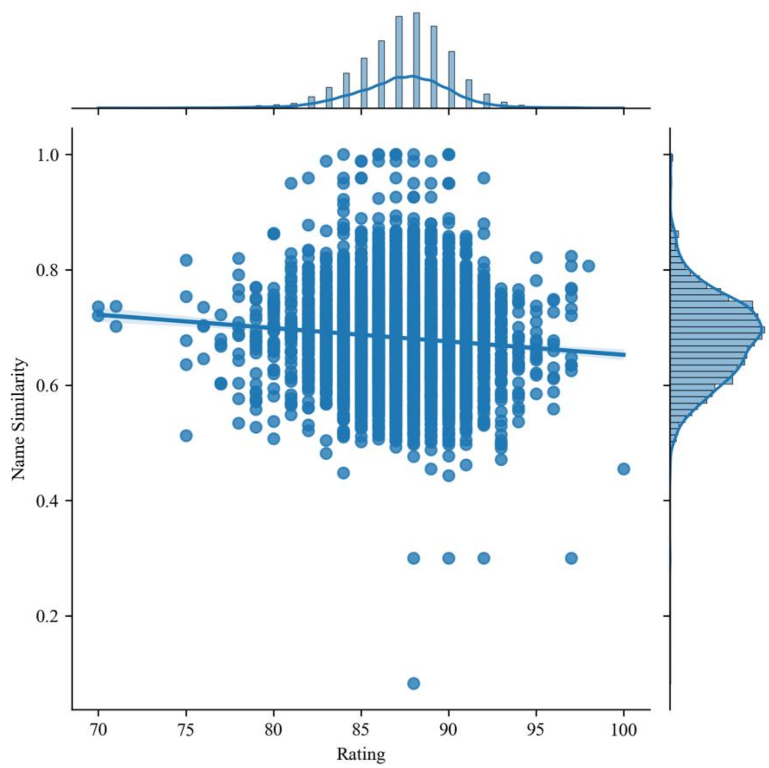
[13] For example, the name "Leoville" might seem to be relatively unusual, but, owing to a division of a single piece of property in the 19th century, there are now three Leoville estates—Leoville Las Cases, Leoville Poyferré, and Leoville Barton.

Descriptive statistics for the variables of interest are presented in Table 1. Similarity scores range from a theoretic minimum of zero (where two names have no overlapping substrings) to one (representing identical names). Both the rating and similarity measures are approximately normally distributed, with a slight negative relationship between similarity and rating (Figure 2). Because the first offered price is highly skewed, we log transform the price variable prior to statistical modelling.

Table 1

	FIRST PRICE	RATING	NEAREST 10 MEAN SIMILARITY
MEAN	28.10	87.32	0.68
MEDIAN	15.13	87	0.68
STD.	131.08	2.78	0.08

Figure 2: Rating by Similarity



To test our first hypothesis, we explore the relationship between price and dissimilarity. We report the results in Table 2. Model 1 indicates that there is a significant negative relationship between name similarity and price. That is to say, wines with a greater degree of similarity to their most similarly named neighbors have, on average, lower prices than more dissimilar wines. By way of example, the modeled average price for a wine with a degree of similarity that is two standard deviations above the mean (0.83) is $14.83, while wines with a degree of similarity two standard deviations below the mean (0.53) have an expected price of $18.69, representing a 26% price premium for the linguistically distinctive wine. This reflects a substantial relationship between price premium and wine name similarity, which allows us to reject the null hypothesis in relation to hypothesis one.

Hypothesis two predicts that the relationship between price and name dissimilarity will persist even after controlling for wine quality (as measured through critics' ratings of the wine). Table 2 (model 2) demonstrates that this is the case. The relationship between a high degree of name similarity and price remains negative when we control for wine quality rating scores. By way of example, the expected price for a good wine (wine rating of 90) with a degree of name similarity two standard deviations above the mean (0.83) is $21.68, while the expected price for an equally rated wine with a low degree of name similarity (0.53) is $25.02, representing a 15% price premium for linguistically distinctive wines when holding quality constant at a 90 point rating . This shows that some of the price premium we found in examining hypothesis 1 is explained by wine quality, but that a significant name dissimilarity premium persists even after controlling for wine rating.

Finally, hypothesis three explores the interaction between linguistic distinctiveness, price premium, and wine quality. This hypothesis suggests that linguistically distinctive names will be more valuable to producers of highly-rated wines than to producers of lower-rated wines. That is, highly distinctive names will be associated with greater price premiums for highly-rated wines than they will for lower-rated wines. To test this, we add a rating term and a term interacting ratings and similarity (Table 2 model 3) When modeled in this way we see that similarity retains a negative relationship with price, more highly rated wines cost more, and that there is a significant negative interaction between similarity and rating on price. This interaction demonstrates that the relationship between dissimilarity and wine pricing is not uniform across the rating spectrum. Rather, more highly rated wines command even higher prices when they have dissimilar rather than highly similar names.

Table 2[14]

	MODEL 1	MODEL 2	MODEL 3
SIMILARITY	-0.8894****	-0.4771****	-0.2751*
RATING		0.1317****	0.1358****
RATING * SIMILARITY			-0.0191****
ADJ R^2	0.008	0.252	0.255
* $P < 0.05$ **** $P < 0.0001$ OBSERVATIONS = 5775 DV = NATURAL LOG OF FIRST-OFFERED PRICE FOR 750ML BOTTLE.			

In order to provide a different perspective on these data we use our regression results to estimate the expected prices of wines with ratings and similarity scores that are two standard deviations above/below their respective means. Wines that receive 93 points from wine critics are commonly thought of as very high quality; only 2.2% of rated wines in our dataset received 93 points or more. And while 82 points (out of 100) might seem like a good score, an 82-point wine is typically understood to be of modest to poor quality. Wine critics typically only use the very top of the 100-point scale, and so it is extremely rare for a wine to receive fewer than 80 points (*What Are Wine Scores?*, n.d.). Only 4.3% of rated wines in our dataset received 82 points or fewer. The results are displayed in Table 3 below.

Table 3 indicates the extent to which the price difference between linguistically distinctively and non-distinctively named wines is not constant across the quality spectrum. The difference is much greater for highly rated wines, where wines with uncommon names sell for $9.59 more, than it is for low-rated wines, where wines with uncommon names sell for only $2.21 more. On the other hand, some of this gap may be due to the fact that highly-rated wines are more expensive generally, leading to greater spreads in price. In percentage terms, the differences remain but are modest: uncommonly named highly-rated wines sell for 198% more than commonly named highly-rated wines, while uncommonly named low-rated wines sell for 185% more than commonly named low-rated wines. This leads us to reject the null hypothesis in relation to hypothesis three.

[14] Showing ordinary least squares regression results using the HC3 heteroscedasticity-consistent covariance matrix estimator. Robustness checks using Jaro Winkler similarity (Cohen et al., 2003) as an alternate measure of wine name similarity show results consistent with those reported here.

Table 3. Modeled prices for wines with high/low similarity and high/low ratings, using results from Model 3 in Table 2. High/low ratings and similarity are defined as two standard deviations above/below the relevant mean value.

	LOW NAME SIMILARITY (0.53)	**HIGH NAME SIMILARITY (0.83)**	**DIFFERENCE (LOW SIM – HIGH SIM)**
Low Rating (81.76 points)	$4.81	$2.60	$2.21
High Rating (92.87 points)	$19.43	$9.84	$9.59

V. Discussion

Our analysis demonstrates that brand distinctiveness in the wine market—at least in the context of Bordeaux—is associated with a price premium. This is true for low-, mid-, and high-quality wines. However, the premium is much larger in absolute dollar terms for high-quality wines, though more modest in percentage terms when comparing high- and low-quality wines. Our empirical methods do not allow us to establish causation; we can report only a relationship. But given the strength of the relationship between dissimilarity and price that persists even after we control for quality, this represents at least suggestive evidence that there is a marketing advantage to an uncommon distinctive name. Our study thus provides emerging empirical support to the view within the branding literature and trademark law that firms can reap commercial benefits from linguistically distinctive trademarks.

This evidence helps confirm the value inherent in establishing a brand identity that is dissimilar from those of one's competitors. We show that, while improved quality is associated with higher prices, those increases are even greater when the brand in question is highly dissimilar. These findings comport with and further validate the predominant law and economics approach to trademark law, as well as the marketing literature on brand strategy and value. One possible interpretation of these results is that if there are costs to linguistic distance from the core of the market, they are swamped by the benefits of being linguistically distinct from one's competitors. The most linguistically distinctive brands in our sample tend to receive benefits rather than costs from their uniqueness. But it is also possible that firms with linguistically distinct names have managed simultaneously to capture the benefits of linguistic distinctiveness (through the brand name) *and* the benefits of being located near the linguistic core of the market (through the use of generic words such as "Chateau."). That is, Chateau Chasse-Spleen may be signaling to consumers that it is both obviously a Bordeaux wine (via the word "Chateau") and that it is a different brand from all of the La Croix and La Tours that they regularly encounter.

This raises a puzzle: if there are such significant benefits to brand dissimilarity, why does this market exhibit so much similarity? Of course, our data do not permit us to conclude that there is a causal relationship between price and dissimilarity. But that inference is entirely consistent with our results, and in the absence of contrary evidence it would seem like a reasonable assumption for wine marketers to make. Why do some producers forego the price premium associated with uncommon marks by choosing marks that are highly similar to a variety of other marks, or by continuing to use marks that are similar or have become more similar over time?

The most obvious answer is that most of these brand names were chosen more than a century ago, when branding theory and international trade were relatively underdeveloped. There are so many Latours and Lafites because Bordeaux had a lot of towers and hills in the 18th and 19th centuries when these names were chosen. In tradition-bound industries such as Bordeaux wine, firms might feel pressure to maintain centuries-old names even when doing so is costly. Nonetheless, there are examples of Bordeaux wineries changing product names—usually in ways that increase dissimilarity (Anson, 2019).

We suspect that much of the continued existence of similar names arises from two additional strategic sources. First, low-end wineries could in fact be attempting to free ride on high-end producers' reputations. The 84-point, $13 Chateau Bel-Air may hope that some consumers confuse it with the 95-point, $150 Chateau Belair Monange—or at least they may be happy if some of the latter's glow is reflected back on them.[15] Second, and perhaps more significantly, invoking cliched naming practices may help signal the "Bordeauxness" of their products. A wine called Bellevue, Latour, or Lafite might fit the category better than one with a truly modern and dissimilar name, like Menage à Trois or Red Bicyclette, however more memorable the dissimilar names might be. That is, some wineries might be trying to minimize the costs of being distant from the linguistic core—making it easier for consumers to associate the brand name with the category of product—at the expense of increasing the costs of linguistic similarity to other brands—making it harder for the consumer to distinguish between brands in the marketplace. Interestingly, however, if this is the strategy, it may be misguided. Our data show that even low-quality producers of table wine—the kind most likely to be consumed in bistros where "generic" Bordeaux is called for—command higher prices when they have linguistically distinctive names.

Our results also have important implications for trademark law and policy. Recently, Barton Beebe and Jeanne Fromer have warned about the risks of trademark congestion and depletion, where too many firms claim the same name or claim the most valuable names, thereby inhibiting competition (Beebe & Fromer, 2018). The market for Bordeaux wine exhibits substantial congestion, with hundreds of wineries occupying a small linguistic space. Our evidence supports the notion that trademark congestion is harmful because brands with similarly named competitors tend to face a pricing penalty. Thus, our findings support efforts to push firms away from the linguistic core and toward more unusual names. Trademark law already does this to some degree, by making it more difficult for firms to register marks in "crowded fields" of many linguistically similar brands (*RiseandShine Corp. V. PepsiCo, Inc.*, 2022). But it could do even more, such as by making it even more difficult or expensive for firms to register descriptive and suggestive marks, which are more likely to bear similarities to existing marks (Buccafusco et al., 2023). Doing so promises to be a win-win, in the sense that firms with unique names may get the benefits of price premiums, while consumers may get the benefits of competition.

[15] Or consider the $40, 90-point Chateau Latour-Martillac and the $900, 98-point Chateau Latour.

Our findings are also consistent with the concerns that trademark's anti-dilution laws are meant to mitigate, although again we are unable to establish causality. Dilution occurs when a trademark becomes less distinctive from its competitors, and trademark law polices uses of a mark that would diminish its distinctiveness. Our results indicate that losing distinctiveness could, in fact, be associated with a meaningful price penalty. Of course, whether the law should remedy every potential trademark harm is another issue entirely (Tushnet, 2007).

In addition, our research suggests that courts should rethink the sorts of evidence required to prove trademark infringement. Under current law, if Firm A sues Firm B for infringement, the standard form of evidence is surveys that ask consumers if they can distinguish between the product sold by Firm A and the product sold by Firm B. But this is not how consumers actually encounter products in the marketplace; Firm A and B's products might be on the shelf next to products from Firms C, D, E, and F—Château la Croix next to Château de la Croix, but also Château Lacroix, Domaine la Croix, Cru de La Croix, and so forth. In assessing the likelihood of consumer confusion courts should adopt a more realistic perspective and attempt to account for the actual circumstances a consumer will face.

Here, trademark law currently takes the opposite approach to "crowded fields." If a market is congested with trade names, courts tend to assume that consumers have learned to make fine distinctions between the names in order to navigate the crowded landscape (*Fla. Intl. U. Bd. Of Trustees v. Fla. Natl. U. Inc.*, 2016). Accordingly, in a crowded field it is *more difficult*, not easier, for a plaintiff to prove that there is a likelihood of confusion between its brand and a competitor. This might be justifiable as a punitive sanction against firms that choose linguistically similar trademarks and thus further crowd the brand space. But our results suggest that it is misguided as a theory of how consumers actually behave. If consumers were in fact capable of making fine distinctions between highly similar brands in a crowded field, we would not expect to find such large price differences between wines with distinct and nondistinct names. This suggests that courts should consider dropping the assumption that makes it more difficult for firms to prove likelihood of consumer confusion in a linguistically congested space.

Of course, our results are not without limitations. Our data is limited to a single, albeit major and important, wine producing region. There is some reason to believe that Bordeaux has a uniquely crowded name space (Buccafusco et al., 2021). Our observations here may not generalize to regions with greater variation in wine names. (Of course, this is part of the reason why Bordeaux is such a fertile area of study, in addition to being a fertile area for growing grapes.) It may also be the case that trademarks function quite differently in the wine market than in other consumer domains. Although wine may present a "wall of confusion" for consumers, it may be the case that other goods and service markets are easier for consumers to navigate. More research is needed both in different wine regions and different product markets to determine whether the distinctiveness price premium we observe in Bordeaux is generalizable.

In addition, the measure of linguistic distinctiveness we use relies solely on label names. For example, we measure how similar the name *Belair* is to the name *Latour*. We do not observe differences in label appearance—e.g., font, images, or color. Further research could seek to measure the visual similarity between labels to determine whether our results hold in that context.

We also have no empirical insight into the degree to which consumers are actually confused between highly similar wine names. There is certainly the sense in the wine marketing community that this occurs (Stallcup, 2005). However, we cannot observe this with our data and rely instead on the assumption that, all else equal, more similar names are more likely to lead to confusion. Indeed, it is possible that online wine search engines have actually increased the likelihood that consumers may confuse wine names. While consumers in the past were limited to the choices on the shelf in front of them, now they can compare those to the many thousands of wines and reviews posted online. This might increase the chances that they confuse the highly rated Chateau Haut Brion with the confusingly similar, but lower quality, Chateau Larrivet Haut Brion.

Our findings related to wine quality are also subject to a variety of caveats that are true for any research using these data (Cardebat & Livat, 2016; Olkin et al., 2015). Wine ratings can be subjective and unreliable. The ratings data we used takes steps to address these concerns by integrating ratings from a variety of sources and standardizing to a 100-point scale. This should reduce measurement error. It does not, however, address possible endogeneity between names and ratings. If raters' taste tests are not blind—as is sometimes the case—and their perceptions of quality are influenced by the label name, this may result in ratings being affected by label features including the name. An experimental approach in which raters are exposed to differently similar/dissimilar labels would help address this limitation.

More research on these phenomena could help us better understand the role that trademarks actually play for producers.

VI. Conclusion

Trademark distinctiveness matters. While this has always been true when it comes to the degree of legal protection available to a mark, we offer empirical evidence of the power of a linguistically distinctive trademark with respect to market value. For Bordeaux wine producers, using a name that distinguishes a firm's products from those of its competitors is associated with higher prices. This is true for excellent wines, middling bottles, and plonk. However, producers of excellent wines benefit more from dissimilar trademarks than do plonk bottlers. Given our findings, producers should think carefully about whether it is worth strategically choosing wine names that set them apart from their peers. And at the same time, consumers—including you, dear reader—may be able to benefit by identifying high quality wines with common (and potentially confusing) names. These wines might represent hidden bargains due to their failure to stake out their own distinctive brand space.

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